



Florida's Warmest Welcome

**CITY OF POMPANO BEACH
REQUEST FOR PROPOSALS
E-53-14**

**PROCUREMENT AND INSTALLATION SERVICES FOR
STORMWATER OUTFALL CHECK VALVES**

**RFP OPENING: JULY 24, 2014 2:00 P.M.
PURCHASING OFFICE
1190 N.E. 3RD AVENUE, BUILDING C (Front)
POMPANO BEACH, FLORIDA 33060**

CITY OF POMPANO BEACH, FLORIDA

REQUEST FOR PROPOSALS
E-53-14

PROCUREMENT AND INSTALLATION SERVICES FOR STORMWATER OUTFALL CHECK VALVES

The City is seeking proposals from qualified firms to provide Procurement and Installation Services to the City for Stormwater Outfall Check Valves.

The City will receive sealed proposals until 2:00 p.m. (local), July 24, 2014, in the City's Purchasing Office, 1190 N.E. 3rd Avenue, Building C, Pompano Beach, Florida, 33060. E-mailed or faxed proposals will not be acceptable.

Introduction

The City of Pompano Beach experiences flooding due to stormwater flowing backwards through the storm water outfalls on the Intracoastal Waterway. The City would like to minimize the flooding by having flow operated check valves installed on the stormwater outfalls listed below (2).

1. Scope Of Services

Design Permitting and construction of storm water backflow improvements at multiple sites including the installation of flow operated check valves (duckbills) on the existing outfall piping and any associated work including but not limited to excavation, clearing, grubbing, concrete testing and repairs to the existing seawall, seeding, erosion control, dewatering, and cofferdam construction as required for each project site.

The contractor shall propose total cost of installation, the type of valve, method of installation, and duration of construction per location. In some instances, where damaged sections of the existing seawall exist around the outfall, provide a proper repair procedure that will ensure proper installation of the check valves. The cost shall include any seawall work and all applicable warranties.

2. Tasks/Deliverables

Operational flow operated check valves at the following stormwater outfall locations:

The contractor is required to familiarize himself with each location.

601 South Riverside Drive

301 South Riverside Drive

303 North Riverside Drive

521 North Riverside Drive

615 North Riverside Drive

3. **Term of Contract**

The proposal shall propose the duration of the project.

4. **Small Business Enterprise Program**

The Pompano Beach City Commission has established a voluntary Small Business Enterprise (SBE) Program to encourage and foster the participation of Small Business Enterprises in the central procurement activities of the City. The City of Pompano Beach is strongly committed to ensuring the participation of Small Business Enterprises (SBE's) as contractors and subcontractors for the procurement of goods and services. The definition of a SBE, for the purpose of the City's voluntary program, is taken from the State of Florida Statute 288.703(1).

As of the date of publication of this solicitation, a small business means an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million or any firm based in Florida that has a Small Business Administration 8(a) certification. As applicable to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments.

The City encourages all firms to undertake good faith efforts to identify appropriate Small Business Enterprise partners. Sources of information on certified Small Business Enterprises include the Broward County Small Business Development Division, the State of Florida Office of Supplier Diversity, South Florida Water Management District, and other agencies throughout the State. The City includes links to these organizations from the City's website www.pompanobeachfl.gov. Please indicate in your response if your firm is a certified Small Business Enterprise.

Please note that, while no voluntary goals have been established for this solicitation, the City encourages small business participation in *all* of its procurements.

5. **Local Business Program**

On March 23, 2010, the City Commission approved a Resolution establishing a Local Business Program, a policy to increase the participation of City of Pompano Beach businesses in the City's procurement process.

You can view the list of City businesses that have a current Business Tax Receipt on the City's website, and locate local firms that are available to perform the work required by the bid specifications. The business information, sorted by business use classification, is posted on the webpage for the Business Tax Receipt Division: http://pompanobeachfl.gov/pages/department_directory/development_services/business_tax_receipt_division/business_tax_receipt_division.html.php

Please note that, while no voluntary goals have been established for this solicitation, the City encourages Local Business participation in *all* of its procurements.

6. Required Proposal Submittal

Submission/Format Requirements

Submit one (1) original unbound and 4 (four) bound copies of the proposal. All copies will be on 8 ½" x 11" plain white paper, typed, and signed by an authorized representative who is able to contractually bind the Proposer. In addition, Proposers must submit one (1) original copy of the Proposal on electronic media in printable Adobe or Microsoft Word format (or other format approved by the City). Failure to adhere to the submittal quantity criteria may result in the Proposal being considered non-responsive.

Information to be included in the proposal: In order to maintain comparability and expedite the review process, it is required that proposals be organized in the manner specified below, with tabs or dividers between the sections:

Title page:

Show the project name and number, the name of the Proposer's firm, address, telephone number, name of contact person and the date.

Table of Contents:

Include a clear identification of the material by section and by page.

Letter of Transmittal:

Briefly state the Proposer's understanding of the project and express a positive commitment to provide the services described herein. State the name(s) of the person(s) who will be authorized to make representations for the Proposer, their title(s), office and E-mail addresses and telephone numbers. Please limit this section to two pages.

Fees & Costs:

Include a concise narrative with sufficient detail indicating the proposed approach to providing the required services, including a description of the types and qualities of service that would be provided. Provide a cost for each of the major services provided along with the estimated number of expected work hours for each qualified staff.

Proposer shall itemize all costs to complete all and necessary tasks as described under Scope of Services. Costs associated with travel as well as miscellaneous expenses should be adequately described.

Schedule:

Proposer shall provide a timeline that shows how the project will be accomplished.

References:

Submit a client reference list, including name of contact, firm and/or governmental entity, address, telephone number and type of service provided to each reference.

Litigation:

Disclose any litigation within the past five (5) years arising out your firm's performance.

City Forms:

The RFP Proposal Signature Page must be completed, signed and returned. Proposer should return all RFP pages, initialed where indicated.

7. Insurance

The insurance described herein reflects the insurance requirements deemed necessary for this contract by the City. It is not necessary to have this level of insurance in effect at the time of submittal, but certificates indicating that the insurance is currently carried or a letter from the Carrier indicating upgrade ability will speed the review process to determine the most qualified Proposer.

The successful Proposer(s) shall not commence operations until certification or proof of insurance, detailing terms and provisions of coverage, has been received and approved by the City of Pompano Beach Risk Manager.

The following insurance coverage shall be required.

- a. Worker's Compensation Insurance covering all employees and providing benefits as required by Florida Statute, Chapter 440, regardless of the size of the company (number of employees). The Contractor further agrees to be responsible for employment, control and conduct of its employees and for any injury sustained by such employees in the course of their employment.
- b. Liability Insurance
 - 1) Naming the City of Pompano Beach as an additional insured, on General Liability Insurance only, in connection with work being done under this contract.
 - 2) Such Liability insurance shall include the following checked types of insurance and indicated minimum policy limits.

LIMITS OF LIABILITY

Type of Insurance		each occurrence	aggregate
GENERAL LIABILITY: MINIMUM \$1,000,000 per OCCURRENCE/\$1,000,000 AGGREGATE			
* Policy to be written on a claims incurred basis			
XX comprehensive form			
XX premises - operations	bodily injury		
XX explosion & collapse hazard	property damage		
XX underground hazard			
XX products/completed operations hazard	bodily injury and property damage		
XX contractual insurance	combined		
XX broad form property damage			
XX independent contractors			
XX personal injury	personal injury		

AUTOMOBILE LIABILITY: MINIMUM \$1,000,000 per OCCURRENCE/\$1,000,000 AGGREGATE

	bodily injury (each person)		
	bodily injury (each accident)		
XX comprehensive form	property damage		
XX owned	bodily injury and property damage		
XX hired	combined		
XX non-owned			

REAL & PERSONAL PROPERTY

comprehensive form Consultant must show proof they have this coverage.

EXCESS LIABILITY

<input type="checkbox"/> umbrella form	bodily injury and property damage		
<input type="checkbox"/> other than umbrella	combined	\$2,000,000.	\$2,000,000.

XX **PROFESSIONAL LIABILITY** \$1,000,000. \$1,000,000.

* Policy to be written on a claims made basis

The certification or proof of insurance must contain a provision for notification to the City thirty (30) days in advance of any material change in coverage or cancellation.

The successful Proposer shall furnish to the City the certification or proof of insurance required by the provisions set forth above, within ten (10) days after notification of award of contract.

8. Selection/Evaluation Process

A Selection/Evaluation Committee will be appointed to select the most qualified firm(s). The Selection/Evaluation Committee will present their findings to the City Commission.

Proposals will be evaluated using the following criteria.

	<u>Criteria</u>	<u>Point Range</u>
1.	<p>Experience and Expertise Previous related work experience and qualifications in the subject area of personnel assigned. Demonstrates a clear understanding of scope of work and other technical or legal issues related to the project.</p>	0-20
2.	<p>References History and performance of firm/project team on similar projects. References and recommendations from previous clients.</p>	0-20
3.	<p>Resources and Methodology Adequacy of amount of quality resources assigned to the project. Overall approach to project. Consideration of services provided and approach to meeting goals and deadlines. Financial resources.</p>	0-30
4.	<p>Cost and schedule Including the overall project-task budget and itemized cost breakdowns and schedule.</p>	0-30
	Total	0-100

The Committee has the option to use the above criteria for the initial ranking to short-list Proposers and to use an ordinal ranking system to score short-listed Proposers following presentations (if deemed necessary) with a score of "1" assigned to the short-listed Proposer deemed most qualified by the Committee.

Each firm should submit documentation that evidences the firm's capability to provide the services required for the Committee's review for short listing purposes. After an initial review of the Proposals, the City may invite Proposers for an interview to discuss the proposal and meet firm representatives, particularly key personnel who would be assigned to the project. Should interviews be deemed necessary, it is understood that the City shall incur no costs as a result of this interview, nor bear any obligation in further consideration of the submittal.

When more than three responses are received, the committee shall furnish the City Commission (for their approval) a listing, in ranked order, of no fewer than three firms deemed to be the most highly qualified to perform the service. If three or less firms respond to the RFP, the list will contain the ranking of all responses.

The City Commission has the authority to (including, but not limited to); approve the recommendation; reject the recommendation and direct staff to re-advertise the solicitation; or, review the responses themselves and/or request oral presentations and determine a ranking order that may be the same or different from what was originally presented to the City Commission.

9. Hold Harmless and Indemnification

Proposer covenants and agrees that it will indemnify and hold harmless the City and all of its officers, agents, and employees from any claim, loss, damage, cost, charge or expense arising out of any act, action, neglect or omission by the Proposer, whether direct or indirect, or whether to any person or property to which the City or said parties may be subject, except that neither the Proposer nor any of its subcontractors will be liable under this section for damages arising out of injury or damage to persons or property directly caused by or resulting from the sole negligence of the City or any of its officers, agents or employees.

10. Retention of Records and Right to Access

The selected firm shall maintain during the term of the contract all books of account, receipt invoices, reports and records in accordance with generally accepted accounting practices and standards. The form of all records and reports shall be subject to the approval of the City's Internal Auditor. Recommendation for changes, additions, or deletions by the City's Internal Auditor must be complied with by the selected firm. The City's Internal Auditor must be permitted during normal business hours to audit and examine the books of account, reports, and records relating to this contract. The selected firm shall maintain and make available such records and files for the duration of the contract and retain them until the expiration of three years after final payment under the contract.

11. Communications

No negotiations, decisions, or actions shall be initiated or executed by the firm as a result of any discussions with any City employee. Only those communications, which are in writing from the City, may be considered as a duly authorized expression on behalf of the City. In addition, only communications from firms that are signed and in writing will be recognized by the City as duly authorized expressions on behalf of firms.

12. No Discrimination

There shall be no discrimination as to race, sex, color, age, religion, or national origin in the operations conducted under any contract with the City.

13. Independent Contractor

The selected firm will conduct business as an independent contractor under the terms of this contract. Personnel services provided by the firm shall be by employees of the firm and subject to supervision by the firm, and not as officers, employees, or agents of the City. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this agreement shall be those of the firm.

14. Staff Assignment

The City of Pompano Beach reserves the right to approve or reject, for any reasons, Proposer's staff assigned to this project at any time. Background checks may be required.

15. Contract Terms

The contract resulting from this RFP shall include, but not be limited to the following terms:

The contract shall include as a minimum, the entirety of this RFP document, together with the successful Proposer's proposal. Contract shall be prepared by the City of Pompano Beach City Attorney.

If the City of Pompano Beach defends any claim, demand, cause of action, or lawsuit arising out of any act, action, negligent acts or negligent omissions, or willful misconduct of the contractor, its employees, agents or servants during the performance of the contract, whether directly or indirectly, contractor agrees to reimburse the City of Pompano Beach for all expenses, attorney's fees, and court costs incurred in defending such claim, cause of action or lawsuit.

16. Waiver

It is agreed that no waiver or modification of the contract resulting from this RFP, or of any covenant, condition or limitation contained in it shall be valid unless it is in writing and duly executed by the party to be charged with it, and that no evidence of any waiver or modification shall be offered or received in evidence in any proceeding, arbitration, or litigation between the parties arising out of or affecting this contract, or the right or obligations of any party under it, unless such waiver or modification is in writing, duly executed as above. The parties agree that the provisions of this paragraph may not be waived except by a duly executed writing.

17. Survivorship Rights

This contract resulting from this RFP shall be binding on and inure to the benefit of the respective parties and their executors, administrators, heirs, personal representative, successors and assigns.

18. Termination

The contract resulting from this RFP may be terminated by the City of Pompano Beach without cause upon providing contractor with a least sixty (60) days prior written notice.

Should either party fail to perform any of its obligations under the contract resulting from this RFP for a period of thirty (30) days after receipt of written notice of such failure, the non-defaulting part will have the right to terminate the contract immediately upon delivery of written notice to the defaulting part of its election to do so. The foregoing rights of termination are in addition to any other rights and remedies that such party may have.

19. Manner of Performance

Proposer agrees to perform its duties and obligations under the contract resulting from this RFP in a professional manner and in accordance with all applicable local, federal and state laws, rules and regulations.

Proposer agrees that the services provided under the contract resulting from this RFP shall be provided by employees that are educated, trained and experienced, certified and licensed in all areas encompassed within their designated duties. Proposer agrees to furnish the City of Pompano Beach with all documentation, certification, authorization, license, permit, or registration currently required by applicable laws or rules and regulations. Proposer further certifies that it and its employees are now in and will maintain good standing with such governmental agencies and that it and its employees will keep all license, permits, registration, authorization or certification required by applicable laws or regulations in full force and effect during the term of this contract. Failure of Proposer to comply with this paragraph shall constitute a material breach of contract.

20. Acceptance Period

Proposals submitted in response to this RFP must be valid for a period no less than ninety (90) days from the closing date of this solicitation.

21. RFP Conditions and Provisions

The completed and signed proposal (together with all required attachments) must be returned to City on or before the time and date stated herein. All Proposers, by submission of a proposal, shall agree to comply with all of the conditions, requirements and instructions of this RFP as stated or implied herein. All proposals and supporting materials submitted will become the property of the City.

Any alteration, erasure, or interlineations by the Proposer in this RFP shall constitute cause for rejection. Exceptions or deviations to this proposal may not be added after the submittal date.

All Proposers are required to provide all information requested in this RFP. Failure to do so may result in disqualification of the proposal.

The City reserves the right to postpone or cancel this RFP, or reject all proposals, if in its sole discretion it deems it to be in the best interest of the City to do so.

The City reserves the right to waive any technical or formal errors or omissions and to reject all proposals, or to award contract for the items herein, in part or whole, if it is determined to be in the best interests of the City to do so.

The City shall not be liable for any costs incurred by the Proposer in the preparation of proposals or for any work performed in connection therein.

22. Standard Provisions

a. Governing Law

Any agreement resulting from this RFP shall be governed by the laws of the State of Florida, and the venue for any legal action relating to such agreement will be in Broward County, Florida.

b. Conflict Of Interest

For purposes of determining any possible conflict of interest, each Proposer must disclose if any City employee is also an owner, corporate officer, or an employee of the firm. If any City employee is an owner, corporate officer, or an employee, the Proposer must file a statement with the Broward County Supervisor of Elections pursuant to § 112.313, Florida Statutes.

c. Drug Free Workplace

The selected firm(s) will be required to verify they will operate a “Drug Free Workplace” as set forth in Florida Statute, 287.087.

d. Public Entity Crimes

A person or affiliate who has been placed on the convicted vendor list following a conviction for public entity crime may not submit a proposal on a contract to provide any goods or services to a public entity, may not submit a proposal on a contract with a public entity for the construction or repair of a public building or public work, may not submit proposals on leases of real property to public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Florida Statute, Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

e. Patent Fees, Royalties, And Licenses

If the selected Proposer requires or desires to use any design, trademark, device, material or process covered by letters of patent or copyright, the selected Proposer and his surety shall indemnify and hold harmless the City from any and all claims for infringement by reason of the use of any such patented design, device, trademark, copyright, material or process in connection with the work agreed to be performed and shall indemnify the City from any cost, expense,

royalty or damage which the City may be obligated to pay by reason of any infringement at any time during or after completion of the work.

f. Permits

The selected Proposer shall be responsible for obtaining all permits, licenses, certifications, etc., required by federal, state, county, and municipal laws, regulations, codes, and ordinances for the performance of the work required in these specifications and to conform to the requirements of said legislation.

g. Familiarity With Laws

It is assumed the selected firm(s) will be familiar with all federal, state and local laws, ordinances, rules and regulations that may affect its services pursuant to this RFP. Ignorance on the part of the firm will in no way relieve the firm from responsibility.

h. Withdrawal Of Proposals

A firm may withdraw its proposal without prejudice no later than the advertised deadline for submission of proposals by written communication to the General Services Department, 1190 N.E. 3rd Avenue, Building C, Pompano Beach, Florida 33060.

i. Composition Of Project Team

Firms are required to commit that the principals and personnel named in the proposal will perform the services throughout the contractual term unless otherwise provided for by way of a negotiated contract or written amendment to same executed by both parties. No diversion or substitution of principals or personnel will be allowed unless a written request that sets forth the qualifications and experience of the proposed replacement(s) is submitted to and approved by the City in writing.

j. Variances

While the City allows Proposers to take variances to the RFP terms, conditions, and specifications, the material nature, number, and extent of variances taken will be considered in determining proposal responsiveness and in allocating proposal evaluation points.

k. Invoicing/Payment

All invoices should be sent to City of Pompano Beach, Accounts Payable, P.O. Drawer 1300, Pompano Beach, Florida, 33061. In accordance with Florida Statutes, Chapter 218, payment will be made within 45 days after receipt of a proper invoice.

l. Public Records

1. The City of Pompano Beach is a public agency subject to Chapter 119, Florida Statutes. The Contractor shall comply with Florida's Public Records Law. Specifically, the Contractor shall:
 - a. Keep and maintain public records that ordinarily and necessarily would be required by the City in order to perform the service;
 - b. Provide the public with access to such public records on the same terms and conditions that the City would provide the records and at a cost that does not exceed that provided in chapter 119, Fla. Stat., or as otherwise provided by law;
 - c. Ensure that public records that are exempt or that are confidential and exempt from public record requirements are not disclosed except as authorized by law; and
 - d. Meet all requirements for retaining public records and transfer to the City, at no cost, all public records in possession of the contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the agency.
2. The failure of Contractor to comply with the provisions set forth in this Article shall constitute a Default and Breach of this Agreement and the City shall enforce the Default in accordance with the provisions set forth herein.

23. Questions and Communication

All questions regarding the RFP are to be submitted in writing to the Purchasing Office, 1190 N.E. 3rd Avenue, Building C (Front), Pompano Beach, Florida 33060, fax (954) 786-4168, or email purchasing@copbfl.com. All questions must include the inquiring firm's name, address, telephone number and RFP name and number. Questions must be received at least seven (7) calendar days before the scheduled solicitation opening. Oral and other interpretations or clarifications will be without legal effect. Any addendum necessary to answer questions will be posted to the City's website, and it is the Proposer's responsibility to obtain all addenda before submitting a response to the solicitation.

24. Addenda

The issuance of a written addendum is the only official method whereby interpretation, clarification, or additional information can be given. If any addenda are issued to this solicitation the City will attempt to notify all known prospective Proposers, however, it shall be the responsibility of each Proposer, prior to submitting their response, to contact the City Purchasing Office at (954) 786-4098 to determine if addenda were issued and to make such addenda a part of their proposal.

25. Additional Instructions to Proposers

In addition to the instructions to proposers included in this RFP package, the following instructions to proposers also apply:

Time of delivery may be a consideration in the award.

There will be no minimum quantities for each purchase by the City. The proposal may be rejected if minimum quantities are required.

Proposals may be withdrawn in person by a proposer, or authorized representative, provided their identity is made known and receipt is signed for the proposal, but only if the withdrawal is made prior to the stated proposal deadline.

If the proposer would like to submit a statement of "no bid," please submit it in the same format as you would submit a proposal.

In cases of the discovery of any omissions or obstacles, which would affect the proper completion of any detail of a project, contractor shall prepare proposal to include the equipment or work omitted. In every case, complete work is expected.

All proposals must include material safety data sheets for materials as required by OSHA (where applicable).

Where applicable, please indicate warranty information on request for proposal form.

Where applicable, permits must be pulled and all City and State regulations must be in compliance.

WORK TIME RESTRICTIONS

The Contractor is required to prosecute Work done under this Contract during the hours of 8 a.m. and 8 p.m. only. No Work will be permitted on Saturdays, unless specifically authorized by the Owner. No Work will be permitted at night, on Sundays, or on City and Federally observed holidays.

CHECK VALVE

The Contractor shall be responsible for obtaining and verifying the dimensions of the sewer outlets and coordinating with the supplier to ensure a proper and water tight seal.

Submit product literature that includes information on the performance and operation of the valve, materials of construction, dimensions and weights, elastomer characteristics, head-loss, flow data and pressure ratings.

Provide shop drawings that clearly identify the valve materials of construction and dimensions.

When line pressure exceeds the backpressure, the line pressure forces the valve open, allowing flow to pass. When the backpressure exceeds the line pressure, the valve is forced closed, preventing backflow.

PROPOSAL SIGNATURE PAGE
RFP E-53-14, Procurement and Installation Services for Storm Water Outfall Check Valves

To: The City of Pompano Beach, Florida

The below signed hereby agrees to furnish the proposed services under the terms stated subject to all instructions, terms, conditions, specifications, addenda, legal advertisement, and conditions contained in the RFP. I have read the RFP and all attachments, including the specifications, and I fully understand what is required. By submitting this signed proposal, I will accept a contract if approved by the City and such acceptance covers all terms, conditions, and specifications of this proposal.

Proposal submitted by:

Name (printed) _____ Title _____

Company (Legal Registered) _____

Federal Tax Identification Number _____

Address _____

City/State/Zip _____

Telephone No. _____ Fax No. _____

Signature _____ Date _____

Addendum Acknowledgment - Proposer acknowledges that the following addenda have been received and are included in his/her proposal:

Addendum No. _____ Date Issued _____

CONSTRUCTION CONTRACT

This agreement is made on the _____ day of _____, 20____, by and between CITY OF POMPANO BEACH, a municipal corporation organized and existing under the laws of the State of Florida, having its principal office at 100 W. Atlantic Boulevard, Pompano Beach, Florida, 33060, referred to below as "owner," and _____, a Florida corporation, having its principal office at _____, referred to below as "contractor."

In consideration of their mutual promises, the parties agree as follows, intending to be legally bound by this contract:

1. *Work.* Contractor agrees to install flow operated check valves in accordance with the proposal submitted by the contractor _____ as last revised on _____ [date], and entitled " _____ " (referred to below as the "plans"), and in accordance with the conditions of the contract attached to this contract as Exhibit "A", which plans and conditions of the contract are incorporated here by this reference. Contractor agrees to furnish all of the materials, equipment, services, personnel and labor and to acquire all permits and approvals required by law to accomplish the work delineated in this contract, the plans, drawings and specifications and the attachments to this contract (referred to below as the "contract documents"). The following shall also apply:

(a) Notwithstanding the above, the _____ is not included in this contract.

(b) Contractor shall perform the work in a good and competent manner, promptly and diligently, in accordance with the contract documents and this contract. Unless otherwise specified in the contract documents, contractor shall use new, high-quality materials. Contractor shall furnish materials and labor that are free from faults and defects and which conform to the plans and contract documents.

(c) The work shall result in a finished project so that the result is an aesthetically pleasing, structurally sound and functioning valve.

(d) Contractor shall make records and reports and furnish personnel and facilities as required to complete the work, and perform all other obligations required in this contract to be performed by contractor.

(e) Contractor shall obtain and pay for all permits and approvals necessary for construction and use of the completed project from any and all governments, boards and agencies. Contractor shall perform the work so that the work and project fully comply with all

applicable building, zoning and other applicable codes. The contract sum already includes all costs, fees and other amounts needed to comply with this requirement, and contractor will pay for all such costs, fees and other amounts as part of the cost of performing this contract. Contractor shall pay for all work and for all permits, impact fees, insurance, fees and charges levied by or on behalf of any governmental entity relating to the work.

(f) Some construction details do not appear on the plans, but they are still the responsibility of contractor to construct as part of the work in a good and competent manner, and they have already been figured into the contract sum. Contractor shall supply the missing construction details during construction, but contractor shall seek owner's approval regarding the construction details during construction, and owner shall have the right to approve or disapprove of any construction details that are not shown on the plans. Best grades of material will be used if available.

(g) Owner designates _____ as owner's agent for the purpose of this contract, to serve without compensation from either owner or contractor unless expressly approved by the owner's board of directors. Owner authorizes owner's agent to communicate with contractor, to inspect the work from time to time, to receive invoices from contractor, and to approve invoices for payment by owner. Owner's agent is not authorized to increase the contract sum or to issue change orders the net effect of which would increase the contract sum. Owner's agent may issue change orders that add and subtract to a net amount that would not increase the contract sum. In no case may the contract sum be increased above the amount set forth in Paragraph 4 of this contract unless expressly approved by the owner's board of directors.

(h) Contractor shall subcontract _____ as _____ sub-contractor and _____ as _____ sub-contractor, but these persons are not third party beneficiaries of this contract, and owner does not waive service of notice to owner by these persons.

2. *Schedule.* Contractor shall commence work under this contract within _____ [*specify, such as: ten*] days after the date of this contract and shall complete all work by _____ [*date*]. Contractor's time for completion shall be extended _____ (*specify, such as: one*) day for each day of delay caused by acts of God and force majeure; provided however, that contractor must give owner written notice of the delay immediately after occurrence of the act causing the delay. Force majeure means that contractor cannot perform the work due to causes that are both: (a) outside the control of contractor and those working under contractor; and (b) could not be avoided by exercise of due care.

3. *Title.* Title to material and equipment furnished by contractor for incorporation in the work covered by this contract shall pass to owner on delivery to the job site. Contractor shall however, nonetheless remain liable for the safekeeping and preservation of the material and equipment, and for loss, theft or damage to it, pending completion of the work by contractor and acceptance of the work by owner.

4. *Contract Sum.* Owner shall pay contractor for the *performance* of the contract the fixed contract sum of \$_____, which is based on the contract breakdown set forth on Exhibit "B" attached to this contract and incorporated by reference.

5. *Progress Payments.* Owner shall make progress payments to contractor in the following manner:

(a) On the first day of every month contractor shall submit an itemized invoice to owner showing the value of the work in place and performed by contractor during the previous month, excluding all values which may have been included in previous invoices submitted by contractor under this contract. The value of the work in place shall be based on the contract breakdown attached to this contract as Exhibit "B" and shall include only line items that have been completed. The itemization shall include the names, work performed, and bills of all laborers, subcontractors, and material men performing work on the job. The value of the work in place shall not include materials stored off the construction site. The value of the work in place shall not exceed the contract sum stated in Paragraph 4 above. Contractor shall at the same time furnish to owner properly executed partial waivers of lien and affidavits of payment in the forms of Exhibit "C" and Exhibit "D" attached to this contract from contractor and from all subcontractors, laborers, suppliers and material- men who have furnished work, equipment or material to the project. The partial completion date in each lien waiver shall be filled in to be the same as the date of contractor's current invoice and not its last invoice. Owner shall have the right to approve or disapprove the amount specified by contractor as the value of work in place..

(b) Within _____ [*specify, such as: five*] days after owner's receipt of the progress payment invoice and all lien waivers/affidavits, owner shall pay to contractor as the progress payment an amount equal to _____ [*specify, such as: 90%*] of the value of work in place, but less the total of prior progress payments, so that the total of progress payments shall never exceed _____ [*specify, such as: 90%*] of the contract sum so that at least [*specify, such as: 10%*] of the contract sum is reserved for final payment.

(c) Disbursement of each progress payment by owner to contractor is conditioned on owner's approval of construction after inspection of the work from time to time by owner or owner's agent. Progress payments may be withheld if any of the following occur: (a) work is found defective by owner and not remedied by contractor; (b) contractor does not make prompt and proper payments to subcontractors, laborers and material men; (c) contractor does not make prompt and proper payments for labor, materials or equipment furnished; (d) claims of lien are filed; or (e) contractor fails to maintain insurance or otherwise breaches this contract.

(b) Progress payment shall be paid within 45 days after owner's receipt of the progress payment invoice and all lien waivers/affidavits, unless owner disapproves the value of work in place stated in the invoice.

6. *Final Payment.* Owner shall make final payment to contractor within _____ [specify, such as: ten] days after all of the following are completely done:

(a) Performance of all of the work by contractor in accordance with the terms of the contract documents is fully completed to owner's satisfaction;

(b) A certificate of completion has been issued by the government building department having jurisdiction over the project;

(c) Contractor has performed the items contained on a walk-through checklist or punch list compiled by owner;

(d) Contractor has delivered to owner a final waiver of lien and affidavit of payment, in the form of Exhibit "D" attached to this contract, from contractor and all subcontractors, suppliers and material men who have furnished any work or materials to the project, and acknowledging payment in full through the completion of the work;

(e) Contractor has furnished to owner evidence satisfactory to owner as to the payment of all bills for the work; and

(f) Contractor has furnished owner with contractor's statement under oath as required by Fla. Stat. § 713.06(3)(d)(1).

7. *Changes.* If owner desires to make additions, deletions or other revisions in the work after this contract is signed by both contractor and owner, contractor agrees that it will fully cooperate with owner in arriving at the basis of compensation for the change, if any, and for any adjustment in the time for performance occasioned by the change. If owner and contractor do not otherwise agree, then the compensation for the change shall be equal to contractor's actual cost of labor and materials plus _____ [specify, such as: 15%] of those costs for contractor's overhead and profit, and actual cost of labor shall not exceed \$_____ per hour for general labor (clean-up, debris removal, scraping, sanding, and general tasks), \$_____ per hour for semi-skilled labor (use of tools for drywall hanging, carpentry helper, mason tender, shoring, some primary finish work), and \$_____ per hour for skilled labor (use of tools for window and door installation, framing, plaster, stucco, structural work, finish work and cabinets). Contractor shall not be authorized to proceed with any change in the work unless and until it has been directed by written change order signed by owner and accepted by contractor, specifying the adjustment, if any, in the compensation and time for performance occasioned by this change. Contractor, to the extent possible, shall perform work under change orders concurrently with other work so as not to exceed the required time for completion of work under this contract.

8. *Insurance.* Prior to commencing work under this contract, contractor shall furnish certificates of comprehensive general liability, property damage and builders risk

insurance, including contractual liability coverage, together with bodily injury and property damage liability insurance on all automotive or truck equipment to be used in the performance of work under this contract, with limits of no less than \$1,000,000 per person and occurrence for bodily injury and \$1,000,000 per occurrence and aggregate for property damage. Contractor shall also furnish certificates evidencing workers' compensation insurance coverage as required by law, written by an insurance company authorized and qualified to write workers' compensation insurance in Florida. The certificates shall state that the premium for the insurance has been paid and that the insurance company agrees to give owner at least _____ [*specify, such as: 20*] days' written notice prior to termination of the insurance.

9. *Indemnification.* Contractor agrees to indemnify, defend and hold owner and owner's employees, agents, officers and directors harmless from all actions, suits, debts, dues, sums of money, attorneys fees, expenses, property damage, personal injury, third party liability, controversies, damages, penalties, punitive damages, fines, losses, interest, costs, judgments, claims, settlements, and demands, in law or in equity, on or by reason of any matter, cause or thing which relate to or arise from, in whole or in part, the work or any act or omission of contractor or anyone working under by, under or through contractor. This is a continuing obligation that shall survive the termination, expiration and performance of the other provisions of this contract.

10. *Protection of Work and Property.* Contractor shall continuously maintain adequate protection from damage for all its work and for the other property at the jobsite and shall pay for the replacement or repair of any damage or loss to the work and to owner's property. Contractor shall take precautions to prevent intrusion of water and other natural elements into the work and property.

11. *Default.* Time, orderly progress of work and completion of the work within the time provided for by this contract are the essence of this contract. It is accordingly agreed that Contractor is in default of this contract if any of the following occur:

(a) Contractor at any time and in any respect fails to prosecute the work required by this contract steadily and with such promptness and diligence as deemed necessary to assure completion by the time provided for by this contract; or

(b) Contractor does not complete the construction, installation and other work required by this contract in accordance with the contract documents on a schedule so as to be completed on or before the date provided for in this contract for the completion; or

(c) Contractor fails to perform any of the provisions of this contract and the failure continues for a period of _____ [*specify, such as: five*] days after written notice of the failure to perform from owner to contractor.

If Contractor is in default, in addition to any other remedies at law or equity, owner may notify contractor in writing to stop all work and may take possession of the premises and work and of all materials and equipment, other equipment owned by contractor, and complete the

unfinished work by any method owner may deem expedient and charge the cost and damages incurred in doing same against the remaining contract sum still unpaid, and if the costs and damages exceed the remaining contract sum still unpaid contractor shall pay owner the difference on written demand.

12. *Warranties.* Contractor guarantees and warrants to owner and its successors and assigns as follows, all of which shall survive the termination, expiration and performance of the other provisions of this contract:

(a) Contractor at its sole cost and expense shall promptly repair, correct or replace any defective materials, equipment and work furnished or performed by contractor or its subcontractors or material men which exist within _____ [*specify, such as: one year*] after final payment or acceptance of the work by owner;

(b) there shall be no defects in material or workmanship in the work; and

(c) the improvements shall be constructed in a good and workmanlike manner and shall be in compliance with all applicable ordinances, statutes, codes and regulations of local, county, state and federal agencies.

In addition to these warranties of contractor, contractor also transfers and assigns to owner the following:

(a) all manufacturer's and distributor's warranties on the work, fixtures and equipment included in the improvements;

(b) all subcontractors' and material men's warranties for their work and material; and

13. *Miscellaneous.* This instrument and the contract documents incorporated into it by reference contain the entire contract of the parties. It may not be changed orally but only by a contract in writing or written change order as provided above, which must be signed by the party against whom enforcement of any waiver, change, modification, extension or discharge is sought. This contract shall be interpreted under Florida law and shall be binding on and inure to the benefit of and be enforceable by the respective heirs, personal representatives, successors and assigns of the parties. If there is a breach of this contract and litigation ensues, the prevailing party in the litigation shall be entitled to recover costs and reasonable attorney's fees from the other party. Paragraph headings are inserted only for convenience and are not to be construed as part of the contract or a limitation of the scope of the particular paragraph to which they refer. This contract may be assigned only with the written consent of both parties. The waiver by any party of a breach of any provision of this contract must be in writing and shall not operate or be construed as a waiver of any subsequent breach by any party.

In witness of the above, contractor and owner have signed this contract the date first written above.

“OWNER”:

Witnesses:

CITY OF POMPANO BEACH

By: _____

LAMAR FISHER, MAYOR

By: _____

DENNIS W. BEACH, CITY MANAGER

Attest:

(SEAL)

MARY L. CHAMBERS, CITY CLERK

Approved As To Form:

GORDON B. LINN, CITY ATTORNEY

STATE OF FLORIDA

COUNTY OF BROWARD

The foregoing instruments were acknowledged before me this _____ day of _____, 201_ by **LAMAR FISHER** as Mayor, **DENNIS W. BEACH** as City Manager and **MARY L. CHAMBERS** as City Clerk of the City of Pompano Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who are personally known to me.

NOTARY’S SEAL:

NOTARY PUBLIC, STATE OF FLORIDA

(Name of Acknowledger Typed, Printed or Stamped)

Commission Number

“CONTRACTOR”:

Witnesses:

Signature

By:_____

Print Name_____

Signature

Title:_____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 201_, by _____, as _____ of _____, a Florida corporation. He/she is personally known to me or who has produced _____ (type of identification) as identification.

NOTARY IS SEAL:

NOTARY PUBLIC, STATE OF _____

(Name of Acknowledger Typed, Printed or Stamped)

Commission Number

EXHIBITS TO CONSTRUCTION CONTRACT

- A. Conditions of the Contract
- B. Contract Breakdown
- C. Partial Waiver of Lien and Affidavit of Payment form
- D. Final Waiver of Lien and Affidavit of Payment form

EXHIBIT "A"

CONDITIONS OF THE CONTRACT

1. Owner has the right to approve in writing the materials, systems and finishes involved in the project.
2. Work days are Monday through Friday, excluding holidays. Neither owner nor contractor shall offer workers any beer or other alcoholic beverages while on the jobsite.
3. Owner carries insurance policies of its own, but this shall not diminish this contract's requirement concerning insurance to be furnished by contractor.
4. Owner shall pay for electricity, water and other usual utilities furnished to the jobsite during construction of the work.
5. Except as provided in the contract or allowed by law, owner shall not stop or obstruct contractor in performing the work.
6. All notices to contractor shall be given to contractor at the address, pager, fax or phone number set forth at the beginning of this contract. All notices to owner shall be given to owner's agent at the address set forth at the beginning of this contract and to any other persons as owner from time to time designates in writing to contractor.
7. Owner shall remove-or cover its items of personal property that remain on the jobsite during construction. Owner and contractor shall take reasonable precautions to protect those items.
8. All demolished material will be the property of contractor unless owner expressly states otherwise.
9. Contractor is responsible for cleanup of construction materials and trash on a regular basis so as not to be illegal or unsightly.

EXHIBIT "B"

CONTRACT BREAKDOWN *[Insert contract breakdown here.]*

EXHIBIT "C"

PARTIAL WAIVER OF LIEN AND
AFFIDAVIT OF PAYMENT

State of Florida
County of _____

The undersigned, _____, has performed work under a contract with _____ with respect to the renovation of the _____ building owned by _____, referred to below as "owner," located on owner's grounds on _____ [address], _____ County, Florida, legally described on the attachment to this contract.

The undersigned, for good and valuable consideration in the amount of \$_____, the receipt of which is acknowledged by the undersigned, waives, releases, discharges and relinquishes forever all construction, mechanics and other liens, rights of lien and claims of any kind on or against owner and owner's above-described real property on account of all work, labor, services and materials furnished for or incorporated into the real property by the undersigned or anyone claiming by, through or under the undersigned prior to and through the following partial completion date:

Partial Completion Date: _____

The undersigned further certifies that the consideration moving to the undersigned for executing this instrument has been mutually given and accepted as absolute payment and not as a conditional or part payment or as security for payment and constitutes payment in full for all work, labor, material and services furnished prior to and through the partial completion date.

The undersigned certifies that all persons who have furnished work, labor, material or services to the property prior to and through the partial completion date at the request or order of the undersigned have been paid *in full*, except for the following: _____ [specify].

This instrument is executed on _____.

AFFIANT:

BY: _____
PRINT NAME: _____
TITLE: _____

The foregoing instrument was acknowledged before me on the ____ day of _____, 20____, by _____ as _____ of _____ He/she is personally known to me or has produced _____ as identification..

NOTARY SEAL:

NOTARY PUBLIC, STATE OF FLORIDA

Print Name

(Commission Number)

EXHIBIT "D"

FINAL WAIVER OF LIEN AND
AFFIDAVIT OF PAYMENT

State of Florida
County of _____

The undersigned, _____, has performed work under a contract with _____ with respect to the renovation of the _____ building owned by _____ ("owner") located _____ on _____ owner's grounds on _____ [address], _____ County, Florida, legally described on the attachment to this contract.

The undersigned, for good and valuable consideration in the amount of \$ _____, the receipt of which is acknowledged by the undersigned, waives, releases, discharges and relinquishes forever all construction, mechanics' and other liens, rights of lien and claims of any kind on or against owner and owner's above-described real property on account of all work, labor, services and materials furnished or to be furnished for or incorporated into the real property by the undersigned or anyone claiming by, through or under the undersigned.

The undersigned further certifies that the consideration moving to the undersigned for executing this instrument has been mutually given and accepted as absolute payment and not as a conditional or part payment or as security for payment and constitutes payment in full for all work, labor, material and services furnished or to be furnished.

The undersigned certifies that all persons who have furnished or shall furnish work, labor, material or services to the property at the request or order of the undersigned have been paid in full.

This instrument is executed on _____.

AFFIANT:

BY: _____
PRINT NAME: _____
TITLE: _____

The foregoing instrument was acknowledged before me on the ____ day of _____,
20____, by _____ as _____ of
_____. He/she is personally known to me or has produced
_____ as identification..

NOTARY SEAL:

NOTARY PUBLIC, STATE OF FLORIDA

Print Name

(Commission Number)