

CITY OF NEW ORLEANS



REQUEST FOR PROPOSALS

FOR

Heat Mitigation

RFP NO. 3999

RELEASE DATE: July 01, 2024

SUBMISSION DEADLINE: July 25, 2024, 4:00 PM CST

KEY REMINDERS TO PROSPECTIVE RESPONDENTS

- 1. READ THE SOLICITATION IN ITS ENTIRETY.**
- 2. CONTACT THE DESIGNATED PURCHASING OFFICIAL ONLY.**
- 3. CHECK THE SUPPLIER PORTAL PERIODICALLY.**
- 4. TAKE ADVANTAGE OF THE QUESTION AND ANSWER PERIOD.**
- 5. PROVIDE COMPLETE ANSWERS AND DESCRIPTIONS.**
- 6. REVIEW THE RFP AND YOUR RESPONSE BEFORE SUBMITTING.**
- 7. SUBMIT YOUR PROPOSAL ON TIME.**

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SECTION 1 – DEFINITIONS

“BRASS” means Budget, Requisition, and Accounting Services System.

“City” means the City of New Orleans.

“Close Event” means the date and time at which BRASS prohibits Respondents from submitting a response to the solicitation.

“DBE” means Disadvantage Business Enterprise.

“Event” means the solicitation (RFQ, RFP, ITB, ITQ) that the Bureau of Purchasing created to release it on the Supplier Portal of BRASS.

“OSD” means the City’s Office of Supplier Diversity.

“Open Event” means the date and time at which the Event is released to the public in the Supplier Portal of BRASS.

“Purchasing Conference Room” means the room adjacent to the Bureau of Purchasing located on the 4th floor of City Hall at 1300 Perdido Street, New Orleans, Louisiana 70112.

“Respondent”, “Respondents” or “a respondent” means a person or entity who responds to the RFP.

“RFP” means the present request for proposals.

“SBE” means Small Business

s Enterprise as defined by the U.S. Small Business Administration.

“SLDBE” means State and Local Disadvantage Business Enterprise.

SECTION 2 – OVERVIEW

2.1 Introduction

The Mayor’s Office of Resilience and Sustainability (ORS) partners with city departments, agencies, and community groups to advise on policy and project priorities related to environmental stewardship and climate resilience. Using the city’s resilience strategy, Resilient New Orleans, and Climate Action Plans as guides, we do work across multiple sectors: Economic, Environmental, Infrastructure, and Social.

ORS leads the policy development, implementation, and outreach associated with resilience-building projects throughout the city. Our office also updated the Climate Action Plan in 2022, manages the development of green infrastructure and stormwater management projects, and develops Federal funding applications for City infrastructure initiatives, among other duties. We aim to pave the way for projects that will make New Orleans a more resilient, sustainable, and equitable city for all our residents.

2.2 Background

The summer of 2023 brought a record-breaking heat wave to large parts of the continental United States. The National Weather Service station at New Orleans International Airport recorded its highest temperature ever on August 27, at 105°F, and saw 15 days in August above 100°F, breaking the previous record of 2 days >100°. Louisiana Department of

Health recorded 18 heat-related deaths in southeast Louisiana, which includes the New Orleans metro area. NOHD tracked 133 heat-related illness hospitalizations from July 31-Aug 23.

The City of New Orleans' Climate Action Plan (CAP) has targeted to reduce greenhouse gas emissions by 50% by 2035 and to achieve net-zero greenhouse gas emissions by 2050. The CAP sets sector-specific goals around expanding energy efficiency, building performance, green infrastructure, and tree plantings, particularly in disadvantaged neighborhoods, all of impact extreme heat. The City's Community Health Improvement Plan also includes a goal to Reduce exposure to urban heat by 2025.

The City's 2020 Hazard Mitigation Plan (HMP) presents a high-level assessment of extreme heat risk in New Orleans using available data from the National Climate Assessment and other sources. The 2020 mitigation strategy identified several actions related to reducing the risks associated with extreme heat, including improving building energy efficiency through code improvements and building retrofits, and expanding urban tree canopy and green infrastructure coverage to reduce the urban heat island effect. The city has made progress on many of the actions in the 2020 HMP, and the hazard mitigation office seeks to benchmark this progress and identify new strategies and actions to be included in the next update to the HMP, which will be developed in 2025.

2.3 Purpose

The City, through the Office of Resilience & Sustainability (ORS), the Hazard Mitigation office, and the New Orleans Health Department, seeks to engage a Consultant to develop an extreme heat mitigation and resilience strategy for the City of New Orleans. This plan's recommendations must be consistent with the goals and objectives of:

- 1) The City's 2022 Climate Action Plan, "Net Zero by 2050: A Priority List for Climate Action in New Orleans, including centering equity and achieving equitable results as highlighted in Taking Steps Together on Equity & Climate Change: A Report for and by New Orleanians.
- 2) The City's 2022-2025 Community Health Improvement Plan, Goal 3.1.5: Reduce exposure to urban heat
- 3) The City's Parks Master Plan (Big Green Easy)
- 4) The City's 2020 Hazard Mitigation Plan, Action 2020.5.7: Conduct an Urban Heat Island Study that addresses extreme heat threats on a neighborhood-by-neighborhood level. Identify areas most in need of interventions to prevent extreme heat threats and prioritize implementation in those places.

Commented [GN1]: Update with other relevant plans.

Commented [JD2R1]: added NOHD's CHIP

Commented [JD3R1]: the Big Green Easy Parks Master Plan (yet to be published) includes a narrative and recommendations related to heat/climate

2.4 Statement of Needs

You must refer to Attachment A.

2.5 Performance Evaluation

The City will memorialize performance evaluation criteria in the executed contract.

SECTION 3 – DBE

3.1 In General

The requirements of the City's DBE Program apply to the RFP.

See section of the RFP on Attachments for more information and the applicable form(s).

3.2 DBE Goal

A DBE contract goal of 35 percent has been established for this RFP.

3.3 DBE Interest

The Bureau of Purchasing and OSD seek to offer the opportunity to DBE and SLDBE, SBEs, and other certified minority, women, disabled veteran owned businesses to submit their interest in participating to the RFP as a prospective subcontractor to a respondent or to jointly propose as a prospective partner with a respondent, or both.

DBE and other certified diversity entities must complete a questionnaire to express their interest. Follow the below link to submit your interest:

- <https://forms.office.com/Pages/ResponsePage.aspx?id=hfTLCLccAkqalQ3ZtFuf90s12RkxNB5KnaGW8hYN33NUQlo4WkhHWE5YQ1ICQjZHUUZBOEhMMzg1UC4u>

If a pre-submittal conference is scheduled, OSD will present the results of the questionnaire for the RFP during the conference.

IMPORTANT: Submit your interest on or before the deadline identified under Section 4.1. Otherwise, OSD will not be able to present it during the pre-submittal conference.

The Bureau of Purchasing will post said results via an addendum to the RFP following the said conference or, in the absence of a conference, several days after the deadline identified under Section 4.1.

3.4 DBE Opportunities

The City expects Respondents to ensure that every effort is made to meet DBE utilization goals.

OSD offers the opportunity to Respondents to submit subcontracting opportunities on its DBE Opportunities Page. Said page can be found at:

- <https://www.nola.gov/economic-development/supplier-diversity/opportunities/>

3.5 Point of Contact

You shall direct questions related to DBE compliance prior to the Submission Deadline to:

- By email: Supplierdiversity@nola.gov
- In writing or in-person: Office of Supplier Diversity
1340 Poydras Street, Suite 1800,
New Orleans, LA 70112

SECTION 4 – ANTICIPATED TIMETABLE

4.1 Dates

Release/Open Event (Cone of Silence Begins)	07/01/2024
Deadline for DBE Interest	07/08/2024
Pre-Submittal Conference	07/11/2024 11:30PM CST
Deadline for Submitting Questions	07/18/2024 4:00PM CST
Submission Deadline/Close Event	07/25/2024 4:00PM
Evaluation by Selection Committee	On or about 08/08/2024
Notification	Within 1 to 2 business days from the date of the evaluation

4.2 Meetings

The pre-submittal conference meeting and the selection committee meeting are public meetings. The Bureau of Purchasing encourages Respondents to attend said meetings. The pre-submittal conference will be held via teleconference call. The Designated Purchasing Official will post the dial in information via the Event in BRASS under "Meetings."

4.3 City Calendar

The Bureau of Purchasing posts the dates and times of the public meetings connected to the RFP on the calendar of the City.

The Bureau of Purchasing encourages Respondents to subscribe to the calendar.

The City calendar can be found at:

- [Calendar - City of New Orleans \(nola.gov\)](https://www.nola.gov/calendar) .

4.4 Selection Committee Meeting

The Bureau of Purchasing makes every effort to maintain the above date of the selection committee meeting.

However, from time to time, the Bureau of Purchasing may need to reschedule the said meeting for reasons which include, but not limited to, request(s) from committee member(s) to have additional time for review, an unexpected calendar conflict of one or more committee member, an unforeseen emergency, etc.

4.5 Questions

You must submit substantive questions to the Designated Purchasing Official via the “Q & A Forum” in the Event no later than the deadline set forth in Section 4.1.

The Bureau of Purchasing does not guarantee that your question(s) submitted via email to the Designated Purchasing Official will be answered.

The Designated Purchasing Official will issue a response to questions by written addendum to the RFP.

Your question(s) submitted after the deadline may not be reviewed for inclusion in an addendum to the RFP.

The Designated Purchasing Official will not respond to substantive questions submitted verbally either by telephone or in person or both outside of the scheduled meetings.

4.6 Cone of Silence

From the release of the RFP until the award, there is a prohibition on communication by respondents (or anyone on their behalf) with the City’s staff, the mayor and staff, council members and staff, members of the selection committee members and elected officials.

The Bureau of Purchasing calls this prohibition the “Cone of Silence.”

This does not apply to oral communications at pre-submittal conferences, oral presentations before selection committees, contract negotiations, or communications in writing at any time with any city employee or elected official regarding matters not concerning this RFP.

In those instances, in which a Prospective Respondent is also an incumbent contractor, the City’s staff and the incumbent contractor may contact each other with respect to the existing contract only.

Under no circumstances may the City’s staff and the incumbent contractor and/or its representative(s) discuss the RFP.

BREAKING THE CONE OF SILENCE, IF PROVEN, MAY RESULT IN A DISQUALIFICATION OF YOUR RESPONSE.

SECTION 5 – RESPONSIVENESS AND SELECTION COMMITTEE

5.1 Responsiveness

Following the submission deadline, the Designated Purchasing Official will:

- Opens the timely submitted proposals, and then
- Reviews and determines if the respondent completed and submitted the required forms.

You are invited to read Section 8.7 for failure to comply with the deadline or the required documents.

If there are responsive respondents, the Designated Purchasing Official will provide a copy of the proposals to the selection committee.

5.2 Selection Committee – Composition

The Chief Procurement Officer must establish selection committees with relevant subject-matter expertise in reviewing and evaluating responses to the RFP.

As per the applicable executive order, the selection committee will consist of the following individuals:

- The Chief Administrative Officer, or designee,
- The Chief Financial Officer, or designee,
- The manager of the User Entity requesting the service, or designee,
- The employee who will manage and monitor the contract, and
- A professional from within local government who possesses expertise in the relevant field.

5.3 Selection Committee – Grading

The members on the selection committee shall either complete the numerical grading or use the wholly qualitative evaluation criteria.

5.4 Selection Committee – Non-Voting Member

The Selection Committee, through a majority vote, may add one non-voting member to the committee who has expertise in the relevant field.

SECTION 6 – EVALUATION

6.1 In General

The selection committee will evaluate responses based on the technical criteria established under this section.

You may receive the maximum points, a portion of this score, or no points at all, depending upon the merit of your response, as judged by the selection committee in accordance with the technical criteria.

During the review of any submission at any time (including in the event of a shortlist), the selection committee may:

- Conduct reference checks relevant to the solicitation to verify all information, and rely on or consider any relevant information from such cited references or from any other sources in the evaluation of the submissions,
- Seek clarification of a submission or additional information from any or all respondents and consider same in the evaluation of submissions,
- Waive any requests or requirements if such waiver is in the best interest of the City, and
- Request interviews/presentations with any, some or all respondents to clarify any questions or considerations based on the information included in submission.

6.2 Technical Criteria for the RFP

The Selection Committee will use the following criteria to evaluate the proposals submitted by Respondents:

1. Previous Performance, Experience and Expertise: 0 - 30 Points

Respondents' experience in related projects, including relevant experience of the key individuals who will be assigned to this project. Particular emphasis should be

placed on your firm's specific and unique strengths that show leadership, management, work quality, commitment, collaboration, and communication capabilities

The Selection Committee understands that this is a unique project. It will be important for the Respondents to demonstrate through successful completion of related projects that they have the capacity to successfully complete this project.

2. Methodology: 0 – 20 Points

Proposed approach, timeline, and methodology to successfully deliver the proposed or amended scope of work.

3. Climate Risk and Mitigation Expertise: 0 - 15 Points

Respondents' expertise of the climate risk and mitigation landscape, primarily related to heat assessments and technical expertise.

4. DBE 0 - 15 Points

You will see below a table with additional information on this criterion.

POINTS	DESCRIPTION	POINT AWARD	AWARDING GUIDELINES
3pts may be awarded	DBE Goal: Proposal complies with contract DBE participation goal or will conduct good faith efforts to do so.	3pts	<ul style="list-style-type: none"> Meets or exceeds the stated contract DBE goal or demonstrates why and how the respondent can only achieve a lower DBE goal
		2pts	<ul style="list-style-type: none"> States they will meet a lower contract goal without demonstrating why or how.
		1pts	<ul style="list-style-type: none"> No commitment - 0%, but demonstrates why & how DBE participation is not achievable.
		0pts	<ul style="list-style-type: none"> No commitment -0% without explanation.

6pts may be awarded	<p>Quality of Proposal:</p> <p>Proposal submitted a quality DBE Participation Plan that includes innovative strategies and approaches to achieve and maintain compliance over the contract term and that builds capacity in the DBE community.</p>	<p>+2pts</p> <p>+1pts</p> <p>+2pts</p> <p>+1pts</p>	<ul style="list-style-type: none"> • Prime has identified scopes of work to be performed by DBE firm(s) to be used that represent a Commercially Useful Function. • Prime has clearly identified DBE firm(s) and their scopes of work. • The DBE has contributed directly to the Proposal (Resumes, Experience Portfolio, etc.). • Prime has identified ways to support the DBE (e.g.: Mentor-protégé relationship, bonding, early payments, etc.).
6pts is default award; points may be deducted	<p>Past Performance Issues:</p> <p>Includes firm's past performance on meeting DBE goals, technical assistance and supportive services designed to increase participation and build capacity in the DBE community.</p>	Up to 6 points may be deducted.	<p>Points shall be deducted for the following reasons:</p> <ul style="list-style-type: none"> • Prime has a history of not meeting their committed DBE goal. • Prime has history of switching DBEs or reduces work committed to DBEs. • Prime is inconsistent with reporting requirements of the DBE policy. • Prime does not cooperate with OSD on-site monitoring.

			<ul style="list-style-type: none"> • Prime has history of not paying their DBE subs in a timely manner. • Prime has a history of insufficient GFEs.
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6.3 Price Proposal

The selection committee will then evaluate and rank responsive proposals on price.

You may receive the maximum points, a portion of this score, or no points at all, depending upon the merit of its price proposal, as judged by the selection committee in accordance with:

Pricing Proposal 0 - 20 Points

Proposed pricing to successfully deliver the project.

SECTION 7 – NOTIFICATION AND CONTRACT

7.1 Notification

Once the selection committee recommends a proposal, the Bureau of Purchasing notifies the selected firm by an intent to award letter. The unsuccessful firm(s) will be notified as well.

The Designated Purchasing Official will also award the Event in BRASS which only represents an administrative function.

The intent to award letter will contain the name and contact information of the representative of the department responsible for administering the future contract.

IMPORTANT: The intent to award letter is not a contract award notification. The contract award is subject to the successful satisfaction by the selected respondent of all additional requirements in the solicitation.

7.2 Composite Scoring Sheet

In addition to the notification, the Designated Purchasing Official will post an electronic copy of the sheet on the website of the Bureau of Purchasing under “RFP/RFQ Composite Scoring Sheets.”

The Bureau of Purchasing keeps a sheet available for public view for 30 days from the date of the selection committee meeting.

You can find the composite scoring sheets on the following webpage:

- <https://nola.gov/view-rfp-rfq-composite-scoring-sheets/>

After 30 days, any interested party must submit a request for public records to the City’s Attorney Office to obtain a copy of the tabulation.

You can submit your request at <https://www.nola.gov/city-attorney/public-records-requests/> .

7.3 Negotiation and Execution of Contract

After the issuance of the intent to award letter, the City may negotiate the final contract with the selected respondent.

Irrespective of the occurrence of contractual negotiations or not, the selected respondent must provide the representative of the department responsible for administering the future contract with required documentation (examples: tax clearance form, proof of signing authority, proof of good standing with the State of Louisiana, etc.).

The City Attorney's Office is responsible for presenting the successful respondent with a proposed written contract to execute.

Once executed by the City, the department responsible for the administration of the contract can authorize the beginning of the services.

The City will publish a copy of the fully executed contract on the City's Supplier Portal.

7.4 Contract Administration

The executed contract with the selected firm identifies the department responsible for administering it.

Said department will be notably responsible for monitoring the performance of the contractor.

7.5 Contract Amendment and/or Time Extension

7.5.1 DBE Compliance

Prior to amending and/or extending the contract for time with the contracted firm, said firm must be compliant with its committed DBE plan.

Failure to comply can constitute cause for termination of the contract.

7.5.2 Performance Evaluation

Prior to amending and/or extending the contract for time with the contracted firm, said firm must perform in accordance with the scope of work set forth in the contract.

Failure to comply can constitute cause for termination of the contract.

SECTION 8 – SUBMISSION

8.1 In General

You may respond to this RFP:

- By responding to the Event in BRASS (preferred method).
- Or by submitting a physical copy to the Bureau of Purchasing in person or by courier.

8.1.1 Submission In Person or by Courier

If you choose to submit a physical copy of your response, your envelope must:

- a. Be addressed to the Designated Purchasing Official (see Section 8.2 for the contact information)
- b. Be marked with “[name of respondent] – RFP [number of present RFP]”
- c. Contain:

- i. One printed signed hardcopy of the technical proposal in a separate sealed envelope marked “[name of respondent] – RFP [number of present RFP] – Technical Proposal”, and
- ii. One printed signed hardcopy of the price proposal in a separate sealed envelope marked “[name of respondent] – RFP [number of present RFP] – Price Proposal”

8.1.2 Submission In BRASS

This is the preferred method to submit your response.

If you choose to submit your proposal in response to the Event via BRASS, you must submit in PDF format the following 2 separate documents:

- Technical Proposal
 - Entitle the PDF as follows: “[name of respondent] - RFP [number of present RFP] – Technical Proposal”, and
- Price Proposal
 - Entitle the PDF as follows: “[name respondent] – RFP [insert number of present RFP] – Price Proposal”.

See Section 8.3 for their respective contents.

NOTE: If you encounter a problem submitting your response by in person, by courier or in the BRASS system, you must notify the Designated Purchasing Official immediately and coordinate with said official for an alternative method of submission (by email).

You must obtain written approval from the said official prior to submitting your response via an alternative method.

The City will not accept qualifications submitted by fax.

8.2 Designated Purchasing Official

You must direct response, correspondence, and other communications regarding the RFP to the following Designated Purchasing Official:

- Title (Mr., Mrs., Ms.), First and Last Name: Ms. Pia Magee
- Email address: pmagee@nola.gov
- Office Telephone Number: 504-658-1537
- For in-person or mailing: Attn: Pia Magee
City of New Orleans
Bureau of Purchasing
1300 Perdido Street, Suite 4W07,
New Orleans, Louisiana 70112.

8.3 Contents

The City requires that the submission be organized in the manner specified below to achieve a uniform review process and obtain the maximum degree of comparability.

The below table also serve the purpose of a checklist to ensure that you attach the necessary documents. You do not need to incorporate this checklist with your submission.

Tabs	Contents	Attach? Y or N
DOCUMENT NO. 1 - TECHNICAL PROPOSAL		
Cover Letter	Show the RFP number and subject, the name of your firm, address, email address, telephone number(s), name of contact person and date.	
Table of Contents	Include a clear identification of the material by tab and by page number.	
Consultant's Profile and Submittal Letter	<p>Submittal Letter signed by and authorized agent of the respondent.</p> <p>A proposal statement setting forth in detail how the proposal meets the proposal requirements and evaluation factors.</p> <p>Organizational structure and locations of business with ownership interests.</p>	
Previous Performance, Experience and expertise	<p>Respondents' experience in related projects, including relevant experience of the key individuals who will be assigned to this project. Particular emphasis should be placed on your firm's specific and unique strengths that show leadership, management, work quality, commitment, collaboration, and communication capabilities.</p> <p>The Selection Committee understands that this is a unique project. It will be important for the Respondents to demonstrate through successful completion of related projects that they have the capacity to successfully complete this project.</p>	
Methodology	Proposed approach, timeline, and methodology to successfully deliver the proposed or amended scope of work.	
Climate Risk and Mitigation Expertise	Respondents' expertise of the climate risk and mitigation landscape, primarily related to heat assessments and technical expertise.	
DBE	Attach the applicable DBE form(s) provided under Attachment B to the RFP.	
Responsibility	Attach your response to the questionnaire provided under Attachment D to the RFP.	
References	Provide at least 2 entity references (preferably governmental entity) for which the firm has	

	<p>performed similar work of the same or similar magnitude to those requested in this solicitation, including the contact's name, entity, address, telephone number, e-mail address, and dollar amount and term of the contract.</p> <p>At least 2 letters of reference from previous clients are also required.</p>	
Insurance	<p>Attach evidence of required insurance in the amounts indicated.</p> <p>If available, a properly completed ACORD Form is preferable.</p>	
Addenda	<p>Include a statement on company letterhead that you reviewed the addenda (include number and date of the addendum) issued by the City for this RFP.</p>	
Exceptions	<p>Include any/all exceptions taken to the content of solicitation itself or any contract or legal agreement(s) or document(s) related to the solicitation.</p> <p>Any exceptions shall be reviewed by City for appropriateness and is only valid if accepted in writing by City.</p>	
Litigation	<p>Provide all judgments entered into against the respondent by any Federal, State, or Local Courts within the past 10 years; any criminal conviction ever issued against the respondent or its owners or principals, and all civil, criminal, and administrative proceedings pending against the Prospective Consultant at this time.</p>	
Forms	<p>Attach any other forms listed under Section 11.2.</p>	
DOCUMENT NO. 2 – PRICE PROPOSAL		
Price/Cost Sheet/Rate	<p>Provide the information as requested under Attachment A.</p>	

8.4 Receipt

THE DESIGNATED PURCHASING OFFICIAL MUST RECEIVE YOUR RESPONSE BEFORE THE DEADLINE INDICATED UNDER SECTION 4.1.

The City will NOT accept submissions received/delivered after the deadline.

The City will not credit delivery claims not clearly documented by original receipt.

8.5 Time Stamp in Person, by Courier or BRASS

If you intend to submit a response in BRASS, the time stamp of receipt is generated by BRASS.

Note that BRASS prohibits any submission on and after the date and time the RFP closes.

If you intend to submit a physical response, the date and time of receipt by the Designated Purchasing Official constitutes the time stamp of receipt.

The date and time of the delivery claimed by the courier does NOT constitute proof of receipt without documented proof of delivery.

IMPORTANT:

- The Bureau of Purchasing encourages Respondents submitting a response via BRASS to submit the response at least 3 hours before the deadline set forth in the RFP.
- The Bureau of Purchasing encourages Respondents submitting a physical copy via a courier to request proof of delivery from said courier.
- The Bureau of Purchasing encourages Respondents to confirm with the Designated Purchasing Official that the response was received timely. If there is a high volume of submissions, the confirmation may take 1 or 2 business days.

8.6 Alternative Method of Submission

An alternative method of submission can be approved by email to the Designated Purchasing Official.

If the Designated Purchasing Official approves an alternative method of submission, Respondent remains responsible for ensuring that the proposal is received prior to the submission deadline.

Note that the date and time the email is received by the Designated Purchasing Official constitutes the time stamp of receipt.

The date and time the email was sent by Respondent does NOT constitute a proof of receipt.

Failure to meet the submission deadline, irrespective of the mode of delivery, shall result in the rejection of the proposal.

8.7 Failing to Comply

The Designated Purchasing Official will notify Respondent in writing that the proposal is non-responsive if:

- Respondent failed to submit it timely, or
- Respondent failed to complete and submit a form or document provided and required by the City.

The Designated Purchasing Official will not distribute a non-responsive proposal to the selection committee.

Respondent will have 2 business days from the date of notification by the Designated Purchasing Official to appeal the decision of non-responsiveness.

Non-responsive respondent must submit the appeal to the Chief Procurement Officer via email with the number of the RFP and a detailed explanation.

The decision from the Chief Procurement Officer or designee will be final.

Failure to submit the appeal timely waives the right to obtain a decision from the Chief Procurement Officer or designee.

8.8 Disclaimer

Respondents are hereby advised that due to the nature of the internet, the City cannot guarantee that access to BRASS will be uninterrupted or that emails or other electronic transmissions will be sent to you or received by us.

The City is not responsible for any delays caused by the internet or any other means of submission chosen by Respondent or both.

SECTION 9 – GENERAL INFORMATION

9.1 Legal Authority

City Charter Section 6-308(5)(b) and Executive Order LC 20-01 authorize the City to issue a request for proposals to interested and qualified firms.

9.2 Ownership

Your response and/or documentation submitted therewith are city property for all purposes.

9.3 Effect

The RFP and any related discussions or evaluations by anyone create no rights or obligations whatsoever.

The City is not responsible for submissions and/or presentation costs.

The City may cancel or modify this solicitation at any time at will, with or without notice.

Anything to the contrary notwithstanding, the contract executed by the City and a qualified firm, if any, is the exclusive statement of rights and obligations extending from the RFP and the request for proposal connected with the contract.

9.4 Addendum

The Designated Purchasing Official posts addendum on the supplier portal of BRASS under the RFP. A copy of the addendum is saved in the "Attachment" tab of the event for the RFP.

Respondents shall not rely on any representation, statement, or explanation other than those made in this RFP or in any addendums issued.

Where there appears to be a conflict between the RFP and any addendum issued, the last addendum issued will prevail.

9.5 Agree to Contract Terms and Conditions

By responding to this RFP, you agree to the City's required Contract Terms and Conditions set forth in this solicitation and therefore waives any future right to contest the required provisions.

9.6 Protest

The City's protest policy applies to this solicitation.

The policy is available at: <https://www.nola.gov/getattachment/Purchasing/Forms/No-130-Procurement-Protest-Policy.pdf/> .

9.7 Debriefing

Respondent who was not qualified can request a post-award debriefing.

The debriefing shall not include point-by-point comparisons of the debriefed respondent's submission with the awarded or selected respondent(s).

The unsuccessful respondent must submit a request in writing to the Designated Purchasing Official within 15 calendar days from the date of the notification issued by the Bureau of Purchasing.

The Bureau of Purchasing will ensure that the debriefing is conducted within a reasonable time.

9.8 Code of Ethics

The City adheres to the Louisiana Code of Governmental Ethics, contained in the Louisiana Revised Statutes Annotated, R.S. 42:1101, *et seq.*

By submitting a qualification submission, prospective respondents warrant that there is no "conflict of interest" related to this solicitation that would violate applicable Louisiana Law.

Violation of the Louisiana Code of Governmental Ethics may result in rescission of contract, permit or licenses, and the imposition of fines and/or penalties, without contractual liability to the public in accordance with applicable law.

9.9 BRASS

The City launched BRASS in July 2019. BRASS replaces the legacy databases and is used by all City departments.

BRASS enables suppliers to register and to maintain information about their organization for the purpose of doing business with the City and receive notifications of business opportunities.

Registration is free. The City invites prospective suppliers to learn more at <https://nola.gov/purchasing/brass/> .

9.10 Direct Deposit Electronic Payment Program

The City will require that the successful firm enrolls in its direct deposit electronic payment program.

Instead of receiving paper checks, payments will be made electronically via Automated Clearing House ("ACH") and deposited directly into an account designated by the qualified respondent at its financial institution.

Enrolling in direct deposit payments supports the City's ongoing efforts to become a more efficient and effective government, deliver enhanced services and timely payments, and provide for a sustainable environment.

ACH payment will apply to the invoice that you submit through the City's Supplier Portal **AFTER** the Bureaus of Purchasing AND Treasury have completed the ACH activation. The activation process may take 4 to 10 calendar days.

9.11 Waiver of Administrative Informalities

The City shall reserve the right, at its sole discretion, to waive administrative informalities contained in any submission.

9.12 Errors and Omissions in Submission

The City reserves the right to seek clarification of any submission for the purpose of identifying and eliminating irregularities or informalities.

9.13 Familiarity with Laws

You shall familiarize yourself with and shall comply with all applicable Federal and State Laws, parish/municipal ordinances, resolutions, and the rules and regulations of all authorities having jurisdiction over the solicitation.

These laws and/or ordinance will be deemed to be included in the contract, the same as though herein written in full.

9.14 Sample Agreement

The City supplies a sample professional services agreement on the website of the Bureau of Purchasing at: <https://nola.gov/next/purchasing/topics/policies,-procedures,-forms-and-templates/> .

The selected respondent(s) shall be expected to execute a contract that is substantially the same as the sample agreement.

You shall not submit your own standard contract terms and conditions as a response to this RFP.

9.15 Federal Contract Provisions

If the City uses or intends to use federal funds (for example: ARPA, FEMA, HUD, etc.) to pay for the services rendered by the selected respondent, you will be required to comply with the federal contract provisions attached to the RFP and/or the signed contract.

9.16 Organizational Conflicts of Interest

As per Section 9.8, the City is required to comply with all state and local laws that govern conflict of interest.

When a project is partly funded by grants administered by a Federal agency, the City must also comply with Federal procurement standards codified in 2 C.F.R. Part 200 (Uniform Rules) for that portion of the project utilizing Federal Funds.

2 C.F.R. § 200.318 requires the non-Federal entity (the City) to maintain written standards of conduct covering conflict of interest, including Organizational Conflict Of Interest (OCOI).

An OCOI means that because of other activities or relationships with other persons or entities, a person or entity:

1. Is unable or potentially unable to render impartial assistance or advice to the City;
or

2. Is or might be otherwise impaired in its objectivity in performing the contract work;
or
3. Has an unfair competitive advantage.

Disclosure, evaluation, neutralization, and management of these conflicts and of the appearance of conflicts, is in the interests of the public, the City, and the business community.

You are therefore encouraged to investigate and manage any potential OCOI well in advance of forming teams or considering participation with or as a prospective respondent on a solicitation.

For this RFP, you are required to:

1. EITHER certify that you conducted an internal review prior to submitting a proposal and that you do not have any organizational conflict of interest (you must then complete and submit Attachment C-1);
2. OR disclose all relevant facts concerning any past, present, or currently planned interests, activities, or relationships which may present an organizational conflict of interest (you must then complete and submit Attachment C-2).

If you submit an Organizational Conflict of Interest Disclosure and Avoidance/Neutralization/Mitigation Plan (Attachment C-2), the Designated Purchasing Official will ask the sponsoring department to review and make a recommendation on whether the identified conflict precludes your proposal from being submitted to the selection committee.

The City reserves the right to require revisions to the avoidance/neutralization/mitigation plan that you submitted.

If the sponsoring department recommends disqualifying your proposal, the Designated Purchasing Official will notify you in writing that you are disqualified from further participation.

You will have 2 business days from the date of notification by the Designated Purchasing Official to appeal the decision of disqualification.

You must submit the appeal to the Chief Procurement Officer via email with the number of the RFP and a detailed explanation.

The decision from the Chief Procurement Officer or designee will be final.

Failure to submit the appeal timely waives the right to obtain a decision from the Chief Procurement Officer or designee.

You shall also refer to Section 8.7 when a prospective respondent fails to comply with the requirements of this section.

9.17 Determination of Responsibility

The City seeks to select a responsible respondent who:

- Has adequate financial resources for performance or can obtain such resources as required during performance.

- Has the necessary experience, organization, technical qualifications, skills, and facilities, or can obtain them.
- Can comply with the proposed or required time of delivery or performance schedule.
- Has a satisfactory record of integrity, judgment, and performance.
- Is otherwise qualified and eligible to receive an award under applicable laws and regulations.

You must ensure that your proposal contains sufficient information for the City to make its determination by presenting acceptable evidence of the above to perform the contracted services.

9.18 Confidential Information, Trade Secrets, and Proprietary Information

The designation of certain information as trade secrets and/or privileged or confidential proprietary information shall only apply to the technical portion of the proposal. The financial proposal will not be considered confidential under any circumstance. Any proposal copyrighted or marked as confidential or proprietary in its entirety may be rejected without further consideration or recourse.

For the purposes of this procurement, the provisions of the Louisiana Public Records Act (La. R.S. 44.1 et. seq.) shall be in effect. Pursuant to this Act, all proceedings, records, contracts, and other public documents relating to this procurement shall be open to public inspection.

You are reminded that while trade secrets and other proprietary information you submit in conjunction with this procurement may not be subject to public disclosure, you must claim such protections at the time of submission of your technical proposal. You should refer to the Louisiana Public Records Act for further clarification.

The City will not credit any blanket exemption claims lacking specific justification.

You shall clearly designate the part of the proposal that contains a trade secret and/or privileged or confidential proprietary information as “confidential” to claim protection, if any, from disclosure.

You shall mark the cover sheet of the proposal with the following legend, specifying the specific section(s) of the proposal sought to be restricted in accordance with the conditions of the legend:

“The data contained in pages _____ of the proposal have been submitted in confidence and contain trade secrets and/or privileged or confidential information and such data shall only be disclosed for evaluation purposes, provided that if a contract is awarded to this Respondent as a result of or in connection with the submission of this proposal, the City of New Orleans shall have the right to use or disclose the data therein to the extent provided in the contract. This restriction does not limit the City of New Orleans’s right to use or disclose data obtained from any source, including the Respondent, without restrictions.”

Further, to protect such data, each page containing such data shall be specifically identified and marked “CONFIDENTIAL”.

You must be prepared to defend the reasons why the material should be held confidential. By submitting a proposal with data, information, or material designated as containing trade secrets and/or privileged or confidential proprietary information, or otherwise designated as "confidential", you agree to indemnify and defend (including attorney's fees) the City and hold the City harmless against all actions or court proceedings that may ensue which seek to order the City to disclose the information.

The City reserves the right to make any proposal, including proprietary information contained therein, available to city personnel for the sole purpose of assisting the City in its evaluation of the proposal. The City shall require said individuals to protect the confidentiality of any specifically identified proprietary information or privileged business information obtained as a result of their participation in these evaluations.

Additionally, any proposal that fails to follow this section and/or La. R.S. 44:3.2.(D)(1) shall have failed to properly assert the designation of trade secrets and/or privileged or confidential proprietary information and the information may be considered public records.

SECTION 10 – STATEMENT OF NO RESPONSE

If you elected not to respond to the RFP, the Bureau of Purchasing is interested in learning the reason(s) for non-response.

Your response to the below questionnaire will help the City understanding potential challenges and/or barriers with the RFP.

- <https://forms.office.com/Pages/ResponsePage.aspx?id=hfTLCLccAkqalQ3ZtFuf90s12RkxNB5KnaGW8hYN33NUMjZBN05YS1U0UVY4N0tXOFdEMEVHQTFXNi4u>

SECTION 11 – ATTACHMENTS

11.1. Document to Review

- Attachment A – Statement of Needs and Price Proposal

11.2. Required to Submit with Proposal In Response to RFP

- Attachment B – DBE Compliance Form-3
- Attachment C – Conflict of Interest
 - C1 - Organizational Conflict of Interest Disclosure Certification
 - C2 - Organizational Conflict of Interest Disclosure and Avoidance/Neutralization/Mitigation Plan
- Attachment D – Responsibility Questionnaire

11.3. Contract Terms and Conditions and Insurance

- Attachment E - Insurance Requirements
- Attachment F – City Contract Terms and Conditions

[ATTACHMENTS A THRU F ON FOLLOWING PAGES]

SECTION 11.1.

**THE FOLLOWING DOCUMENT IS FOR REVIEW
ONLY**

**ATTACHMENT NO. A
CITY OF NEW ORLEANS
STATEMENT OF NEEDS AND PRICE PROPOSAL**

This plan is expected to recommend actionable items and achievable timing that balance cost and outcome to maximize the City's 'bang for the buck' as it prepares citizens and infrastructure for increased extreme heat events. This plan's recommendations will be implemented by the City, public and/or private entities with which the City will partner, and/or entities engaged by the City in subsequent procurements. Respondents should note that the extreme heat mitigation and resilience strategy should be considered with a bias toward action and execution, not merely observation and reporting.

The scope of work includes, but is not limited to, the following:

Scope of Work

The City's overriding objective is to develop an actionable extreme heat mitigation strategy. As a result, the City is open to feedback from Respondents about the below scope of work as well as any other relevant, unaddressed heat mitigation ideas.

The selected Consultant will be required to create a technical report, including an executive summary, and a presentation to City staff and leaders at the end of the project. The technical report and presentation will describe the findings of the following assessments and analyses:

1. Data & Study Collection & Analysis

Task 1.1: Collection of existing Studies on Extreme heat/urban heat island effect

- Conduct a thorough review of existing studies, both globally and locally, to identify specific vulnerabilities to heat
- Collection of spatial data and analysis of the spatial and temporal variation of heat and key indicators across the City
- Compile and analyze available local datasets from the City and others

Task 1.2 Data Gap analysis

- Identify gaps in the available information and develop recommendations for additional monitoring to acquire the required additional data

Task 1.3 GIS Map Development

- Provide comprehensive map(s) aggregating all data collected in Task 1.1

Task	Deliverable
1.1	Technical Memo indicating review and assessment of studies
1.2	Summary of gaps in existing/available data and recommendation of additional data to collect
1.3	GIS database and map(s)

2. Define the Problem and Success

Task 2.1 Create a shared definition of urban heat islands

- Provide narrative assessment of various historical/socioeconomic factors that contribute to excess urban heat at the neighborhood level

Task 2.2 Analyze and project impact of extreme urban heat and the future risks and costs

- Provide discussion of impacts at the household, neighborhood and citywide levels
- Data analysis and narrative summary of the impacts of heat

Task 2.3 Define indicators for successful heat adaptation and mitigation strategies, including Quality of Life, health and built environment

Task	Deliverable
2.1	Narrative
2.2	Maps and data summaries
2.3	List of indicators and data sources

3. Review Existing City Plans - identify anything relevant to heat within these plans

Task 3.1 Review existing City Plans

- Provide review and assessment of existing city plans identifying any elements specifically related to heat. Plans include but are not limited to:
 - Hazard Mitigation
 - Comprehensive Emergency Operations
 - Climate Action Plan
 - Community Health Improvement Plan
 - Parks Master Plan
 - Youth Master Plan
 - Risk Management Plan
 - Plan for the 21st Century (aka the Master Plan)

Task 3.2: Summarize existing City mitigation and adaptation efforts

Task 3.3: Review existing local, state, federal laws/policies related to urban heat

Task	Deliverable
3.1	Provide assessment and summary of each plan's elements related to heat
3.2	Provide Comprehensive Summary of mitigation/ adaptation plans and actions
3.3	Provide Comprehensive Summary all relevant laws and polices related to heat that are applicable to New Orleans

4. Public Engagement

Task 4.1 Develop a Community Engagement Plan that outlines steps to engage community members.

- Provide information about climate change risks, as well as recommendations and resources for community adaptation, to increase community knowledge about climate change and to increase engagement in the adaptation planning process.
- Conduct a review of community engagement strategies that have demonstrated effectiveness.

Task 4.2 Conduct at least 3 interactive community workshops and/or community design charrettes, including interviews, focus group sessions with at-risk individuals and public meetings with residents and relevant stakeholders

Task 4.3 Based on input from workshops, develop a Community Priorities Report that includes a prioritized list of community hot spots. The Report will also include a ranked list of mitigation measures in each community

Task	Deliverable
4.1	<i>Community Engagement Plan; notes from listening sessions; summary of literature review</i>
4.2	<i>Workshop agendas; workshop notes; participant lists</i>
4.3	<i>Community Priorities Report; Community Priorities Map</i>

5. Implementation and Recommendations

Task 5.1 Identify best practices for heat mitigation strategies

- Mitigation/ adaptation Effort opportunities
- Recommend governance/personnel structure & staffing model
- Identify funding requirements and potential sources to execute strategies in plan

Task 5.2 Outline future monitoring needs and guidelines

- Identify future monitoring strategies, guidelines and costs to successfully implement plan

Task 5.3 Provide Draft and Finalized Heat Adaptation Plan

Task 5.4 Communication Materials

- Ensure integration of priorities from disadvantaged communities and alignment with other initiatives and priorities identified in previous tasks
- Design and publish the final Heat Mitigation Plan.
- Return to communities that participated in Task 2 to share project findings and recommendations and next steps by local jurisdictions, and ensure communities are educated about the health hazards of extreme heat. Ensure communities can stay engaged in the climate adaptation conversation if they are interested.

Task	Deliverable
5.1	Identify best practices for heat mitigation strategies
5.2	Future monitoring needs and guidelines
5.3	Draft and Finalized Heat Adaptation Plan
5.4	Communication Materials

6. Project Management

Task 6.1 Project Kickoff Meeting and Minutes

- Conduct a kickoff meeting with all project partners to discuss final scope of work, timeline, roles and responsibilities, meeting schedule, and immediate next steps.

Task 6.2 Monthly Meetings / Project Status Reports

- Conduct regular project team conference calls and in-person meetings with ORS to ensure constant communication on upcoming tasks to ensure the project remains on time and within budget.

Task 6.3 Monthly invoicing and progress reports

Task 6.4 Project Coordination

Task	Deliverable
6.1	<i>Meeting notes summary</i>
6.2	<i>Meeting agendas; meeting note summaries; participant lists</i>
6.3	Provide monthly invoices, backup documentation/progress reports

Personnel Qualifications

The lead Project Manager must be available to represent the Consultant and any sub-contractors (collectively, the Team) in all communications, including both in-person and virtual meetings; maintain the project schedule; ensure all deliverables are submitted on-time; and ensure the quality of work of the Team.

The Consultant and Team members are required or preferred to have experience in the following areas:

- **Required**
 - Government, not-for-profit, environmental, or business consulting
 - State and local legislation and policies
 - External communications with government entities
 - Public engagement and outreach in New Orleans, notably engaging with underserved communities. At least one full-time member of the Team with this expertise must fulfill this role exclusively either as a full-time employee of the Consultant or a sub-contractor on the Team.
 - Geospatial data management and analysis in ESRI platforms
- **Preferred**
 - demonstrated prior experience developing climate risk assessments and natural hazard mitigation strategies
 - City of New Orleans legislation and policies
 - State of Louisiana legislation and policies

Commented [GN4]: Add additional relevant qualifications

Commented [AF5R4]: Do we want to include:
 -Expert familiarity with federal funding programs including BIL and IRA.
 -Urban planning, landscape architecture, related fields

Deliverables

Upon completion of the deliverables, the Consultant shall provide at least one copy of each deliverable in hard copy and submit all files in the electronic file format in which they

were originally created (e.g., Microsoft Word, Microsoft Excel, AutoCAD, etc.). Example: All narratives must be submitted in Microsoft Word format upon completion.

Deliverables include:

- 1) An outline of the draft technical report for City staff review and feedback
- 2) A comprehensive technical report including maps, charts, and summary text related to each of the assessment activities above. The report will include 8-10 recommended short and long-term actions that the City could take to enhance its heat mitigation and adaptation strategies. The strategy should include infrastructure, policy, public health considerations.
- 3) An executive summary of the technical report
- 4) Presentations to City staff and the City Council
- 5) Copies of all data sets, study protocols, and methodology collected in the assessment activities and referenced for the technical report.

Part 2 - Price Proposal

The City anticipates that the contract shall be for a term of one year with the option(s) for one-year renewal(s) based on the Respondent’s proposed timeline.

Commented [GN6]: Is one year enough time?

Respondents must explain their proposed fees to deliver the scope of work. The explanation must include all professional fees and/or costs associated with delivering the services. Respondents must submit a table similar to the below table that clearly shows estimated professional fees by level, rate, and activity. Respondent should add as many columns as necessary to describe their Consultant and Team members.

Task #	Task Description	Position 1			Position 2		
		# of Hours	Hourly Rate	Total Fees	# of Hours	Hourly Rate	Total Fees
1	Data & Study Collection & Analysis						
1.1	Technical Memo indicating review and assessment of studies						
1.2	Summary of gaps in existing/available data and recommendation of additional data to collect						
1.3	GIS database and map						
	Task 1 Manhours						
	Task 1 Subtotal						

2 Define the Problem and Success					
2.1	Create a shared definition of urban heat islands and extreme heat and a narrative of the historical and socioeconomic factors that led to present day conditions				
2.2	Analyze and project impact of extreme urban heat and the future risks and costs				
2.3	Define indicators for successful heat adaptation and mitigation strategies, including Quality of Life, health and built environment				
	Task 2 Manhours				
	Task 2 Subtotal				

3 Review Existing City Plans					
3.1	Provide assessment and summary of each plan's elements related to heat				
3.2	Provide Comprehensive Summary of mitigation/ adaptation plans and actions				
3.3	Provide Comprehensive Summary all relevant laws and polices related to heat that are applicable to New Orleans				
	Task 3 Manhours				
	Task 3 Subtotal				

4 Public Engagement					
4.1	Develop a Community Engagement Plan that outlines steps to engage community members.				
4.2	Conduct at least 3 interactive community workshops and/or community design charrettes, including interviews, focus group sessions with at-risk individuals and public meetings with residents and relevant stakeholders op a Community Engagement Plan that outlines steps to engage community members.				
4.3	Based on input from workshops, develop a Community Priorities Report that includes a prioritized list of community hot spots. The Report will also include a ranked list of mitigation measures in each community				
	Task 4 Manhours				
	Task 4 Subtotal				

5		Implementation and Recommendations					
5.1	Identify best practices for heat mitigation strategies						
5.2	Future monitoring needs and guidelines						
5.3	Draft and Finalized Heat Adaptation Plan						
5.4	Communication Materials						
	Task 5 Manhours						
	Task 5 Subtotal						

6		Project Management					
6.1	Project Kickoff Meeting and Minutes						
6.2	Monthly Meetings / Project Status Reports						
6.3	Monthly invoicing and progress reports						
6.4	Project Coordination						
	Task 6 Manhours						
	Task 6 Subtotal						

Project Cost Summary		
	Task Description	Task Cost
1	Data & Study Collection & Analysis	
2	Define the Problem and Success	
3	Review Existing City Plans	
4	Public Engagement Plan	
5	Implementation and Recommendations	
6	Project Management	
	Total Project Cost	

[ATTACHMENTS B THRU F ON FOLLOWING PAGES]

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SECTION 11.2.

THE FOLLOWING DOCUMENTS MUST BE COMPLETED AND SUBMITTED WITH RESPONSE

INSTRUCTIONS:

- Documents must be signed by an authorized representative of the entity or it will not be accepted.
- For Affidavits: the document must be notarized, or it will not be accepted.
- For Affidavits: Affiant **MUST** select when required or the affidavit will not be accepted.

Instructions sheet may be omitted when submitting the affidavit.

ATTACHMENT B
CITY OF NEW ORLEANS
DISADVANTAGED BUSINESS ENTERPRISE (DBE) REQUIREMENTS

I - DBE PROGRAM COMPLIANCE

The requirements of the City of New Orleans ("City") Disadvantaged Business Enterprise ("DBE") Program apply to this Agreement. It is the policy of the City to practice nondiscrimination based on social and economic disadvantage, race, color, gender, disability and national origin in the award and performance of contracts.

In consideration of this policy and pursuant to Division 2 of Article IV of Chapter 70 of the Code of the City, the City enacted the DBE Program for all City contracts.

Contractor agree to use its best efforts to fully and completely carry out the applicable requirements of the City's DBE Program in the award and administration of this Agreement, including without limitation, all reporting requirements and established DBE participation percentage. The Contractor's failure to carry out these requirements, as determined in good faith by the City's Office of Supplier Diversity ("OSD"), shall be deemed a material breach of this Agreement. This material breach may result in the termination of this Agreement and/or the pursuit of any other remedies available to the City under any applicable law, ordinance, or rule, including, but not limited to those set forth in the City's Policy Memorandum for the DBE Program

II - DBE CONTRACT GOAL

The requested DBE Contract Goal is listed in the contract section of the invitation to bid.

NOTE: All non-public works contracts have a default goal of 35% DBE participation.

Participation shall be counted toward meeting the contract goal based on the following:

1. Only business entities certified as SLDBE or LAUCP-DBE are counted toward the contract DBE participation goal.
2. The Bidder/Proposer may count only the total dollar value of the subcontract awarded to certified DBE subcontractor/supplier(s) toward the contract goal.
3. A Bidder/Proposer can count 100 % of the DBE's participation provided that the DBE has committed to performing at least 51% of the work with its own forces.
4. Bidder/Proposer may count 100 % of DBE Manufacturer Supplier's participation and 60 % of DBE Non-Manufacturer supplier's participation toward its contract goal.
5. When the Bidder/Proposer is in a joint venture with one or more DBE business entities, the OSD, after reviewing the joint venture agreement, shall determine the percent of participation that will be counted toward the contract goal.

6. Bidder/Proposer may count toward its contract goal only those DBE subcontractors/suppliers performing a Commercially Useful Function.

“DBE Commercially Useful Function means” a discrete task or group of tasks, the responsibility for performance of which shall be discharged by the DBE firm by using its own forces or by actively supervising on-site the execution of the tasks by another entity for whose work the DBE firm is responsible. In determining whether a certified firm is performing a commercially useful function, factors including, but not limited to, the following shall be considered:

- a. Whether the business entity has the skill and expertise to perform the work for which it is being utilized and possesses all necessary licenses;
- b. Whether the firm is in the business of performing, managing, or supervising the work for which it has been certified and is being utilized;
- c. Whether the DBE subcontractor is performing a real and actual service that is a distinct and verifiable element of the work called for in a contract.
- d. Whether the DBE subcontractor performed at least thirty percent (30%) of the cost of the subcontract (including the cost of materials, equipment or supplies incident to the performance of the subcontract) with their own forces.

III - DBE DIRECTORY

Contractors may only utilize certified SLDBE and/or Louisiana Unified Certification Program (LAUCP) DBE firms from the following lists to meet the City's DBE Program goals.

- a. Contractors agree to utilize the City's SLDBE directory of certified firms as a first source when searching for certified DBE business entities. The SLDBE directory includes entities certified through Sewerage and Water Board of New Orleans, New Orleans Aviation Board and Harrah's New Orleans. The SLDBE directory is available at www.nola.gov.
- b. The Louisiana Unified Certification Program (“LA UCP”) directory is available at www.dotd.louisiana.gov.

Information on locating these directories may also be requested from the OSD at supplierdiversity@nola.gov.

IV - GOOD FAITH EFFORT POLICY

In accordance with Sec.70-461 of the City Code, the City shall reject any bid and shall not award, enter into or amend any contract that is not supported by documentation establishing that the Bidder/Proposer has met the applicable contract DBE participation Goal or made Good Faith Efforts to the applicable contract DBE participation goal.

Good Faith Efforts are steps taken to achieve a contract DBE participation goal or other requirements which, by their scope, intensity and usefulness demonstrate the

Bidder's or Proposer's responsiveness to fulfilling the City's DBE Program goals prior to the award of a contract, as well as the Contractor's responsibility to put forth measures to meet or exceed the contract DBE participation goal throughout the duration of the contract.

The OSD shall be responsible for determining whether a Bidder/Proposer has made their best efforts to achieve the DBE Program contracting objectives. In making this determination, the DBE Compliance Officer shall consider the following factors:

A. SPECIFIC PORTIONS OF WORK IDENTIFIED FOR DBE SUBCONTRACTOR:

- i. Bidder/Proposer listed all selected scopes or portions of work to be performed by DBEs in order to increase the likelihood of meeting the contract goal for the project
- ii. Bidder/Proposer listed the estimated value of each scope or portions of work identified.

B. NOTIFYING CERTIFIED DBEs OF CONTRACTING OPPORTUNITIES:

- i. Bidder/Proposer contacted the OSD to request submission of subcontracting opportunities on the DBE Opportunities page.
- ii. Bidder/Proposer included a copy of each announcement or notification.

C. INITIAL SOLICITATION & FOLLOW-UP:

- i. Bidder/Proposer listed all certified DBE firms that received written notification of work items to be subcontracted and documented the certified firm's response.
- ii. Bidder/Proposer included copies of the written notice(s) sent to certified firms.

D. NEGOTIATE IN GOOD FAITH:

- i. Bidder/Proposer provided an explanation for any rejected DBE bid or price quotation.
- ii. Bidder/Proposer included a copy of the written rejection notice including the reason for rejection to the rejected DBE firm.

If a Bidder/Proposer fails to submit documented Good Faith Efforts as outlined, the bid shall be considered non-responsive.

The OSD may take into account the performance of other Bidders/Proposers in meeting the contract DBE participation goal and may, if deemed advisable, request further information, explanation or justification from any Bidder/Proposer. For example, Bidder's past performance on similar contracts with similar scopes and/or a Proposer's prior history utilizing DBEs will also be taken in consideration when determining Good Faith Efforts.

Good Faith Efforts shall be monitored throughout the life of the contract and evaluated on a case-by-case basis in making a determination whether a Bidder or Proposer is in compliance with the Good Faith Effort policy.

To obtain a copy of the Good Faith Effort Policy contact OSD at supplerdiversity@nola.gov.

V - REQUIRED DBE FORMS for RFPs/RFQs

Request for Proposals (“RFP”) / Request for Qualifications (“RFQs”):

To ensure the full participation of DBE’s in all phases of the City’s procurement activities, all Proposers at time of proposal submission shall complete and submit a DBE Participation Plan.

1. **DBE Participation Plan (Attachment “B”):** A completed DBE Participation Plan shall be considered a methodology on how the Proposer plans to meet the contract DBE participation goal if awarded the project.
 - a. If a DBE Participation Plan (Attachment “B”) is not submitted, it shall be determined that the Respondent was non-responsive to the DBE provisions and the proposal will not be evaluated by the selection committee.
2. Within ten (10) days of the City’s issuance of the Notice to Award letter, the selected Proposer shall complete and submit a DBE Compliance Form-1: This form is used to establish your DBE commitment on a City Bid, RFP or solicitation response. The selected Proposer shall provide a list of all proposed DBE subcontractor(s).
 - a. If the amount of DBE participation committed on DBE Compliance Form-1 is less than the Contract Goal, the selected Proposer shall complete DBE Compliance Form-2: This form is used to document Good Faith Efforts when the amount of DBE participation committed on DBE Compliance Form-1 is less than the contract DBE participation goal. The selected proposer shall provide all required supporting documentation of demonstrated Good Faith Efforts as specified on DBE Compliance Form-2.

The OSD shall review the contents of all required DBE Compliance Forms and may, if deemed advisable, request further information, explanation or justification from any Bidder/Respondent. Thereafter, the Contractor shall be bound by the established percentage, as approved by the OSD.

VI - CONTRACTOR COOPERATION

The Contractor shall:

1. Designate an individual as the “DBE Liaison” who will monitor the Contractor’s DBE participation as well as document and maintain records of “Good Faith Efforts” with DBE subcontractors/suppliers (“DBE Entities”).
2. Execute written contracts with DBE Entities that meet the applicable DBE goals.
 - a. The Contractor shall provide the DBE Compliance Officer (“DBECO”) with copies of said contracts within thirty (30) days from the date the Agreement is fully executed between the City and the Contractor.

- b. The Contractor shall agree to promptly pay subcontractors, including DBE Entities, in accordance with law.

3. Establish and maintain the following records for review upon request by the OSD:

- a. Copies of written contracts with DBE Entities and purchase orders;
- b. Documentation of payments and other transactions with DBE Entities;
- c. Appropriate explanations of any changes or replacements of DBE Entities, which may include a record of "Post-Award Good Faith Efforts" for each certified firm that the Contractor does not use in accordance with the approved DBE participation submission;
- d. Any other records required by the OSD.

The Contractor is required to maintain such records for three (3) years after completion or closeout of the Agreement. Such records are necessary to determine compliance with their DBE obligations.

4. Post monthly payments and submit regular reports to the DBECO as required via the online "Contract Compliance Monitoring System" or other means approved by the OSD.

- a. The Contractor shall submit the initial report outlining DBE participation within thirty (30) days from the date of notice to proceed (or equivalent document) issued by the City to the Contractor. Thereafter, "DBE Utilization" reports shall be due on or before the fifteenth (15th) day of each month until all DBE subcontracting work is completed.
- b. Reports are required even when no activity has occurred in a monthly period.
- c. If the established percentage is not being met, the monthly report shall include a narrative description of the progress being made in DBE participation.
- d. The Contractor may also be required to attach or upload copies of canceled checks or bank statements that identify payer, payee and amount of transfer to verify payment information as indicated on the form.

5. Conform to the established percentage as approved by the OSD.

- a. The total dollar amount of the Agreement shall include approved change orders and amendments. For a requirements contract, the total dollar amount shall be based in actual quantities ordered.
- b. No changes to the established percentage and DBE Entities submitted on DBE Compliance Form-1 shall be allowed without approval by the OSD.
- c. The City will not adjust the contract for any increase in cost due to replacement of DBE Entities.

VII - POST-AWARD MODIFICATION

The OSD may grant a post-award modification request if:

- a. for a reason beyond the Contractor's control, the Contractor is unable to use the certified DBE entity submitted on DBE Compliance Form-1 to perform the specified work. The Contractor must notify the OSD of the intent for removal and substitution of a certified DBE immediately upon determination of that the DBE submitted on Compliance Form -1 is unable to perform the specified work. In such case, the Contractor shall use and document "Good Faith Efforts" to find a similarly qualified and certified DBE entity to perform such specified work. The same criteria used for establishing "Good Faith Efforts" in maximizing the participation of DBE Entities prior to awarding the Agreement will also apply to the substitution of DBE subcontractors during the performance of the Agreement; or
- b. the Contractor reasonably believes that, due to a change of scope, execution of the work in accordance with the directions from the City is unlikely to meet the established percentage or terms. In such case, the Contractor shall use and document "Good Faith Efforts" to achieve a reasonable amount of DBE participation on the remaining work on the Agreement.

VIII - MONITORING DBE PARTICIPATION

To ensure compliance with DBE requirements during the term of the Agreement, the DBECO will monitor the Contractor' use of DBE subcontractors/suppliers ("DBE Entities") through the following actions:

1. Job site visits;
2. Electronic payment tracking via the Contract Compliance Monitoring System or other means as approved by the OSD;
3. Routine audits of contract payments to all subcontractors;
4. Reviewing of records and reports; and/or
5. Interviews of selected personnel.

The DBECO may schedule inspections and on-site visits with or without prior notice to the Contractor or DBE Entities.

IX - FAILURE TO COMPLY

If the DBECO determines in good faith that the Contractor failed to carry out the requirements of the DBE Program, such failure shall be deemed a material breach of this Agreement. This material breach may result in the termination of the Agreement and/or the pursuit of any other remedies available to the City under any applicable law, ordinance, or rule, including, but not limited to those set forth in the City's Policy Memorandum for the DBE Program.

All DBE Compliance forms are maintained by the OSD and are subject to change.

Please contact the OSD at supplierdiversity@nola.gov to request a copy of all DBE referenced documents.

DBE COMPLIANCE FORM-3 IS ATTACHED SEPARATELY TO THIS RFP ON THE SUPPLIER PORTAL

[ATTACHMENTS C THRU F ON FOLLOWING PAGES]

[The remainder of the page is intentionally left blank]

ATTACHMENT C CONFLICT OF INTEREST

INSTRUCTIONS:

- **You are required to submit ONLY ONE FORM: either C1 or C2 with your response.**
- **DO NOT COMPLETE AND SUBMIT BOTH.**
- **If you did not identify a conflict, you must complete and submit Attachment C1.**
- **If you identified a conflict, you must complete and submit Attachment C2.**

Instructions sheet may be omitted when submitting the affidavit

**ATTACHMENT C1
CITY OF NEW ORLEANS
ORGANIZATIONAL CONFLICTS OF INTEREST CERTIFICATION**

STATE OF _____

COUNTY/PARISH OF _____

Before me, the undersigned authority, came and appeared (*first and last name*) _____, who, being first duly sworn, deposed, and said that:

1. He/She is the (*title*) _____ and authorized representative of (*name of respondent*) _____, hereafter called "Respondent."
2. The Respondent submits the attached proposal in response to City of New Orleans Solicitation No. _____.
3. The Respondent certifies that, prior to submitting the attached proposal, the Respondent conducted an internal review of its team, including the sub-contractor(s) listed in the proposal, for potential, real, or perceived Organizational Conflicts of Interest.
4. The Respondent further certifies that, to the best of its knowledge and belief except as otherwise disclosed, it does not have any organizational conflict of interest.

Respondent Representative Signature

Print or Type Name

Address

Sworn to and subscribed before me, _____, Notary Public, this _____ day of _____, 20____.

Notary Public (signature)

Notary Public Name

Notary ID#/Bar Roll#: _____

[ATTACHMENTS C2 THRU F ON FOLLOWING PAGES]

**ATTACHMENT C2
CITY OF NEW ORLEANS
ORGANIZATIONAL CONFLICTS OF INTEREST DISCLOSURE AND
AVOIDANCE/NEUTRALIZATION/MITIGATION PLAN**

STATE OF _____

COUNTY/PARISH OF _____

Before me, the undersigned authority, came and appeared (first and last name) _____
_____, who, being first duly sworn, deposed, and said that:

1. He/She is the (*title*) _____ and
authorized representative of (*name of respondent*) _____
_____, hereafter called "Respondent."

2. The Respondent submits the attached proposal in response to City of New Orleans
Solicitation No. _____.

3. The Respondent hereby confirms the following organizational conflict of interest:

a. Description of the OCOI

i. Name of Person or Firm Conflicted: _____

ii. Past/Current/Future Project Name and Scope of Work: _____

iii. Description of the Conflict of Interest: _____

b. Avoidance/Neutralization/Mitigation Plan

_____.

Respondent Representative Signature

Print or Type Name

Address

Sworn to and subscribed before me, _____, Notary Public, this _____ day of _____, 20____.

Notary Public (signature)

Notary Public Name

Notary ID#/Bar Roll#: _____

[ATTACHMENTS D THRU F ON FOLLOWING PAGES]

**ATTACHMENT D
CITY OF NEW ORLEANS
RESPONSIBILITY QUESTIONNAIRE**

If you choose to circle "N/A", you must provide a written explanation on a separate document and submit it with this questionnaire in your response.

**ATTACHMENT D - CITY OF NEW ORLEANS
RESPONSIBILITY QUESTIONNAIRE**

No.	Questions	Circle Answer
1.	Is your firm in good standing with the Louisiana Secretary of State or other state of incorporation (if your firm is incorporated in another state) at the time of submission of your response?	YES NO N/A
2.	Have you or your firm's incorporation been cancelled, revoked, suspended, forfeited by the state of incorporation in the last 5 years?	YES NO N/A
3.	Do you or your firm owe tax to the City of New Orleans?	YES NO N/A
4.	Do you or your firm have adequate staffing resources to perform the work described in this RFP?	YES NO N/A
5.	Do you or your firm possess adequate insurance for the work described in this RFP?	YES NO N/A
6.	Have you or your firm been denied insurance coverage in the last 5 years?	YES NO N/A
7.	Have you or your firm been terminated for cause from a contract with a public agency in the last 5 years?	YES NO N/A
8.	Have you or your firm been declared non-responsible to or prevented from bidding or performing work or subcontract in the last 5 years?	YES NO N/A
9.	Have you or your firm been debarred or suspended by the Federal Government or the State of Louisiana or the state where your firm is incorporated?	YES NO N/A
10.	Is there a proceeding pending relating to your firm's responsibility, debarment, suspension, or qualification to receive a public contract?	YES NO N/A
11.	Did you or someone from your firm colluded, conspired, connived, or agreed, directly, or indirectly with any other respondent, firm or person to submit a collusive or sham bid in connection with this RFP?	YES NO N/A
12.	Do you or your firm comply with the City's hiring requirements contained in the city code?	YES NO N/A

This questionnaire was completed by:

First and Last Name

Title

Signature

Date

[ATTACHMENTS E THRU F ON FOLLOWING PAGES]

SECTION 11.3.

**CONTRACT TERMS AND CONDITIONS AND
INSURANCE**

**ATTACHMENT E
CITY OF NEW ORLEANS
INSURANCE REQUIREMENTS**

ARTICLE I (D) – Minimum Insurance Requirements

Commented [GN7]: Send SOW to Eldridge and update

Except as otherwise noted, at all times during this Agreement or the performance of work required by this Agreement, the Contractor will maintain the following insurance in full force and effect for the duration of the work under this Agreement. Evidence of coverage shall be provided prior to the start of any activities/work, in conjunction with the Contractor's scope of work under the Agreement.

If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the City requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

Minimum Requirements:

Workers' Compensation & Employers Liability Insurance in compliance with the Louisiana Workers' Compensation Act(s). Statutory and Employers Liability Insurance with limits of not less than \$1,000,000.

Commercial General Liability Insurance including contractual liability insurance, products and completed operations, personal & advertising injury, bodily injury, property damage, and any other type of liability for which this Agreement applies with limits of liability of not less than \$1,000,000 each occurrence / \$2,000,000 policy aggregate.

Automobile Liability Insurance with a combined single limit of liability of not less than \$500,000 per accident for bodily injury and property damage. Insurance shall include all owned, non-owned and hired vehicles.

Professional (Errors & Omission) Liability - As professional services are required under the contract, insurance appropriate to the contractor's profession, to include but not limited to armed security guard services, with limits of liability of not less than \$1,000,000 per occurrence or claim / \$2,000,000 policy aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Contractor in this agreement.

Policy shall be kept in force and uninterrupted for a period of three (3) years beyond policy expiration. If coverage is discontinued for any reason during this three (3) year term, Contractor must procure and evidence full extended reporting period (ERP) coverage.

Contractors shall be able to meet the above referenced specific policy limits of liability through a combination of primary and umbrella /excess coverage.

Important: The obligations for the Contractor to procure and maintain insurance shall not be constructed to waive or restrict other obligations. It is understood that neither failure to

comply nor full compliance with the foregoing insurance requirements shall limit or relieve the Contractor from any liability incurred as a result of their activities/operations in conjunction with the Contractor's obligations and/or Scope of Work.

Additional Insured Status: The Contractor and all Subcontractors (where applicable) will provide, and maintain current, a Certificate of Insurance naming the City of New Orleans, its departments, political subdivisions, officers, officials, employees, and volunteers are to be covered as "Additional Insureds" on the CGL policy with respect to liability arising out of the performance of this agreement. General liability insurance coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used).

Contractor shall require and verify that all Subcontractors maintain insurance and coverage limits meeting all the requirements stated herein or the Sub-contractor liability shall be covered by the Contractor. The Certificate of Insurance, as evidence of all required coverage, should name the City of New Orleans Risk Manager as Certificate Holder and be delivered via U.S. Mail to (Office of Resilience & Sustainability, 1300 Perdido Street, Suite 8E08, New Orleans, LA 70112), with a copy forwarded to Risk Management Division, 1300 Perdido Street, 9E06 – City Hall, New Orleans LA 70112.

The Additional Insured box shall be marked "Y" for Commercial General Liability coverage. The Subrogation Waiver Box must be marked "Y" for Workers Compensation/Employers Liability and Property.

Primary Coverage: For any claims related to this agreement, the Contractor's insurance coverage shall be primary insurance as respects the City, its departments, political subdivisions, officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City shall be non-contributing to the Contractor's coverage.

Claims Made Policies: If applicable, the retroactive date must be shown and must be before the date of the agreement or the beginning of work. If the coverage is canceled or non-renewed, and not replaced with another claims-made policy, Contractor must purchase "extended reporting" coverage for minimum of 3 years after the termination of this agreement.

Waiver of Subrogation: The Contractor and its insurers agree to waive any right of subrogation which any insurer may acquire against the City by virtue of the payment of any loss under insurance required by this agreement.

Notice of Cancellation: Each insurance policy required above shall not be canceled, expire, or altered except without prior notice to the City of no less than 30 days.

Acceptability of Insurers: Insurance is to be placed with insurers licensed and authorized to do business in the State of Louisiana with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the City.

Notice: The Contractor will provide the City's Risk Manager (at City of New Orleans Attn: Risk Manager, 1300 Perdido Street, Suite 9E06, New Orleans, LA 70112- Ref.: CEA) the following documents, within 10 calendar days of the City's request.

Copies of all policies of insurance, including all policies, forms, and endorsements.

Substitute insurance coverage acceptable to the City within 30 calendar days if any insurance company providing any insurance with respect to this Agreement is declared bankrupt, becomes insolvent, loses the right to do business in Louisiana, or ceases to meet the requirements of this Agreement.

Special Risks or Circumstances: The City of New Orleans shall reserve the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer coverage, or other circumstances.

[ATTACHMENT F ON FOLLOWING PAGES AND END OF SOLICITATION]

[The remainder of the page is intentionally left blank]

**ATTACHMENT F
CITY OF NEW ORLEANS
CITY CONTRACT TERMS AND CONDITIONS**

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14.	DURATION.	34.	PERFORMANCE MEASURES.
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- 43. **TERMINATION FOR CAUSE.**
- 44. **TERMINATION FOR CONVENIENCE.**
- 45. **TERMINATION FOR NON-APPROPRIATION.**

- 46. **TERMS BINDING.**
- 47. **WAIVER OF SICK AND ANNUAL LEAVE BENEFITS.**

1. ACKNOWLEDGMENT OF EXCLUSION OF WORKER'S COMPENSATION COVERAGE. The Contractor herein expressly agrees and acknowledges that it is an independent contractor as defined in R.S. 23:1021 (6) and as such, it is expressly agreed and understood between the parties hereto, in entering into this Contract, that the City shall not be liable to the Contractor for any benefits or coverage as provided by the Workmen's Compensation Law of the State of Louisiana, and further, under the provisions of R.S. 23:1034 anyone employed by the Contractor shall not be considered an employee of the City for the purpose of Worker's Compensation coverage.

2. ACKNOWLEDGMENT OF EXCLUSION OF UNEMPLOYMENT COMPENSATION COVERAGE. The Contractor herein expressly declares and acknowledges that it is an independent contractor, and as such is being hired by the City under this Contract for hire as noted and defined in R.S. 23:1472 (E), and therefore, it is expressly declared and understood between the parties hereto, in entering into this Contract, or agreement for hire, and in connection with unemployment compensation only, that:

- a. The Contractor has been and will be free from any control or direction by the City over the performance of the services covered by this contract; and
- b. Services to be performed by the Contractor are outside the

normal course and scope of the City's usual business; and

- c. The Contractor has been independently engaged in performing the services listed herein prior to the date of this Contract.

Consequently, neither the Contractor nor anyone employed by the Contractor shall be considered an employee of the City for the purpose of unemployment compensation coverage, the same being hereby expressly waived and excluded by the parties hereto.

3. ASSIGNABILITY. The Contractor shall not assign any interest in this Contract and shall not transfer any interest in the same without prior written consent of the City.

4. AMENDMENT. The Contract shall not be modified except by written amendment executed by duly authorized representatives of the parties.

5. AUDIT AND INSPECTION:

- a. The Contractor will submit to any City audit, inspection, and review and, at the City's request, will make available all documents relating or pertaining to this Contract maintained by or under the control of the Contractor, its employees, agents, assigns, successors and subcontractors, during normal business hours at the Contractor's office or place of business in Louisiana. If no

such location is available, the Contractor will make the documents available at a time and location that is convenient for the City.

- b. The Contractor will abide by all provisions of City Code § 2-1120, including but not limited to City Code § 2-1120(12), which requires the Contractor to provide the Office of Inspector General with documents and information as requested. Failure to comply with such requests shall constitute a material breach of the Contract. The Contractor agrees that it is subject to the jurisdiction of the Orleans Parish Civil District Court for purposes of challenging a subpoena.

6. CHOICE OF LAWS. This Contract shall be construed and enforced in accordance with the laws of the State of Louisiana, without regard to its conflict of laws provisions.

7. COMPLIANCE WITH CITY'S HIRING REQUIREMENTS - BAN THE BOX.

A. The Contractor agrees to adhere to the City's hiring requirements contained in City Code Sections 2-8(d) and 2-13(a)-(f). Prior to executing this Agreement, Contractor must provide a sworn statement attesting to its compliance with the City's hiring requirements or stating why deviation from the hiring requirements is necessary.

B. Failure to maintain compliance with the City's hiring requirements throughout the term of the Agreement, or to provide sufficient written reasons for deviation, is a material breach of this Agreement. Upon learning of any such breach, the City will provide the

Contractor notice of noncompliance and allow Contractor thirty (30) days to come into compliance. If, after providing notice and thirty (30) days to cure, the Contractor remains noncompliant, the City may move to suspend payments to Contractor, void the Agreement, or take any such legal action permitted by law or this Agreement.

C. This section will not apply to any agreements excluded from the City's hiring requirements by City Code Sections 2-8(d) or (g). Should a court of competent jurisdiction find any part of this section to be unenforceable, the section should be reformed, if possible, so that it is enforceable to the maximum extent permitted by law, or if reformation is not possible, the section should be fully severable and the remaining provisions of the Agreement will remain in full force and effect.

D. The Contractor will incorporate the terms and conditions of this Article into all subcontracts, by reference or otherwise, and will require all subcontractors to comply with those provisions.

8. CONFLICT OF INTEREST. In the interest of ensuring that efforts of the Contractor do not conflict with the interests of the City, and in recognition of the Contractor's responsibility to the City, the Contractor agrees to decline any offer of employment if its independent work on behalf of the City is likely to be adversely affected by the acceptance of such employment. The initial determination of such a possibility rests with the Contractor. It is incumbent upon the Contractor to notify the City and provide full disclosure of the possible effects of such employment on the Contractor's independent work in behalf of the City. Final decision on any disputed offers of other employment for the Contractor shall rest with the City.

9. CONSTRUCTION OF AGREEMENT.

Neither party will be deemed to have drafted the Contract. The Contract has been reviewed by all parties and will be construed and interpreted according to the ordinary meaning of the words used so as to fairly accomplish the purposes and intentions of all parties. No term of the Contract will be construed or resolved in favor of or against the City or the Contractor on the basis of which party drafted the uncertain or ambiguous language. The headings and captions of the Contract are provided for convenience only and are not intended to have effect in the construction or interpretation of the Contract. Where appropriate, the singular includes the plural, and neutral words and words of any gender include the neutral and other gender.

10. CONVICTED FELON STATEMENT.

The Contractor complies with City Code § 2-8(c) and no principal, member, or officer of the Contractor has, within the preceding five years, been convicted of, or pled guilty to, a felony under state or federal statutes for embezzlement, theft of public funds, bribery, or falsification or destruction of public records.

11. COST RECOVERY.

In accordance with Section 2-8.1 of the Municipal Code entitled "Cost recovery in contracts, cooperative endeavor agreements, and grants," to the maximum extent permitted by law, the Contractor shall reimburse the City or disgorge anything of value or economic benefit received from the City if the Contractor fails to meet its contractual obligations.

12. DECLARED DISASTER.

A. Declaration. During the declaration of an emergency by federal, state, and/or local government, the Contractor shall provide support to the

City on an as-needed and task-order-driven basis. Because of the uncertainty of the scale and/or type of emergency, the services to be provided by the Contractor will vary and may need to be adjusted as needs are identified. The Contractor may be requested to provide a range of services. Said services may need to be rendered on a continual basis (24 hours / 7 days per week) during the declaration of an emergency.

B. Task Order. Notification and Personnel.

Prior or during the declaration of an emergency, the City will notify the Contractor via task order if the City requires the Contractor's support. Upon activation by task order, the Contractor will provide the City with contact information of personnel assigned to the task order; and coordinate with the City to identify any personnel available to meet the City's needs.

C. Purchase Order. Once services are identified, the City will issue a purchase order to the Contractor. The City will issue a subsequent purchase order in case of additional needs for services, or may issue a modified purchase order if changes are made to the initial purchase order.

D. The Contractor will ensure that the City is provided with timely and accurate reports and other documentation, as requested.

13. DISADVANTAGED BUSINESS ENTERPRISE ("DBE") PROGRAM.

A. In General. The Contractor agrees to abide by the City Code sections 70-496, *et seq.*, to use its best efforts to carry out all applicable requirements of the City's DBE Program for the administration of this Agreement, as set forth in the City Code and any applicable rules adopted thereunder. The City's Office of Supplier Diversity

("OSD") oversees the DBE Program and assigns a DBE Compliance Officer ("DBECO") to ensure compliance.

B. Monitoring. To ensure compliance with DBE requirements during the term of this Agreement, the DBECO will monitor the Contractor's use of DBE subcontractors/suppliers ("DBE Entities") through the following actions:

1. Job site visits;
2. Electronic payment tracking via the Contract Compliance Monitoring System or other means as approved by the OSD;
3. Routine audits of contract payments to all subcontractors;
4. Reviewing of records and reports; and/or
5. Interviews of selected personnel.

The DBECO may schedule inspections and on-site visits with or without prior notice to the Contractor or DBE Entities.

C. Cooperation. The Contractor shall:

1. Designate an individual as the "DBE Liaison" who will monitor the Contractor's DBE participation as well as document and maintain records of "Good Faith Efforts" with DBE Entities.
2. Execute written contracts with DBE Entities that meet the applicable DBE goals.
 - a. The Contractor shall provide the DBECO with copies of said contracts within thirty (30) days from the date this Agreement is fully

executed between the City and the Contractor.

- b. The Contractor shall agree to promptly pay subcontractors, including DBE Entities, in accordance with law.
3. Establish and maintain the following records for review upon request by the OSD:
 - a. Copies of written contracts with DBE Entities and purchase orders;
 - b. Documentation of payments and other transactions with DBE Entities;
 - c. Appropriate explanations of any changes or replacements of DBE Entities, which may include a record of "Post-Award Good Faith Efforts" for each certified firm that the Contractor does not use in accordance with the approved DBE participation submission;
 - d. Any other records required by the OSD.

The Contractor is required to maintain such records for three (3) years after completion or closeout of this Agreement. Such records are necessary to determine compliance with their DBE obligations.

4. Post monthly payments and submit regular reports to the DBECO as required via the online "Contract Compliance Monitoring System" or other means approved by the OSD.

- a. The Contractor shall submit the initial report outlining DBE participation within thirty (30) days from the date of notice to proceed (or equivalent document) issued by the City to the Contractor. Thereafter, "DBE Utilization" reports shall be due on or before the fifteenth (15th) day of each month until all DBE subcontracting work is completed.
- b. Reports are required even when no activity has occurred in a monthly period.
- c. If the established percentage is not being met, the monthly report shall include a narrative description of the progress being made in DBE participation.
- d. The Contractor may also be required to attach or upload copies of canceled checks or bank statements that

identify payer, payee and amount of transfer to verify payment information as indicated on the form.

5. Conform to the established percentage as approved by the OSD.

- a. The total dollar amount of the Agreement shall include approved change orders and amendments. For a requirements contract, the total dollar amount shall be based in actual quantities ordered.
- b. No changes to the established percentage and DBE Entities submitted on DBE Compliance Form-1 shall be allowed without approval by the OSD.
- c. The City will not adjust the contract for any increase in cost due to replacement of DBE Entities.

D. Post-Award Modification.

The OSD may grant a post-award modification request if:

- a. for a reason beyond the Contractor's control, the Contractor is unable to use the certified DBE entity submitted on DBE

Compliance Form-1 to perform the specified work. The Contractor must notify the OSD of the intent for removal and substitution of a certified DBE immediately upon determination of that the DBE submitted on Compliance Form - 1 is unable to perform the specified work. In such case, the Contractor shall use and document "Good Faith Efforts" to find a similarly qualified and certified DBE entity to perform such specified work. The same criteria used for establishing "Good Faith Efforts" in maximizing the participation of DBE Entities prior to awarding the Agreement will also apply to the substitution of DBE subcontractors during the performance of the Agreement; or

- b. the Contractor reasonably believes that, due to a change of scope, execution of the work in accordance with the directions

from the City is unlikely to meet the established percentage or terms. In such case, the Contractor shall use and document "Good Faith Efforts" to achieve a reasonable amount of DBE participation on the remaining work on the Agreement.

14. DURATION. The services to be provided under the terms of this Contract shall begin upon execution of Contract and shall end no later than twelve (12) months after. It is understood and acknowledged by all signers to this Contract that work described under these terms is to be accomplished during the time period specified herein.

15. EMPLOYEE VERIFICATION. The Contractor swears that (i) it is registered and participates in a status verification system to verify that all employees in the State of Louisiana are legal citizens of the United States or are legal aliens; (ii) it shall continue, during the term of this Agreement, to utilize a status verification system to verify the legal status of all new employees in the State of Louisiana; and (iii) it shall require all subcontractors to submit to the Contractor a sworn affidavit verifying compliance with items (i) and (ii) above. Any violation of the provisions of this paragraph may subject this Agreement to termination, and may further result in the Contractor being ineligible for any public contract for a period of three years from the date the violation is discovered. The Contractor further acknowledges and agrees that it shall be liable for any additional costs incurred by the City occasioned by the termination of this

Agreement or the loss of any license or permit to do business in the State of Louisiana resulting from a violation of this provision. The Contractor will provide to the City a sworn affidavit attesting to the above provisions if requested by the City. The City may terminate this Agreement for cause if the Contractor fails to provide such the requested affidavit or violates any provision of this paragraph.

16. ENTIRE AGREEMENT. This Agreement, including all incorporated documents, constitutes the final and complete agreement and understanding between the parties. All prior and contemporaneous agreements and understandings, whether oral or written, are superseded by this Agreement and are without effect to vary or alter any terms or conditions of this Agreement.

17. FAMILIARITY WITH LAWS

The Contractor shall be familiarized with and shall comply with all applicable Federal and State Laws, parish/municipal ordinances, resolutions, and the rules and regulations of all authorities having jurisdiction over the Agreement.

These laws and/or ordinance will be deemed to be included in the Agreement, the same as though herein written in full.

18. NON-DISCRIMINATION

A. Equal Employment Opportunity. In all hiring or employment made possible by, or resulting from this Agreement, the Contractor (1) will not be discriminate against any employee or applicant for employment because of race, sex, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, gender identity, creed, culture, or ancestry, and (2) where applicable, will take affirmative action to ensure that the Contractor's employees are treated during employment without regard to their race, sex, color, religion,

gender, age, physical or mental disability, national origin, sexual orientation, gender identity, creed, culture, or ancestry. This requirement shall apply to, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. All solicitations or advertisements for employees shall state that all qualified applicants will receive consideration for employment without regard to race, sex, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, gender identity, creed, culture, or ancestry.

B. Non-Discrimination. In the performance of this Agreement, the Contractor will not discriminate on the basis, whether in fact or perception, of a person's race, color, creed, religion, national origin, ancestry, age, sex, gender, sexual orientation, gender identity, domestic partner status, marital status, physical or mental disability, or AIDS- or HIV-status against (1) any employee of the City working with the Contractor in any of Contractor's operations within Orleans Parish or (2) any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by the Contractor. The Contractor agrees to comply with and abide by all applicable federal, state and local laws relating to non-discrimination, including, without limitation, Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990.

C. The City may terminate this Agreement for cause if the Contractor fails to comply with any obligation in this

Article, which failure is a material breach of this Agreement.

19. EXCLUSIVE JURISDICTION AND VENUE. For all claims arising out of or related to this Contract, the Contractor hereby consents and yields to the jurisdiction of the Civil District Court for the Parish of Orleans, and expressly waives any (A) pleas of jurisdiction based upon Contractor's residence and (B) right of removal to federal court based upon diversity of citizenship.

20. EXTENSION. This Contract may be extended at the option of the City, provided that funds are allocated by the Council of the City and the extension of the Contract facilitates the continuity of services provided herein. This Contract may be extended by the City for four (4) additional one-year terms.

21. FORCE MAJEURE.

A. Event. An event of Force Majeure will include any event or occurrence not reasonably foreseeable by the City at the execution of this Agreement, which will include, but not be limited to, abnormally severe and unusual weather conditions or other acts of God (including tropical weather events, tornados, hurricanes, and flooding); declarations of emergency; shortages of labor or materials (not caused by City); riots; terrorism; acts of public enemy; war; sabotage; cyber-attacks, threats, or incidents; epidemics or pandemics; court or governmental order; or any other cause whatsoever beyond the reasonable control of the City, provided such event was not caused by the negligence or misconduct of the City, by the failure of the City to comply with applicable laws, or by the breach of this Agreement.

B. Notice. To seek the benefit of this Article, the City must provide notice in writing to the Contractor stating: (1) an

event triggering this Article has occurred; (2) the anticipated effect of the Force Majeure event on performance; and (3) the expected duration of the delay, if the Agreement is being suspended.

C. Effect.

1. Upon the occurrence of a Force Majeure event, for which the City has provided required notice, the City may, at its sole discretion:
 - a. Suspend this Agreement for a duration to be set by the City, not to exceed 90 days. During such time of suspension, the Parties will not be liable or responsible for performance of their respective obligations under this Agreement, and there will be excluded from the computation of such period of time any delays directly due to the occurrence of the Force Majeure event. During any such period of suspension, the Contractor must take all commercially reasonable actions to mitigate against the effects of the Force Majeure event and to ensure the prompt resumption of performance when so instructed by the City; or
 - b. Terminate this Agreement, either immediately or after one or more periods of suspension, effective on notice to the Contractor and without any further compensation due.
2. Notwithstanding Section C(1) above, the obligations relating to making payments when due

(for services or materials already provided) and those obligations specified to survive in the Agreement will be unaffected by any suspension or termination.

22. INCORPORATION INTO SUBCONTRACTS.

The Contractor will incorporate these Contract Terms and Conditions into all subcontracts, by reference or otherwise, and will require all subcontractors to comply with these provisions.

23. INDEMNIFICATION.

A. To the fullest extent permitted by law, the Contractor will indemnify, defend, and hold harmless the City, its agents, employees, officials, insurers, self-insurance funds, and assigns (collectively, the "Indemnified Parties") from and against any and all claims, demands, suits, and judgments of sums of money accruing against the Indemnified Parties: for loss of life or injury or damage to persons or property arising from or relating to any act or omission or the operation of the Contractor, its agents or employees while engaged in or in connection with the discharge or performance of any services under this Contract; and for any and all claims and/or liens for labor, services, or materials furnished to the Contractor in connection with the performance of work under this Contract.

B. Limitation. The Contractor's indemnity does not extend to any loss arising from the gross negligence or willful misconduct of any of the Indemnified Parties, provided that neither the Contractor nor any of its agents or employees contributed to such gross negligence or willful misconduct.

C. Independent Duty. The Contractor has an immediate and independent obligation to, at the City's

option: (a) defend the City from or (b) reimburse the City for its costs incurred in the defense of any claim that actually or potentially falls within this indemnity, even if: (1) the allegations are or may be groundless, false, or fraudulent; or (2) the Contractor is ultimately absolved from liability.

D. Expenses. Notwithstanding any provision to the contrary, the Contractor shall bear the expenses including, but not limited to, the City's reasonable attorney fees and expenses, incurred by the City in enforcing this indemnity.

24. INDEPENDENT CONTRACTOR STATUS.

The Contractor is an independent contractor and shall not be deemed an employee, servant, agent, partner, or joint venture of the City and will not hold itself or any of its employees, subcontractors or agents to be an employee, partner, or agent of the City.

25. INVOICING. The Contractor must submit invoices monthly (unless agreed otherwise between the parties to this Agreement) to the City electronically, via its supplier portal, for goods or services provided under this Agreement no later than 10 calendar days following the end of the period covered by the invoice. Untimely invoices may result in delayed payment for which the City is not liable. At a minimum, each invoice must include the following information: invoice number, contract or purchase order number issued by the City, and the name of the city department to be invoiced. The City may require changes to the form or the content of the invoice. The City may also require additional supporting documentation to be submitted with invoices.

26. LIMITATIONS OF THE CITY'S OBLIGATIONS.

The City has no obligations not explicitly set forth in this Agreement or any incorporated documents or expressly imposed by law.

27. LIVING WAGES.

A. Definitions. Unless otherwise expressly provided in this Agreement, Capitalized terms used but not defined herein, shall have the definition attributed to them in Article VIII, Section 70-802 of the City Code.

B. Compliance. To the fullest extent permitted by law, the Contractor agrees to abide by City Code Sections 70-801, *et seq.*, which requires, in pertinent part, the following:

1. Payment of an hourly wage to Covered Employees equal to the amounts defined in the City Code ("**Living Wage**");
2. Receipt of at least seven (7) days per year of compensated leave for Covered Employees, as required by Section 70-807 of the City Code; and
3. Post notice in a prominent place regarding the applicability of the Living Wage Ordinance in every workplace in which Covered Employees are working that is within the Covered Employer's custody and control, as required by Section 70-810 of the City Code.

C. Current Living Wage. In accordance with the Living Wage Ordinance, the current Living Wage per the Consumer Price Index data is equal to \$11.19. The Contractor shall be responsible for confirming the Current Living Wage by visiting <https://www.nola.gov/economic-development/workforce-development/>.

D. Adjusted Living Wage. In accordance with Section 70-806(2) of the

City Code, the Contractor acknowledges and agrees that the Living Wage may be increased during the term of the Agreement. Any City contract or City financial assistance agreement (a) extending from one calendar year into the next or (b) with a term of longer than one year, inclusive of any renewal terms or extensions, shall require the Covered Employer to pay the Covered Employee an Adjusted Living Wage, accounting for the annual Consumer Price Index adjustment. The indexing adjustment shall occur each year on July 1st using the Consumer Price Index figures provided for the calendar year ended December 31st of the preceding year, and thereafter on an annual basis.

E. Subcontract Requirements.

As required by Section 70-804 of the City Code, the Contractor, beneficiary, or other Covered Employer, prior to entering into a subcontract, shall notify subcontractors in writing of the requirements and applicability of Article VIII – The Living Wage Ordinance ("**Article**"). City contractors and beneficiaries shall be deemed responsible for violations of this Article by their subcontractors.

F. Reporting. On or before January 31st and upon request by the City, the Contractor shall identify (a) the hourly wage earned by the lowest paid Covered Employee and (b) the number of days of compensated leave received by Covered Employees earning less than 130% of the then-prevailing wage during the current term of the Agreement, and provide the identified information to the following:

Office of Workforce Development
Living Wage - Compliance
1340 Poydras Street – Suite 1800
New Orleans, Louisiana 70112

G. Compliance Monitoring.

Covered Employers under this Agreement are subject to compliance monitoring and enforcement of the Living Wage requirements by the Office of Workforce Development (the “OWD”) and/or the Chief Administrative Office (“CAO”). Covered Employers will cooperate fully with the OWD and/or the CAO and other City employees and agents authorized to assist in the administration and enforcement of the Living Wage requirements. Steps and actions include, but are not limited to, requirements that: (i) the Contractor will cooperate fully with the OWD and the CAO and other City employees and agents authorized to assist in the administration and enforcement of the Living Wage requirements; (ii) the Contractor agrees that the OWD and the CAO and their designees, in the performance of their duties, shall have the right to engage in random inspections of job sites and to have access to the employees of the Contractor, payroll records and employee paychecks; and (iii) that the City may audit such records of the Contractor as he or she reasonably deems necessary to determine compliance with the Living Wage standards.

H. Remedies.

If the Contractor fails to comply with the Living Wage requirements during the term of the Agreement, said failure may result in termination of the Agreement or the pursuit of other remedies by the City, including, but not limited to, the penalties and enforcement mechanisms set forth in Section 70-811 of the City Code.

28. NO THIRD PARTY BENEFICIARIES.

The Contract is entered into for the exclusive benefit of the City and the Contractor, and the City and the Contractor expressly disclaim

any intent to benefit anyone not a party to this Contract.

29. NON-EXCLUSIVITY.

This Contract is non-exclusive and the Contractor may provide services to other clients, subject to the City’s approval of any potential conflicts with the performance of this Contract and the City may engage the services of others for the provision of some or all of the work to be performed under this Contract.

30. NON-SOLICITATION.

The Contractor has not employed or retained any company or person, other than a bona fide employee working solely for him, to solicit or secure the subject Contract. The Contractor has not paid or agreed to pay any person, other than a bona fide employee working for him, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the subject Contract.

31. NON-WAIVER.

The failure of the City to insist upon strict compliance with any provision of the Contract, to enforce any right or to seek any remedy upon discovery of any default or breach of the Contractor at such time as the initial discovery of the existence of such noncompliance, right, default or breach shall not affect or constitute a waiver of the City’s right to insist upon such compliance, exercise such right or seek such remedy with respect to that default or breach or any prior contemporaneous or subsequent default or breach.

32. OWNERSHIP INTEREST DISCLOSURE.

The Contractor will provide a sworn affidavit listing all natural or artificial persons with an ownership interest in the Contractor and stating that no other person holds an ownership interest in the Contractor via a counter letter. For the purposes of this provision, an “ownership interest” shall not be deemed to include ownership of stock in a publicly traded corporation or

ownership of an interest in a mutual fund or trust that holds an interest in a publicly traded corporation. If the Contractor fails to submit the required affidavits, the City may, after thirty (30) days' written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payments until such the required affidavits are submitted.

33. PAYMENT. Unless otherwise agreed by the City, payment terms are NET 30 days upon providing that goods and/or services described under this Agreement have been delivered, installed (if required), or rendered, and approved by the City after receipt by the City of properly submitted invoice via the City's supplier portal.

34. PERFORMANCE MEASURES.

A. Factors. The City will measure the performance of the Contractor according to the following non-exhaustive factors: work performed in compliance with the terms of the Agreement; staff availability; staff training; staff professionalism; staff experience; customer service; staff turnover; communication and accessibility; prompt and effective correction of situations and conditions; timeliness and completeness of submission of requested documentation (such as records, receipts, invoices, insurance certificates, and computer-generated reports).

B. Failure to Perform. If the Contractor fails to perform according to the Agreement, the City will notify the Contractor. If there is a continued lack of performance after notification, the City may declare the Contractor in default and may pursue any appropriate remedies available under the Agreement and/or any applicable law. In the event of a notification of default, the City will invoice the defaulting contractor for any increase

in costs and other damages sustained by the City. Further, the City will seek full recovery from the defaulting contractor.

35. PROHIBITION AGAINST FINANCIAL INTEREST IN AGREEMENT.

No elected official or employee of the City shall have a financial interest, direct or indirect, in the Contract, including through any financial interest held by the spouse, child, or parent. Any willful violation of this provision, with the expressed or implied knowledge of the Contractor, will render this Contract voidable by the City and shall entitle the City to recover, in addition to any other rights and remedies available to the City, all monies paid by the City to the Contractor pursuant to this Contract without regard to the Contractor's satisfactory performance.

36. PROHIBITION ON POLITICAL ACTIVITY.

None of the funds, materials, property, or services provided directly or indirectly under the terms of this Contract shall be used in the performance of this Contract for any partisan political activity, or to further the election or defeat of any candidate for public office.

37. REMEDIES CUMULATIVE.

No remedy set forth in the Contract or otherwise conferred upon or reserved to any party shall be considered exclusive of any other remedy available to a party. Rather, each remedy shall be deemed distinct, separate and cumulative and each may be exercised from time to time as often as the occasion may arise or as may be deemed expedient.

38. SEVERABILITY.

If a court of competent jurisdiction finds any provision of the Contract to be unenforceable as written, the unenforceable provision should be reformed, if possible, so that it is enforceable to the maximum extent permitted by law, or, if reformation is not possible, the unenforceable provision will be fully severable and the remaining

provisions of the Contract will remain in full force and effect and will be construed and enforced as if the unenforceable provision was never a part the Contract.

39. SUBCONTRACTOR

REPORTING. The Contractor will provide a list of all natural or artificial persons who are retained by the Contractor at the time of the Contract's execution and who are expected to perform work as subcontractors in connection with the Contractor's work for the City. For any subcontractor proposed to be retained by the Contractor to perform work on the Contract with the City, the Contractor must provide notice to the City within thirty (30) days of retaining that subcontractor. If the Contractor fails to submit the required lists and notices, the City may, after thirty (30) days' written notice to the Contractor, take any action it deems necessary, including, without limitation, causing the suspension of any payments, until the required lists and notices are submitted.

40. SURVIVAL. All representations and warranties and all obligations concerning record retention, inspections, audits, ownership, indemnification, payment, remedies, jurisdiction, venue, choice of law, and warranties shall survive the expiration, suspension, or termination of the Contract and continue in full force and effect.

41. SUSPENSION. The City may suspend this Contract at any time and for any reason by giving two (2) business day's written notice to the Contractor. The Contractor will resume work upon five (5) business day's written notice from the City.

42. TAX CLEARANCE. (NEW PROVISION AS OF MARCH 2024) On or about March 1st of each calendar year that the contract is effect, the Contractor must complete a tax clearance form with

the information from the contractor, sign it, and submit it to the department, board, or commission that manages the contract (Department). The Department will then use the tax clearance form to verify with the Departments of Revenue, Treasury, and Finance whether the Contractor is delinquent with city taxes or not. If found delinquent, the Contractor must cure it, after being notified by the Department, or the contract could be terminated for cause.

43. TERMINATION FOR CAUSE.

The City may terminate this Agreement immediately for cause by sending written notice to the Contractor. "Cause" includes without limitation any failure to perform any obligation or abide by any condition of this Agreement or the failure of any representation or warranty in this Agreement, including without limitation any failure to comply with the requirements of the City's Disadvantaged Business Enterprise program and any failure to comply with any provision of City Code § 2-1120 or requests of the Office of Inspector General. If a termination for cause is subsequently challenged in a court of law and the challenging party prevails, the termination will be deemed to be a termination for convenience effective thirty (30) days from the date of the original written notice of termination for cause was sent to the challenging party; no further notice will be required.

44. TERMINATION FOR CONVENIENCE.

The City may terminate this Contract at any time during the term of the Contract by giving the Contractor written notice of the City's intention to terminate at least thirty (30) days before the date of termination.

45. TERMINATION FOR NON-APPROPRIATION.

This Contract will terminate immediately in the event of non-appropriation of funds sufficient to

maintain this Contract without the requirement of notice and the City will not be liable for any amounts beyond the funds appropriated and encumbered for this Contract.

46. TERMS BINDING. The terms and conditions of the Contract are binding on any heirs, successors, transferees, and assigns.

47. WAIVER OF SICK AND ANNUAL LEAVE BENEFITS. It is expressly agreed and understood between the parties entering into this Contract that the Contractor, acting as an independent agent, shall not receive any sick and annual leave benefits from the City of New Orleans.

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[END OF SOLICITATION]

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