

BAL HARBOUR

- V I L L A G E -

Mayor Jeffrey P. Freimark
Vice Mayor Seth E. Salver
Councilman David J. Albaum
Councilman Buzzy Sklar
Councilman David Wolf

Village Manager Jorge M. Gonzalez
Village Clerk Dwight S. Danie
Village Attorneys Weiss Serota
Helfman Cole & Bierman, P.L.

Bal Harbour Village Council Regular Council Meeting Agenda April 18, 2023 At 6:30 PM

Bal Harbour Village Hall • 655 - 96th Street • Bal Harbour • Florida 33154

This meeting will be conducted in-person. In order to minimize exposure to the Coronavirus to Councilmembers and members of the public, the meeting will also broadcast on the Village's website (www.balharbourfl.gov). Members of the public are also encouraged to participate by email (meetings@balharbourfl.gov) or by telephone at 305-865-6449.

BHV Who We Are, Vision, Mission, Values / The Bal Harbour Experience
[*The Bal Harbour Experience.pdf*](#)

CALL TO ORDER/ PLEDGE OF ALLEGIANCE

REQUESTS FOR ADDITIONS, WITHDRAWALS, AND DEFERRALS

PRESENTATIONS AND AWARDS

- PA1** Autism Acceptance Month Proclamation
- PA2** Jewish Heritage Month Proclamation
- PA3** Miami-Dade Fire Rescue Annual Presentation - Chief Raied "Ray" Jadallah

CONSENT AGENDA

C6 - COUNCIL MINUTES

- C6A** Approval of Minutes - February 23 and 24, 2023 Retreat Minutes and March 27, 2023 Regular Meeting Minutes
[VillageCouncilRetreatMinutes_February23-24_2023_ADA.pdf](#)
[VillageCouncilRegularMeetingMinutes_March27_2023_ADA.pdf](#)

C7 - CONSENT AGENDA RESOLUTIONS

- C7A** Liquor License Approval - 9700 Collins Avenue - Neiman Marcus' Cafe on 3
A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; ACCEPTING THE DETERMINATION OF THE VILLAGE BUILDING OFFICIAL THAT THE NEIMAN MARCUS GROUP, LLC APPLICATION TO THE STATE OF FLORIDA DEPARTMENT OF ALCOHOLIC BEVERAGES AND TOBACCO, WHICH CHANGES THE LICENSE FROM 2COP TO 4COP FOR CAFÉ ON 3, IS COMPATIBLE WITH THE VILLAGE ZONING REGULATIONS; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

[Item Summary - Liquor License - 9700 Collins Avenue - Neiman Marcus Cafe on 3_ADA.pdf](#)

[Council Memorandum - Liquor License - 9700 Collins Avenue - Neiman Marcus Cafe on 3_ADA.pdf](#)

[Resolution - Liquor License - 9700 Collins Avenue - Neiman Marcus Cafe on 3_ADA.pdf](#)

[Attachment 1 ABT-6014 Change in Series 4COP_ADA.pdf](#)

- C7B** Bal Harbour Waterfront Park - Indoor Furniture Purchase
A RESOLUTION APPROVING A PURCHASE OF INDOOR PROGRAM FURNITURE FROM EMPIRE OFFICE INC. FOR THE NEW WATERFRONT PARK, IN AN AMOUNT NOT TO EXCEED \$98,482.97, WHICH INCLUDES A 10% CONTINGENCY AMOUNT OF \$8,952.99; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

[Item Summary - Bal Harbour Waterfront Park - Indoor Furniture Purchase_ADA.pdf](#)

[Council Memorandum - Bal Harbour Waterfront Park - Indoor Furniture Purchase_ADA.pdf](#)

[Resolution - Bal Harbour Waterfront Park - Indoor Furniture Purchase_ADA.pdf](#)

[Attachment 1 - Estimate from Empire Office Inc._ADA.pdf](#)

[Attachment 2 TIPS 200301 Eko_ADA.pdf](#)

[Attachment 3 TIPS 210305 Leland_ADA.pdf](#)

[Attachment 4 TIPS 210305 Howe_ADA.pdf](#)

- C7C** Approval for the naming of Bal Harbour Waterfront Park
A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; DECLARING THE NAME OF THE NEW PARK AT 18 BAL BAY DRIVE AS BAL HARBOUR WATERFRONT PARK; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

[Item Summary - Naming of Bal Harbour Waterfront Park_ADA.pdf](#)

[Council Memorandum - Naming of Bal Harbour Waterfront Park_ADA.pdf](#)

[Resolution - Naming of Bal Harbour Waterfront Park_ADA.pdf](#)

R5 - ORDINANCES

R5A FDEP Pollution Control Ordinance - Second Reading

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, COMPREHENSIVELY UPDATING AND AMENDING SECTION 14-6 OF CHAPTER 14 "PROVISIONS OF DRAINAGE AND STORMWATER MANAGEMENT" OF THE VILLAGE'S CODE OF ORDINANCES BY CREATING SECTION 14-6(A), TO BE ENTITLED "WATER QUALITY," CREATING SECTION 14-6(B) TO BE ENTITLED "SEDIMENT AND EROSION CONTROL," AND CREATING SECTION 14-6(C) TO BE ENTITLED, "ADOPTION OF SECTION D4, WATER CONTROL, OF PART 2–PUBLIC WORKS MANUAL OF MIAMI-DADE COUNTY, FLORIDA"; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

[Item Summary - Ordinance Amendment Drainage and Stormwater Management - Second Reading_ADA.pdf](#)

[Council Memorandum - Stormwater and Erosion Control Ordinance_ADA.pdf](#)

[Ordinance - Stormwater and Erosion Control Ordinance - Second Reading_ADA.pdf](#)

R5B Election Redistricting Ordinance - First Reading

AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE FLORIDA, PURSUANT TO VILLAGE CHARTER SECTION 14(C), ALTERING THE ELECTION DISTRICT BOUNDARIES (REDISTRICTING) AS DEFINED IN SECTION 8.2 OF THE VILLAGE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

[Item Summary - Election Redistricting Ordinance - First Reading_ADA.pdf](#)

[Council Memorandum - Redistricting Ordinance - First Reading_ADA.pdf](#)

[Ordinance - Election Redistricting Ordinance - First Reading_ADA.pdf](#)

[Attachment A - Redistricting Map 3_ADA.pdf](#)

[Attachment B - BHV-Plats_ADA.pdf](#)

R5C Village Parks Rules Ordinance - First Reading

AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; AMENDING CHAPTER 2 "ADMINISTRATION", AND CHAPTER 17 "STREETS, SIDEWALKS AND OTHER PUBLIC PLACES" OF THE VILLAGE CODE TO CREATE AND DEFINE "PUBLIC PARKS" AND AUTHORIZE RELATED RULES AND PENALTIES; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

[Item Summary - Village Parks Rules Ordinance - First Reading_ADA.pdf](#)

[Council Memorandum - Village Parks Rules Ordinance - First Reading_ADA.pdf](#)

[Ordinance - Village Parks Rule Ordinance - First Reading_ADA.pdf](#)

R7 - RESOLUTIONS

R7A Additional Services Task Agreement with CGA Sanitary Sewer Design UIIP Phase 5(B)

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; APPROVING THE TASK AGREEMENT WITH CALVIN GIORDANO AND ASSOCIATES INC. FOR THE PROVISION OF PROFESSIONAL SURVEYING, CIVIL ENGINEERING AND CONSTRUCTION ADMINISTRATION SERVICES FOR THE SANITARY SEWER AND ASSOCIATED WORK RELATED TO THE UTILITIES INFRASTRUCTURE IMPROVEMENTS PROJECT PHASE 5(B), AS SPECIFIED WITHIN CGA PROPOSAL NO. 17-9868.74, IN THE AMOUNT NOT TO EXCEED ONE HUNDRED FIFTY-FIVE THOUSAND FOUR HUNDRED THIRTY-TWO DOLLARS (\$155,432), INCLUSIVE OF A TEN PERCENT (10%) CONTINGENCY ALLOCATION IN THE AMOUNT OF FOURTEEN THOUSAND ONE HUNDRED THIRTY-ONE (\$14,131) ROUNDED UP TO THE NEAREST DOLLAR; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

[Item Summary - Task Agreement CGA UIIP phase 5b -Sewer_ADA.pdf](#)

[Council Memorandum - Task Agreement CGA-Sewer system design-UIIP phase 5B_ADA.pdf](#)

[Resolution - Task Agreement CGA-UIIP-5\(B\) Sewer_ADA.pdf](#)

[Attachment 1 - CGA Proposal For Project 5B_ADA.pdf](#)

[Task Agreement-CGA Design-Construction Admin -UIIP Phase 5B-Sewer-2023.4.7.23-JMG_ADA.pdf](#)

R7B Task Agreement-CGA-Water Services Design UIIP 5(A)

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; APPROVING THE TASK AGREEMENT WITH CALVIN GIORDANO AND ASSOCIATES INC. FOR THE PROVISION OF PROFESSIONAL SURVEYING, CIVIL ENGINEERING AND CONSTRUCTION ADMINISTRATION SERVICES FOR THE WATER MAIN REPLACEMENT, RELOCATION OF RESIDENTIAL WATER METERS AND ASSOCIATED WORK RELATED TO THE UTILITIES INFRASTRUCTURE IMPROVEMENTS PROJECT PHASE 5(A), AS SPECIFIED WITHIN CGA PROPOSAL NO. 17-9868.75, IN THE AMOUNT NOT TO EXCEED ONE HUNDRED FORTY-ONE THOUSAND NINE HUNDRED SEVENTY-FOUR DOLLARS (\$141,974), INCLUSIVE OF A TEN PERCENT (10%) CONTINGENCY ALLOCATION IN THE AMOUNT OF TWELVE THOUSAND NINE HUNDRED SEVEN DOLLARS (\$12,907) ROUNDED UP TO THE NEAREST DOLLAR; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

[Item Summary - Task Agreement CGA UIIP phase 5\(A\)-Water Main_ADA.pdf](#)

[Council Memorandum - Task Agreement CGA-Water Main design-UIIP phase 5\(A\)_ADA.pdf](#)

[Resolution - Task Agreement CGA-UIIP-5\(A\) Water Main_ADA.pdf](#)

[Attachment 1 - CGA_Proposal_For_Professional_Services-Phase_5A_Water_Main_ADA.pdf](#)

[Task Agreement - CGA_Design-Construction_Admin_-UIIP_Phase_5A-Water-2023-complete_ADA.pdf](#)

R7C Mid-Year Budget Amendment

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING THE FISCAL YEAR 2022-23 BUDGET; PROVIDING FOR EXPENDITURE OF FUNDS; PROVIDING FOR AMENDMENTS; PROVIDING FOR CARRYOVER OF FUNDS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

[1 - Mid-Year Budget Amendment - Item Summary v_7.pdf](#)

[Council Memorandum - Mid-Year Budget Amendment_ADA.pdf](#)

[Resolution - Mid-Year Budget Amendment_ADA.pdf](#)

[Exhibit A - Mid-Year Budget Amendment_ADA.pdf](#)

R9 - NEW BUSINESS AND COUNCIL DISCUSSION

R9A Discussion item - Facilitation of a Condominium Owner Rights and Responsibilities Workshop - Vice Mayor Seth E. Salver

[Discussion Item - Facilitation of a Condominium Owner Rights and Responsibilities Workshop - Vice Mayor Seth E. Salver_ADA](#)

R9B - PUBLIC COMMENT

R10 - VILLAGE MANAGER REPORT

R11 - VILLAGE CLERK REPORT

R11A Lobbyist Report

[R11A1_Lobbyist Registration Report as of April11_2023.pdf](#)

R12 - VILLAGE ATTORNEY REPORT

R12A Village Attorney Report

[Monthly Attorney Report March_ADA.pdf](#)

END OF REGULAR AGENDA

ADJOURNMENT

One or more members of any Village Committee/Board may attend this meeting of the Council and may discuss matters which may later come before their respective Boards/Committees.

The New Business and Council Discussion Section includes a section for Public Comment. On public comment matters, any person is entitled to be heard by this Council on any matter; however, no action shall be taken by the Council on a matter of public comment, unless the item is specifically listed on the agenda, or is added to the agenda by Council action.

Any person who acts as a lobbyist, pursuant to Village Code Section 2-301 (Lobbyists), must register with the Village Clerk, prior to engaging in lobbying activities before Village staff, boards, committees, and/or the Village Council. A copy of the Ordinance is available in the Village Clerk's Office at Village Hall.

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

All persons who need assistance or special accommodations to participate in virtual meetings please contact the Village Clerk's Office (305-866-4633), not later than two business days prior to such proceeding.

In accordance with the Americans with Disabilities Act of 1990, all persons who are disabled and who need special accommodations to participate in this proceeding because of that disability should contact the Village Clerk's Office (305-866-4633), not later than two business days prior to such proceeding.

All Village Council meeting attendees, including Village staff and consultants, are subject to security screening utilizing a metal detector and/or wand, prior to entering the Council Chamber, Conference Room, or other meeting area located within Village Hall. This is for the safety of everyone. Thanks for your cooperation.

BAL HARBOUR

- V I L L A G E -

Mayor Jeffrey P. Freimark
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Councilman David J. Albaum
Councilman Buzzy Sklar
Councilman David Wolf

Village Manager Jorge M. Gonzalez
Village Clerk Dwight S. Danie
Village Attorneys Weiss Serota
Helfman Cole & Bierman, P.L.

Bal Harbour Village Council

Retreat Minutes

February 23, 2023 from 9:00 AM until 6:30 PM

and

February 24, 2023 from 9:00 AM until 5:00 PM

The Ritz-Carlton Bal Harbour • 10295 Collins Avenue • Bal Harbour • Florida 33154

February 23, 2023

CALL TO ORDER - Mayor Freimark called the Retreat to order at 9:12 AM.

The following were present:

Mayor Jeffrey Freimark
Vice Mayor Seth Salver
Councilman David Albaum
Councilman Buzzy Sklar
Councilman David Wolf

Also present:

Jorge M. Gonzalez, Village Manager
Dwight S. Danie, Village Clerk
Susan Trevarthen, Village Attorney
Ramiro Inguanzo, Assistant Village Manager
Dr. Rick Jensen, Retreat Facilitator

Dr. Jensen provided an overview of the 2-day agenda, and reviewed the ground rules for engagement, which were:

- Stay on Task - Be productive;
- Treat one another professionally - No making it personal;
- One person speaks at a time - Limit to 2 minutes - active listening & inquiry;
- Be willing to agree to disagree - "with all due respect"; and
- Solicit insights and feedback from others - listen, collaborate, support.

After which, he reviewed the DISC profiles (Dominance, Influence, Steadiness, Conscientiousness) of those present.

Dr. Jensen then listed the following elements for new-member integration: "Work for what's best for Bal Harbour"; "Move on after outcome is decided"; "Don't be afraid to have

the discussion”; and “Commitment to retreat process.” Councilman Albaum added “Keep an Open Mind.”

Mr. Gonzalez reviewed “The Bal Harbour Experience” that was developed during the first annual Bal Harbour Village Council Retreat in November of 2017 that described Bal Harbour’s identity, vision, mission, and values, the elements of which are: Safety, Beautiful Environment, Modernization of Public Facilities & Infrastructure, Resilient & Sustainable Community, Destination & Amenities and Unique and Elegant.

He reviewed the Element ranking from the 2022 Retreat.

2022 Ranking of Bal Harbour Experience Elements

Element	Rank
Safety	32
Beautiful Environment	20
Modernization of Public Facilities and Infrastructure	19
Resilient & Sustainable Community	13
Destination and Amenities	13
Exclusivity & Access (Changed to Unique and Elegant)	3

Then he asked Councilmembers to rank the elements of the Bal Harbour Experience. The results of the ranking are as follows.

2023 Ranking of Bal Harbour Experience Elements

Element	Rank
Safety	32
Modernization of Public Facilities and Infrastructure	19
Beautiful Environment	17
Resilient & Sustainable Community	16
Destination and Amenities	10
Unique and Elegant	6

A general discussion ensued regarding traffic control on Collins Avenue. Councilman Albaum suggested keeping the lights at a steady green during peak hours, to ease congestion. There was a general consensus to have a traffic study conducted.

Council Members were then provided a list of initiatives that were placed into the categories: Governance/Administration, CIP/Construction, Tourism, Community Engagement - Parks & Recreation - Special Events, Safety, Appearance-Cleanliness-Sustainability, and Other (write-in). They were then asked to prioritize their top initiatives.

The initiatives that received the highest priority, ranked in order, were:

Initiative	Rank
Jetty	17
Collins Corridor*	14
Beachside Masterplan	12
Traffic Enforcement	10
Waterfront Park - Phase B*	8
Beach Cleanliness*	8
Beach Renourishment	7
Tourism Strategic Plan*	7
Stormwater Capital Improvements	7

* = New Initiative

Councilman Sklar asked if he could re-address the issue of “smoking on the beach.” There was a general consensus that they would allow the issue to be brought back to the Council for further discussion. Then, a general discussion ensued regarding the feeding of cats on sidewalks and public property, to which there was a consensus to have the Village Attorney explore options to educate and inform the public.

Another discussion followed regarding the replacement of sidewalks, after repair, with the same material used in the older, i.e., legacy sidewalks. Councilman Albaum said that he had observed that there were five different sidewalk styles. Mr. Gonzalez explained that the renovation of all the sidewalks would be a major undertaking, involving the need to coordinate the task with the individual buildings. There was a general consensus from the Council to address the issue within the future Collins Corridor Masterplan.

Mr. Gonzalez presented a Gantt chart showing the timeline of capital projects. Ms. Reyes, provided an update of Phase A of the Waterfront Park project. She said that due to material costs increases and an item would be presented to the Village Council at its March 2023 meeting for additional contingency funds. Councilman Wolf suggested that a GMP (Guaranteed Maximum Price) should be considered in future projects.

Matilde Reyes, Capital Program Director then provided an update of the Jetty project. Councilman Sklar suggested that process for the design of the lighthouse/public art at the end of the Jetty should start soon, so that it would be in place at the opening of the Jetty. Mayor Freemark asked if continuing fireworks displays during construction had been considered, to which Mr. Gonzalez said that provisions would be include in the bid. Councilman Sklar added that a 15% contingency should be considered.

Regarding the 96th Street project, Mr. Gonzalez said that he could not get a consensus from Surfside officials, and that the project has been put on hold.

Councilman Sklar asked about the status of the gateway signs, to which, Mr. Gonzalez said that he has had a discussion with architect Bernard Zyscovich, and that he has agreed to provide a design on a pro bono basis.

Mr. Gonzalez provided an update of the New Village Hall project. Mayor Freimark asked if the facility could also be a rescue location, to which Mr. Gonzalez said that he would initiate conversations with the County. There was a general consensus that public meetings should be held, after the upcoming referendum, regarding the aesthetics of the building and site.

Mr. Gonzalez then described Phase B of the park project, located on the site of the existing Village Hall, to which there was a general consensus that the new facility should be more than just a basketball court, and should be something that would benefit the most people.

Mr. Gonzalez then provided an update on the Utility Infrastructure Improvements Project. He described the work that has been completed and the work still pending with regards to water, sanitary sewer, stormwater and road reconstruction. He described accomplishments including an amended development agreement with the Oceana, the securing of County GOB dollars for utility system improvements, State Grant funding for stormwater curb and gutter improvements, and stormwater station upgrades.

There was a general consensus from Councilmembers that Retreat issue papers be provided electronically to provide an opportunity for review prior to meeting.

Dr. Jensen then presented a process and for building consensus and the recommended skills one should have to achieve consensus.

Sylvia Flores, Director of Recreation, Arts, and Culture reviewed the Community Center Management Plan, and asked Councilmembers for their input on policy decisions regarding park operations.

There was a general consensus from the Council to name the park "Bal Harbour Waterfront Park." There was also consensus that the park should be utilized by residents only (with up to 2-4 guests), should not be available for tourists, that children 12 years old and under should be accompanied by an adult, that the hours of operation should be 9AM-8PM weekdays and 9AM-1PM weekends, that the green space and bathrooms be opened at 7AM. The Council also was in favor of a proposed kayak rental.

The Workshop recessed at 7:15 PM.

February 24, 2023

The Workshop reconvened at 9:14 AM.

Regarding the annual performance review of the Village Attorney, there was general consensus that the Council was very satisfied with the Susan Trevarthen, Village Attorney and Weis Serota Helfman Cole & Bierman, P.L. They recommend that a 3% increase in compensation, as requested by Ms. Trevarthen, should be approved at the March Council meeting.

Mr. Gonzalez presented a redistricting plan based¹ on 2020 US Census data that would modify Council district boundaries in a manner that would provide a more even distribution of population. There was a general consensus from Councilmembers bring an ordinance back to the Council.

Mr. Gonzalez provided an update on discussions that he had been having with representatives of the Oceana. He said that in lieu of having a restaurant that would be open to the general public, they had suggested a proposed amendment to the development agreement where they might have a landscape architect design re-design the beach access path to include a fitness area/playground.

He then gave an update on the Bal Harbour Shops future plans to have a hotel, saying that they might be seeking a Council-sponsored referendum. A general discussion ensued regarding what might be the public benefit, and how the project would be managed. There was a general consensus to ask them to make a presentation at a Council meeting, to which Ms. Trevarthen added that the project would be a major site plan amendment.

Dr. Jensen led the group through an exercise asking everyone to imagine a future newspaper headline that would make one beam with pride.

Mr. Gonzales said that the review of the proposed Carlton Terrace project had highlighted a number of policy questions for future development in the Ocean Front District, in regards to underground parking, side setbacks of parking structures, minimum unit requirements, accessory uses, FAR (Floor Area Ratio), CCCL (Coastal Construction Control Line), and parking standards for guest, service delivery and construction workers.

There was a general consensus from the Council to not allow underground parking, while maintaining the current height of a pedestal garage to 22 feet from the crown of the road. They asked the Village Manager to bring a minimum side setback requirement back to the Council for consideration.

With regard to the permitted uses in the Ocean Front, the Council was in agreement to reduce the number of hotel rooms from 100 to 24, and to keep the number of living units at 24, for the minimum unit requirements of Section 21-281 of the Village Code, and there was a general consensus to eliminate Section 21-81(7) regarding medical and dental offices.

For convenience establishments in multi-family buildings with at least 100 units, the Council suggested changing the words "primary use of residents" to "exclusive use of residents," reducing the number of units required from 100 to 24, and removing the list of convenience establishments and have all requests go to the Council for consideration.

The Council was in agreement to fix the language regarding FAR, and amend the prohibitive language of the CCCL. The also agreed that parking requirements should be required to include adequate parking for guest, contractors, and service delivery vehicles.

The Council was also in agreement with the Village Manager's recommendation to hire a professional to complete a planning study to analyze issues pertaining to future development of the West Side of Collins Avenue. They also asked the Village Attorney to explore a special religious zoning overlay ahead of the study.

There was a general consensus from the Council to pursue an amendment to the Village Code that would prohibit construction on Saturdays, and limit the hours of operation for construction to 8:AM until 5:30 PM.

Chief Raleigh Flowers, Bal Harbour Police, provided an update on what his department was doing to augment public safety during day of hate planned by supremacist groups the day scheduled for Saturday.

ADJOURNMENT: The Retreat was adjourned at 3:30 PM.

Mayor Jeffrey Freimark



Attest:

Dwight S. Danie, Village Clerk

BAL HARBOUR

- V I L L A G E -

Mayor Jeffrey P. Freimark
Vice Mayor Seth E. Salver
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Councilman David Wolf

Village Manager Jorge M. Gonzalez
Village Clerk Dwight S. Danie
Village Attorneys Weiss Serota
Helfman Cole & Bierman, P.L.

Bal Harbour Village Council

Regular Council Meeting Minutes

March 27, 2023

At 6:30 PM

Bal Harbour Village Hall • 655 - 96th Street • Bal Harbour • Florida 33154

This meeting was conducted in-person. In order to minimize exposure to the Coronavirus to Councilmembers and members of the public, the meeting was also broadcast on the Village's website (www.balharbourfl.gov). Members of the public were also encouraged to participate by email (meetings@balharbourfl.gov) or by telephone at 305-865-6449.

CALL TO ORDER/ PLEDGE OF ALLEGIANCE- Mayor Jeffrey Freimark called the meeting to order at 6:45 P.M. following the General Employees' Retirement Board Meeting.

The following were present:

Mayor Jeffrey Freimark
Vice Mayor Seth Salver
Councilman David Albaum
Councilman Buzzy Sklar
Councilman David Wolf

Also present:

Jorge M. Gonzalez, Village Manager
Dwight S. Danie, Village Clerk
Susan Trevarthen, Village Attorney

REQUESTS FOR ADDITIONS, WITHDRAWALS AND DEFERRALS

Councilman Sklar asked if the dollars for Consent Agenda Item C7D would be used for the overall traffic study that the Council had discussed at its Retreat, to which Mr. Gonzalez said that the Village had applied for this matching grant before the retreat, and that these dollars would augment the larger project which needs to be put out to bid as an RFP.

There were no additions, withdrawals or deferrals.

PRESENTATIONS AND AWARDS

PA1 Colorectal Cancer Awareness Month - Recognition

Mayor Freemark introduced City of Aventura Commissioner Michael Stern, an ambassador in the fight against colorectal cancer, and a stage four survivor, whose objective is to advocate, educate, and promote clinical research.

PA2 Women's History Month Proclamation

Mayor Freemark presented the proclamation declaring the Month of March 2023 as Women's History Month

CONSENT AGENDA

C6 - COUNCIL MINUTES

C6A February 21, 2023 Village Council Meeting Minutes

C7 - CONSENT AGENDA RESOLUTIONS

- C7A** A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; RATIFYING IN THE AMOUNT NOT TO EXCEED \$40,000 TO FUND THE 2023 FLEURS DE VILLES GLOBAL EXHIBITION; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.
- C7B** A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; AUTHORIZING AND APPROVING THE SPONSORSHIP OF UP TO \$50,000 FOR THE ICE CREAM WE LOVE EVENT AT THE BAL HARBOUR SHOPS TO BENEFIT THE HOLTZ CHILDREN'S HOSPITAL / UNIVERSITY OF MIAMI-JACKSON HEALTH SYSTEM; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.
- C7C** A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; APPROVING AN AGREEMENT WITH AAMUSICIANS FOR EVENT PRODUCTION IN AN AMOUNT NOT TO EXCEED \$45,000; APPROVING AN INITIAL TERM OF ONE YEAR WITH TWO ADDITIONAL ONE-YEAR RENEWAL OPTIONS; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.
- C7D** A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; ACCEPTING A FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) "COUNTY INCENTIVE GRANT PROGRAM" (CIGP) GRANT AWARD FOR THE COLLINS AVENUE TRAFFIC STUDY PROJECT AND ENTERING

INTO AN AGREEMENT FOR THE PROJECT ACTIVITIES, AS DETAILED WITHIN THE GRANT APPLICATION SUBMITTED DECEMBER OF 2021 IN THE ESTIMATED GRANT FUNDED AMOUNT OF TWENTY-FOUR THOUSAND NINE-HUNDRED DOLLARS (\$24,900); PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

- C7E** A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; APPROVING AMENDMENTS TO PREVIOUSLY APPROVED CONTRACT AMOUNTS WITH ENGINEERING FIRMS ARDAMAN AND ASSOCIATES, INC. AND FACADE AND ENVELOPE ENGINEERING CONSULTANTS, LLC TO PROVIDE THE NECESSARY INSPECTION AND MATERIAL TESTING SERVICES FOR THE VILLAGE PARK PROJECT, IN THE AMOUNT OF TWO THOUSAND THREE HUNDRED NINETY DOLLARS (\$2,390) AND TWENTY-TWO THOUSAND SIX HUNDRED FORTY DOLLARS (\$22,640), RESPECTIVELY; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

MOTION: A motion to approve the Consent Agenda was moved by Vice Mayor Seth Salver and seconded by Councilman Buzzy Sklar.

VOTE: The Motion passed by unanimous voice vote (5-0).

R5 - ORDINANCES

- R5A** AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, COMPREHENSIVELY UPDATING AND AMENDING SECTION 14-6 OF CHAPTER 14 "PROVISIONS OF DRAINAGE AND STORMWATER MANAGEMENT" OF THE VILLAGE'S CODE OF ORDINANCES BY CREATING SECTION 14-6(A), TO BE ENTITLED "WATER QUALITY," CREATING SECTION 14-6(B) TO BE ENTITLED "SEDIMENT AND EROSION CONTROL," AND CREATING SECTION 14-6(C) TO BE ENTITLED, "ADOPTION OF SECTION D4, WATER CONTROL, OF PART 2-PUBLIC WORKS MANUAL OF MIAMI-DADE COUNTY, FLORIDA"; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Gonzalez introduced the item saying that it pertained to a requirement by the Florida Department of Environmental Protection, and would codify erosion control provisions that are already practiced by the Village, and also provides the Village with the legal authority to require compliance. He said that if the Council passes the ordinance on first reading, it would be sent to the State for review and comment.

John Oldenburg, Director of Public Works and Beautification Department, said that the ordinance codifies the best practices already utilized by the Village, and that it was modeled after a FDEP submission. He said that the ordinance also creates an enforcement fee structure, that would allow not only the owner, but also the person responsible for the violation, the contractor, for example. Ms. Trevarthen added that all remedies for enforcement had been preserved. She acknowledged Mr. Oldenburg and his team for being proactive in following best practices, saying that some municipalities are facing substantial fines from FDEP, and many are now being challenged to come forward with their own activities to make sure that FDEP requirements are met.

There were no comments from the public.

MOTION: A motion to approve the ordinance on first reading was moved by Vice Mayor Seth Salver and seconded by Councilman David Wolf.

There were no comments from the public.

ROLL CALL	VOTE
Mayor Jeffrey P. Freimark	Yes
Vice Mayor Seth E. Salver	Yes
Councilman David J. Albaum	Yes
Councilman Buzzy Sklar	Yes
Councilman David Wolf	Yes

VOTE: The Motion passed by unanimous roll-call vote (5-0).

R7 - RESOLUTIONS

R7A A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; APPROVING THE EXPENDITURE OF \$169,934 TO PURCHASE A POLICE MARINE PATROL BOAT; APPROVING VESSEL-RELATED EXPENDITURES NOT TO EXCEED \$7,060 FOR THE PURCHASE OF POLICE RADIOS AND ANCILLARY ITEMS; PROVIDING FOR IMPLEMENTATION; AND PROVIDING AN EFFECTIVE DATE.

Mr. Gonzalez introduced the item saying that, ever since the sandbar was dredged, a lot of the boating activity has moved closer to the Village. He said that there is now an opportunity through a matching grant to acquire a vessel that can more easily navigate the sandbar and can get to the islands and spoils areas.

Chief Raleigh Flowers, described the increased activity and noise in the bay area and the resulting increase in complaints received. He said that this boat would allow an officer to

get closer to jet skis and boats on the sandbar to be able to enforce maritime laws and provide a greater police presence.

Councilman Sklar asked if the boat could be utilized in the Cut and the ocean, to which Chief Flowers said that tests have proven that it could be used for both. Councilman Sklar suggested having more manpower to operate the boats during high traffic times, to which Chief Flowers said that additional officers had already been trained. He described the coordination through mutual aid agreements with other municipalities and cooperation with the Florida Marine Patrol and other agencies that allow a greater coverage for enforcement.

Neca Logan, 64 Camden Drive, said that the boat being proposed for purchase was a phenomenal vessel, and a nice ride in the seas, and in that it's soft-sided, it's more manageable coming aside other vessels and is better for rescues.

MOTION: A motion to approve the resolution was moved by Councilman Buzzy Sklar and seconded by Councilman David Albaum.

VOTE: The Motion passed by unanimous voice vote (5-0).

R7B A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE APPROVING SUPPLEMENTAL FUNDING TO THE NV2A CONSTRUCTION AGREEMENT OWNER'S CONTINGENCY FOR THE BAL HARBOUR VILLAGE PARK PROJECT IN THE AMOUNT OF NINE HUNDRED FIFTY THOUSAND DOLLARS (\$950,000) AND CONTINGENCY ALLOWANCE OF TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000); PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

Mr. Gonzalez introduced the item saying it was for supplemental funding for the Waterfront Park and that we have nearly exhausted the contingency that was allocated at the beginning of the project. He said that the contractor will be submitting expenses that exceed the contingency (\$950,000), and in addition he is suggesting an additional unspecified contingency (\$250,000) for anything that is unforeseen between now and the completion of the project. He added that one of the single biggest causes for the increase was the escalation of costs for concrete and steel due to market conditions.

Matilde Reyes, Capital Program Director, provided an overview of the expenses saying that 91% of the contingency drawdown was due to errors and omissions. She said that she only approves change orders that are below the original contingency, but that she has identified things that are coming up, \$650,000 worth, that are still being negotiated, but she will need to continue the project, and include expenses for structural, electrical, lighting and special. She said that of the \$1.7 million requested by the contractor, she had

reduced the amount \$577 thousand. She then provided a timeline of the project and overview of the project team.

Jesus Vasquez, NV2A, said that despite challenges at the beginning, the project is on track. He said that the escalation was in materials that were mainly cement and steel derivatives, and that now the cost of products have stabilized, and that he does not expect further escalation. He said that the team has been frugal and has worked together to find least expensive options for unforeseen conditions and issues with design deficiencies. He added that he expects the job to be complete by May.

Councilman Sklar said that the errors and omissions were extremely high for a project of this size. He asked why these issues had not been brought to the Council's attention as they were happening.

Councilman Wolf said that the most important part was how do we learn from this and make sure it doesn't happen again, and secondly, how can we work with them to recover cost, and how do we negotiate with them going forward.

Mayor Freemark agreed that this being an inherited contract from the Shops as part of the Development Agreement, in moving forward, it was important to negotiate as much as we can get back.

Mr. Gonzalez added that for the New Village Hall contract, they have already been told that they are not using the same structural and civil engineering and that quality control and quality assurance oversight will be put into place. He said that we're looking at construction manager at risk for the build which brings the contractor into the design phase.

Vice Mayor Salver suggested that for future projects some sort of quarter reporting mechanism that includes financials be built into the process.

Councilman Albaum added that the burden is also on the Council, as it should have asked for this type of reporting at the beginning of this project.

Mayor Freemark said we are going to have a magnificent waterfront park, adding that the combined teams have done a great job, and despite the pandemic-based supply chain disruptions and the project being only two months behind schedule, the Village will have something to be very proud of for decades to come.

Neca Logan, 64 Camden Drive, agreed with Mayor Freemark, and added that it is important to know the total cost of a project beyond construction, including fixtures, technology, and maintenance costs.

MOTION: A motion to approve the resolution was moved by Councilman Buzzy Sklar and seconded by Vice Mayor Seth Salver.

VOTE: The Motion passed by unanimous voice vote (5-0).

R7C A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; ACCEPTING THE ANNUAL REPORT OF THE VILLAGE ATTORNEY AND APPROVING AN INCREASE IN COMPENSATION OF THREE PERCENT (3%); PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

Mr. Gonzalez introduced the item saying that it is consistent with the Council's retreat discussion where it evaluated the Village Attorney's performance and, by consensus, agreed that Ms. Trevarthen and her firm had done an exemplary job and was deserving of a 3% increase in compensation.

There were no comments from the public.

MOTION: A motion to approve the resolution was moved by Vice Mayor Seth Salver and seconded by Mayor Jeffrey Freimark.

VOTE: The Motion passed by unanimous voice vote (5-0).

R9 - NEW BUSINESS AND COUNCIL DISCUSSION

R9A Discussion Item - Sargassum Seaweed Movement Towards Florida - Mayor Jeffrey P. Freimark & Councilman Buzzy Sklar

Mr. Gonzalez introduced Tom Morgan, Operations Manager for Miami-Dade County Parks and Recreation, and Danielle Irwin, Cummins Cederberg, the Village's consultant for environmental issues.

Councilman Sklar introduced the item describing the sargassum bloom heading towards South Florida, adding that he would like to see a plan that is proactive. He said that he would also like to request emergency funding.

Mayor Freimark said that, given recent news articles, he would like to hear what the experts have to say, and said he would want the Village to be careful of overstepping our bounds by taking on obligations and liabilities.

Mr. Morgan said that his contract allows vendors to collect from hot spot zones along the coast and if they see an overabundance, they are prepared to step up removal adding that this would mean more equipment traffic on the beach. He said that given that no one wants a staging area on the beach, they remove the seaweed. He said that DERM the jurisdiction when it comes to solutions involving offshore activities.

Ms. Irwin Cummins Cederberg said that sargassum has been around at least since the time of Columbus and that it is a seasonal issue. She said the volume is unusual, that it peaked in 2018, and when it washes up on the beach, it becomes a management issue of collection and disposal, but out on the water it is a habitat. She said that a number of State and Federal would need to be assured that whatever management option is selected, it is not doing more harm than good.

There was a general consensus from the Council for Cummins Cederberg to explore proactive options, provide a scope of work with estimated costs and the likelihood of success, and a list of the regulatory bodies that need to be engaged.

R9B - PUBLIC COMMENT

Russell Smith, Managing Director of One Bal Harbour, 10295 Collins Ave, described a process he called the Catcher's Mitt, saying that he has contacted the regulatory agencies and put together funding and is seeking a public-private partnership.

R10 - VILLAGE MANAGER REPORT

R11 - VILLAGE CLERK REPORT

R11A Lobbyist Report

R12 - VILLAGE ATTORNEY REPORT

R12A Monthly Attorney Report

END OF REGULAR AGENDA

ADJOURNMENT – The meeting was adjourned at 8:37 PM.

Mayor Jeffrey P. Freimark



Attest:

Dwight S. Danie, Village Clerk

BAL HARBOUR

- V I L L A G E -

COUNCIL ITEM SUMMARY

Condensed Title:

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; ACCEPTING THE DETERMINATION OF THE VILLAGE BUILDING OFFICIAL THAT THE NEIMAN MARCUS GROUP, LLC APPLICATION TO THE STATE OF FLORIDA DEPARTMENT OF ALCOHOLIC BEVERAGES AND TOBACCO, WHICH CHANGES THE LICENSE FROM 2COP TO 4COP FOR CAFÉ ON 3, IS COMPATIBLE WITH THE VILLAGE ZONING REGULATIONS; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

Issue:

Should the Village Council accept the determination of the Village Building Official that the Neiman Marcus Group LLC, Café on 3, application to the State of Florida Department of Alcoholic Beverages and Tobacco from a 2COP to a 4COP license is compatible with the Village Zoning regulations?

The Bal Harbour Experience:

- | | | |
|--|--|--|
| <input type="checkbox"/> Beautiful Environment | <input checked="" type="checkbox"/> Safety | <input type="checkbox"/> Modernized Public Facilities/Infrastructure |
| <input type="checkbox"/> Destination & Amenities | <input type="checkbox"/> Unique & Elegant | <input type="checkbox"/> Resiliency & Sustainable Community |
| <input type="checkbox"/> Other: | | |

Item Summary / Recommendation:

Neiman Marcus a retail store located within the Bal Harbour Shops ("BHS") at 9700 Collins Avenue, (Tenant Space # 378) in the Village's Business District, has submitted DBPR ABT - 6001 - Division of Alcoholic Beverages and Tobacco Application to the State of Florida Department of Business and Professional Regulation for a change of license from a 2COP to a 4COP Alcoholic Beverage License. Neiman Marcus has previously requested the same license series change on November 16, 2021 under Resolution No. 2021-1418. This application is for Neiman Marcus Café on 3.


I am recommending the Village of Bal Harbour (the "Village") Council review the application for a liquor license, submitted by Neiman Marcus Group LLC (Café on 3)) requesting to change the State of Florida Department of Alcoholic Beverages and Tobacco license series from a 2COP to a 4COP.

THE ADMINISTRATION RECOMMENDS APPROVAL OF THIS RESOLUTION.

Financial Information:

	Amount	Account	Account #
	N/A		

Sign off:

Building Director	Chief Financial Officer	Village Manager
Eliezer Palacio	Claudia Dixon	Jorge M. Gonzalez
		

BAL HARBOUR

- VILLAGE -

COUNCIL MEMORANDUM

TO: Honorable Mayor and Village Council

FROM: Jorge M. Gonzalez, Village Manager

DATE: April 18, 2023

SUBJECT: **A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; ACCEPTING THE DETERMINATION OF THE VILLAGE BUILDING OFFICIAL THAT THE NEIMAN MARCUS GROUP, LLC APPLICATION TO THE STATE OF FLORIDA DEPARTMENT OF ALCOHOLIC BEVERAGES AND TOBACCO, WHICH CHANGES THE LICENSE FROM 2COP TO 4COP FOR CAFÉ ON 3, IS COMPATIBLE WITH THE VILLAGE ZONING REGULATIONS; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.**

ADMINISTRATIVE RECOMMENDATION

I am recommending the Village of Bal Harbour (the "Village") Council review the application for a liquor license, submitted by Neiman Marcus Group LLC (Café on 3) requesting to change the State of Florida Department of Alcoholic Beverages and Tobacco license series from a 2COP to a 4COP

BACKGROUND

Neiman Marcus a retail store located within the Bal Harbour Shops ("BHS") at 9700 Collins Avenue, (Tenant Space # 378) in the Village's Business District, has submitted DBPR ABT - 6001 - Division of Alcoholic Beverages and Tobacco Application to the State of Florida Department of Business and Professional Regulation for a change of license from a 2COP to a 4COP Alcoholic Beverage License. Neiman Marcus has previously requested the same license series change on November 16, 2021 under Resolution No. 2021-1418. This application is for Neiman Marcus Café on 3. As part of said application, the zoning authority governing the business location is required to review and sign the application for approval. In the Village, the zoning authority is the Village Building Official. As part of the application review, the Building Official examined the Village Zoning Code. The Business district zoning regulations and Section. 4-3. - *Sale prohibited in filling stations, theaters; sales near churches, schools* dictate the permissible locations of such establishments. Such section reads:

(a) No liquor, beer or wine shall be sold in any gasoline filling station or motion picture theater, including any room opening directly or indirectly into or having a direct connection with any motion picture theater.

(b) No liquor, beer or wine shall be sold within 300 feet of any church, nor within 300 feet of any public-school property, nor any property upon which there is

maintained a private school operated for the instruction of minors in the common branches of learning, except such places of business as were established at the time of the adoption of this section. In ascertaining the proximity of any school or church referred to in this subsection, the method of measurement shall be made or taken from the main or front entrance of the church or school or the main or front place of such business along the route of ordinary pedestrian traffic along the public thoroughfare.

Neiman Marcus location complies with the above Village Code provision. Therefore, the zoning approval may be granted.

Historically, however, the Village Council has approved such license requests via resolution. Records show that there are dozens of locations on Collins Avenue that have been granted licenses to sell alcoholic beverages. There are also several locations in similar zoning districts with active licenses to sell alcoholic beverages, such as the one being sought by Neiman Marcus.

Some of the residential locations include:

- Bal Harbour 101 Restaurant located at 10155 Collins Avenue
- Bal Harbour Tower Condo located at 9999 Collins Avenue
- The Ballerina Beach Club located at 10201 Collins Avenue
- The Palace Café located at 10101 Collins Avenue
- The Balmoral Café, located at 9801 Collins Avenue
- Sardinia House, located at 10275 Collins Avenue

Non-residential locations on the oceanfront that have active licenses to sell alcoholic beverages include:

- Sea View Terrace Restaurant at 9909 Collins Avenue
- Pool Bar and Grill at 10295 Collins Avenue (Ritz-Carlton)
- Artisan Beach House at 10295 Collins Avenue (Ritz-Carlton Seldar Miami Holdings)

ANALYSIS

The store would like to now increase its alcoholic beverage license series from the current 2COP to a 4COP alcoholic beverage license, which permits the sale of beer, wine, and liquor for consumption on and off the licensed premises.

THE BAL HARBOUR EXPERIENCE

The Department of Business and Professional Regulation requires Businesses to apply for and obtain an Alcoholic Beverage license. By enforcing this regulation, the Village furthers our mission of being the safest residential community with the highest quality of life for our residents and visitors from around the world.

CONCLUSION

Neiman Marcus location complies with the Village zoning regulations for establishments authorized to sell alcoholic beverages. Therefore, I am recommending approval of this resolution.

Attachments:

1. Neiman Marcus Corp LLC - DBPR Application ABT-6014
2. Neiman Marcus Floor Plans

RESOLUTION NO. 2023_____

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; ACCEPTING THE DETERMINATION OF THE VILLAGE BUILDING OFFICIAL THAT THE NEIMAN MARCUS GROUP, LLC APPLICATION TO THE STATE OF FLORIDA DEPARTMENT OF ALCOHOLIC BEVERAGES AND TOBACCO, WHICH CHANGES THE LICENSE FROM 2COP TO 4COP FOR CAFÉ ON 3, IS COMPATIBLE WITH THE VILLAGE ZONING REGULATIONS; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Village Council Resolution No. 2021-1418 accepted the determination of the Building Official to allow Neiman Marcus Group, LLC, ("Neiman Marcus") located at 9700 Collins Avenue (Tenant Space #378), to submit an application to the State of Florida Division of Alcoholic Beverages and Tobacco ("ABT") to change a license from a 2COP to a 4COP license for beer, wine, and alcohol consumption on premises; and

WHEREAS, Neiman Marcus now wishes to change the license series for its Café on 3 restaurant from 2COP to 4COP and has submitted this request to ABT (the "Application"); and

WHEREAS, the Application contains a section for completion by the Village confirming that the Application complies with the Village zoning regulations regarding the sale of alcoholic beverages; and

WHEREAS, the Village Building Official is generally charged with implementing Chapter 21, Zoning; and

WHEREAS, the Village Building Official has determined that the Application is compatible with Village zoning regulations.

NOW THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AS FOLLOWS:

Section 1. Recitals Approved. That the above stated recitals are hereby adopted and confirmed.

Section 2. Determination Accepted. That the determination of the Village Building Official that the Application is compatible with the Village zoning regulations is hereby accepted.

Section 3. Implementation. That the Village Manager is hereby directed to take any action necessary to implement the purposes of this Resolution.

Section 4. Effective Date. That this Resolution shall take effect immediately upon the adoption hereof.

PASSED AND ADOPTED this 18th day of April, 2023.



Mayor Jeffrey P. Freimark

ATTEST:

Dwight S. Danie, Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Village Attorney
Weiss Serota Helfman Cole & Bierman P.L.

DBPR ABT-6014 – Division of Alcoholic Beverages and Tobacco Change of Location/Change in Series or Type Application

**STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**DBPR Form
ABT-6014
Revised 07/30/2012**

NOTE – This form must be submitted as part of an application packet

If you have any questions or need assistance in completing this application, please contact the Department of Business and Professional Regulation or your local district office. Please submit your completed application to your local district office. This application may be submitted by mail, through appointment, or it can be dropped off. A District Office Address and Contact Information Sheet can be found on AB&T's page of the DBPR web site at the link provided below.

http://www.myflorida.com/dbpr/abt/district_offices/licensing.html

SECTION 1 - CHECK TRANSACTION REQUESTED				
Transaction Type:				
<input type="checkbox"/> Change of Location		<input type="checkbox"/> Increase in Series		
<input type="checkbox"/> Change in Series		<input type="checkbox"/> Decrease in Series		
Also include:				
<input type="checkbox"/> Change of Business Name		<input type="checkbox"/> Retail Tobacco Products (must check one or more)		
<input type="checkbox"/> Change of Officer/Stockholder/Amended Corporate Name		<input type="checkbox"/> Pipes <input type="checkbox"/> Over the Counter <input type="checkbox"/> Vending Machine		
Do you wish to purchase a Temporary License? <input type="checkbox"/> Yes <input type="checkbox"/> No				
Series Requested		Type/Class Requested		
SECTION 2 - LICENSE INFORMATION				
If the applicant is a corporation or other legal entity, enter the name and the document number as registered with the Florida Department of State Division of Corporations on the line below.				
Full Name of Licensee: (This is the name the license is issued in)			Department of State Document #	
FEIN Number*		Business Telephone Number ext		
Current Business Name (D/B/A)		Current License #	Series	Type/Class
New Business Name (D/B/A), if applicable				
Location Address (Street and Number)				
City	County	State FL	Zip Code	
Check either: <input type="checkbox"/> Location is within the city limits or <input type="checkbox"/> Location is in the unincorporated county				
Contact Person (Optional)		Telephone Number ext		
E-Mail Address (Optional)				
Mailing Address (Street or P.O. Box)				
City		State	Zip Code	

ABT District Office Received / Date Stamp

SECTION 3 – DESCRIPTION OF PREMISES TO BE LICENSED

Business Name (D/B/A)

Street Address

City

County

State

FL

Zip Code

1.

Yes ☐No ☐

Is the proposed premises movable or able to be moved?

2.

Yes ☐No ☐

Is there any access through the premises to any area over which you do not have dominion and control?

3.

Neatly draw a floor plan of the premises in ink, including sidewalks and other outside areas which are contiguous to the premises, walls, doors, counters, sales areas, storage areas, restrooms, bar locations and any other specific areas which are part of the premises sought to be licensed. A multi-story building where the entire building is to be licensed must show each floor plan.

See attached sketches

MERCHANDISE PLAN
 LEGEND

- NEW CONSTRUCTION
 REMAIN
 EXISTING, HIRE RE-RESIDENT PAINTED
 PARTITION TO REMAIN
 EXISTING, HIRE RE-RESIDENT PAINTED
 PARTITION TO REMAIN
 CEILING MOUNTED TRACK AND DIMMER
 KEY NOTE
 INDICATES NEW LOSE PARTIES, SHOWCASES, FRAMERS, FUTURE WORK, STOCK SHELVING, PLUMBING FIXTURES, COATERS, SHIMS, REVISION ACCESSORIES, PARTITIONE
 INDICATES REDESIGNED & RELOCATED
 INDICATES REDESIGNED, RELOCATED, SHOWCASES, AND CASHERS
 INDICATES RELOCATED EXISTING LOSE
 PARTIES FRAMER HARDWARE, AND
 STOCK SHELVING
 EXISTING TO REMAIN
 INDICATES DESIGN TO BE REDESIGNED & TO
 REMAIN
 N.C. - INDICATES AREAS OUT OF SCOPE
 INDICATES VISUAL BUY-OUT
 INDICATES ELEVATION MARKER
 INDICATES 4-WAY ELEVATION MARKER
 INDICATES 4-WAY ELEVATION MARKER

EXISTING CONDITIONS
 LEGEND

1. FOR ALL FIXTURES, INFORMATION AND DETAILS REFER TO SEPARATE PARTS
 2. FOR FURNITURE, INFORMATION, REFER TO ELEVATION SHEETS FOR ALL
 3. FOR FURNITURE, INFORMATION, REFER TO ELEVATION SHEETS FOR ALL
 4. FOR FURNITURE, INFORMATION, REFER TO ELEVATION SHEETS FOR ALL
 5. FOR FURNITURE, INFORMATION, REFER TO ELEVATION SHEETS FOR ALL
 6. FOR FURNITURE, INFORMATION, REFER TO ELEVATION SHEETS FOR ALL
 7. FOR FURNITURE, INFORMATION, REFER TO ELEVATION SHEETS FOR ALL
 8. FOR FURNITURE, INFORMATION, REFER TO ELEVATION SHEETS FOR ALL
 9. FOR FURNITURE, INFORMATION, REFER TO ELEVATION SHEETS FOR ALL
 10. FOR FURNITURE, INFORMATION, REFER TO ELEVATION SHEETS FOR ALL
 11. FOR FURNITURE, INFORMATION, REFER TO ELEVATION SHEETS FOR ALL
 12. FOR FURNITURE, INFORMATION, REFER TO ELEVATION SHEETS FOR ALL
 13. FOR FURNITURE, INFORMATION, REFER TO ELEVATION SHEETS FOR ALL

- KEY NOTES (NOT ALL USED)
 1. XXX
 2. XXX

INTERIOR
 ARCHITECTS

CHARLOTTE
 615 S. COLLEGE ST. SUITE 725
 CHARLOTTE, NC 28202
 TEL: 704-908-1540

ISSUE HISTORY

DATE	DESCRIPTION
01/09/2022	ISSUE FOR PERMIT
01/19/2022	ISSUE FOR BID
02/01/2023	BULLETIN #1

REVISIONS

MARK	DATE	DESCRIPTION
02/01/2023	BULLETIN #1	

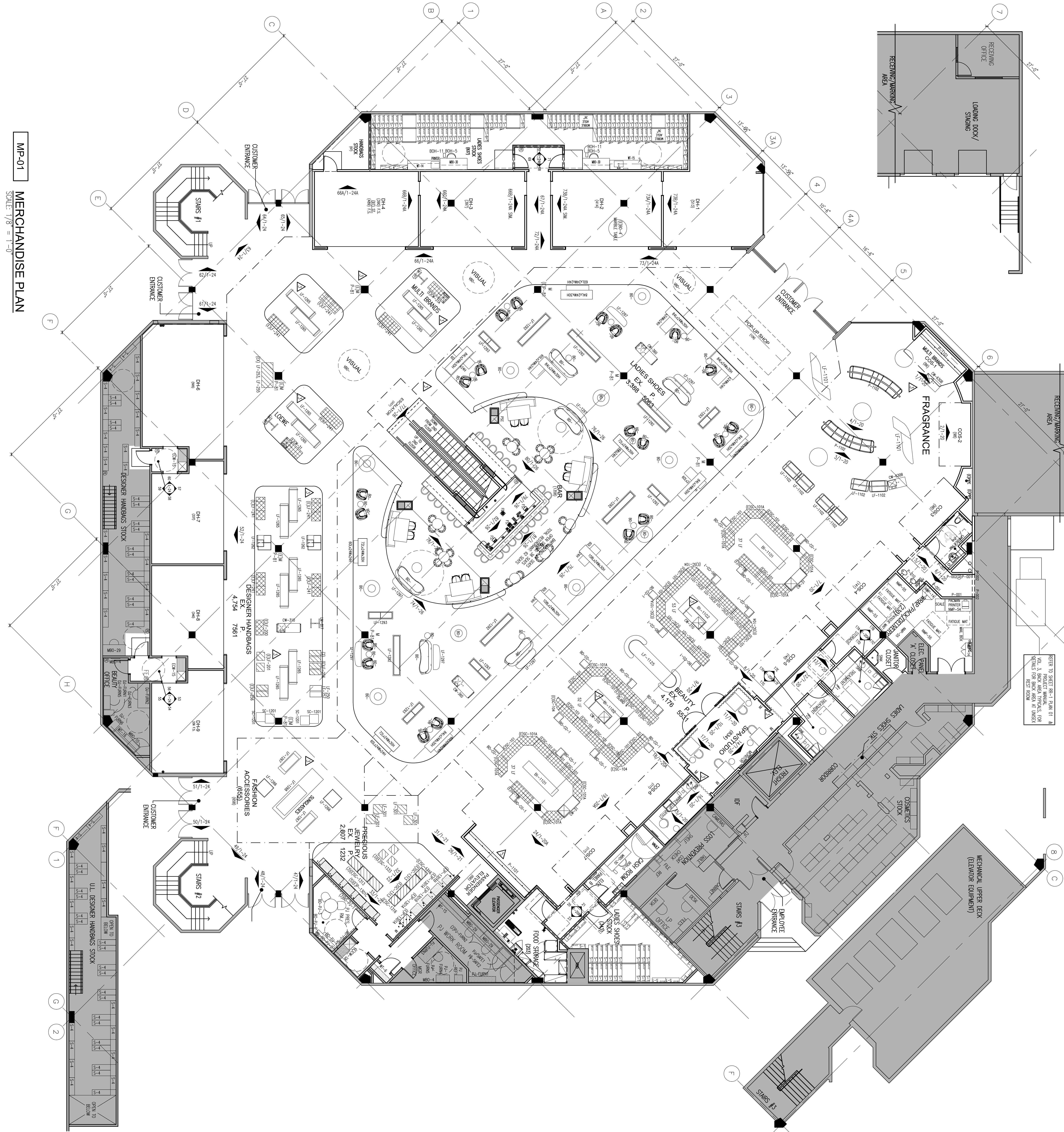
DESIGNER:
 PROJECT MANAGER:
 DRAWN BY:
 SCALE:
 COMPUTER FILE:
 DATE:
 ISSUED TO CLIENT:

Norman Marcus
 PROPERTIES GROUP
 5950 COLLINS BLVD
 DALLAS, TX 75039
 (972) 969-3100

BAL HARBOUR
 FL
 (BH-05)

9700 COLLINS AVE, SUITE #175
 BAL HARBOUR, FL 33154

MERCHANDISE PLAN
 FIRST FLOOR
 MP-01
 A-103



MP-01
 MERCHANDISE PLAN
 SCALE: 1/8" = 1'-0"

CHARLOTTE

615 S. COLLEGE ST. SUITE 725
CHARLOTTE, NC 28202
TEL 704-908-1540

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ISSUE HISTORY	
DATE	DESCRIPTION
10/14/2022	ISSUE FOR REPAIR AND BID

[illegible]

DESIGNER	KYLE JEFFERY
PROJECT MANAGER	BRIAN FOX
PROJECT NUMBER	47NNRC.0002.000
DRAWN BY	IA STAFF
SCALE	AS NOTED
COMPUTER FILE	005-AP-03.DWG
DATE:	**
ISSUED TO: CONST.:	**

Neimann Marcus

PROPERTIES GROUP
5990 COLWELL BLVD.
DALLAS, TX 75039
(972) 969-3100

STONE

BAL HARBOUR
BAL HARBOUR, FL
(BH-05)

9700 COLLINS AVE. SUITE #175
BAL HARBOUR, FL 33154

DRAWING TITLE

MERCHANDISE PLAN

THIRD LEVEL

MP-03

PERMIT OFFICE
SHEET NUMBER
A-303

SECTION 4 – APPLICATION APPROVALS

Full Name of Licensee

Business Name (D/B/A)

Street Address

City

County

State
FL

Zip Code

ZONING**TO BE COMPLETED BY THE ZONING AUTHORITY GOVERNING YOUR BUSINESS LOCATION**

- A. The location complies with zoning requirements for the sale of alcoholic beverages or wholesale tobacco products pursuant to this application for a Series _____ license.
- B. This approval includes outside areas which are contiguous to the premises which are to be part of the premises sought to be licensed and are identified on the sketch?" ☐ Yes ☐ No

Signed _____ Date _____

Title _____

SALES TAX**TO BE COMPLETED BY THE DEPARTMENT OF REVENUE**

The named applicant for a license/permit has complied with the Florida Statutes concerning registration for Sales and Use Tax.

1. This is to verify that the current owner as named in this application has filed all returns and that all outstanding billings and returns appear to have been paid through the period ending _____ or the liability has been acknowledged and agreed to be paid by the applicant. This verification does not constitute a certificate as contained in Section 212.10 (1), F.S. (Not applicable if no transfer involved).
2. Furthermore, the named applicant for an Alcoholic Beverage License has complied with Florida Statutes concerning registration for Sales and Use Tax, and has paid any applicable taxes due.

Signed _____ Date _____

Title _____ Department of Revenue Stamp

HEALTH**TO BE COMPLETED BY THE DIVISION OF HOTELS AND RESTAURANTS
OR COUNTY HEALTH AUTHORITY
OR DEPARTMENT OF HEALTH
OR DEPARTMENT OF AGRICULTURE & CONSUMER SERVICES**

The above establishment complies with the requirements of the Florida Sanitary Code.

Signed _____ Date _____

Title _____ Agency _____

SECTION 5 – CONTRACTS OR AGREEMENTS

Business Name (D/B/A) _____

These questions must be answered about this business for every person or entity listed as the applicant and copies of agreements must be submitted with this application. If the management, service, or other contractual agreement gives a person or entity control of the licensed premises or the sale of alcoholic beverages, disclosure of those persons must be made in the section labeled "DIRECT INTEREST" in the **DISCLOSURE OF INTERESTED PARTIES** section. They must also submit fingerprints and a related party personal information sheet.

1.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Is there a management contract, franchise agreement, or service agreement in connection with this business?
2.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Are there any agreements which require a payment of a percentage of gross or net receipts from the business operation?
3.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Have you or anyone listed on this application, accepted money, equipment or anything of value in connection with this business from a manufacturer or wholesaler of alcoholic beverages?

**SECTION 6 – SPECIAL LICENSE REQUIREMENTS
(DOES NOT APPLY TO BEER AND WINE LICENSES)**

Please check the appropriate "Special Alcoholic Beverage License" box of the license for which you are applying. Fill in the corresponding requirements for each Special License type.

- ☐ Quota Alcoholic Beverage License ☐ Special Alcoholic Beverage License
☐ Club Alcoholic Beverage License

This license is issued pursuant to _____, Florida Statutes or Special Act, and as such we acknowledge the following requirements must be met and maintained:

Please sign and date:

Applicant's Signature: _____ Date: _____

SECTION 7 – DISCLOSURE OF INTERESTED PARTIES

Note: Failure to disclose an interest, direct or indirect, could result in denial, suspension and/or revocation of your license.

Business Name (D/B/A)

1. When applicable, please complete the appropriate section below. Attach extra sheets if necessary.

Title/Position	Name	Stock %
CORPORATION (CORP/INC)		
President		
Vice President		
Secretary		
Treasurer		
Director(s)		
Stockholder(s)		

LIMITED LIABILITY COMPANY (LLC/LC)

Managing Member(s) and/or Managers		
Members (must be printed if there are no managing members or managers)		

LIMITED PARTNERSHIP (LTD/LP/LTDLLP)

General Partner(s)		
Limited Partner(s)		

Bar Manager (Fraternal Organizations of National Scope only):

DIRECT INTEREST

Name of Individual or Entity (If a legal entity, list name under which the entity does business and its principles)

Title/Position	Name	Stock %

2. Are there any persons not listed above who have guaranteed or co-signed a lease or loan, or any person or entity who has loaned money to the business that is not a traditional lending institution?

☐ Yes ☐ No

If yes, and the terms create a direct interest in the business, you must list the person(s) or entity and indicate which of the below applies. Each directly interested person must submit fingerprints and a related party personal information sheet. Copies of agreements must be submitted with this application.

Name	Guarantor	Co-signer	Lender	Interest Rate (List)
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

THE NEIMAN MARCUS GROUP
ONE MARCUS DRIVE
1618 MAIN STREET
DALLAS, TEXAS 75201

Exhibit A

Section 5: Disclosure of Interested Parties

Licensee: The Neiman Marcus Group LLC

Officers:	Geoffroy van Raemdonk	CEO
	Hannah Kim	Executive VP & Chief Legal Officer
		Corporate Secretary, Chief
		Compliance officer
	Tom Mattei	Vice President, Asst. General
		Counsel, Asst. Secretary

Member:	NMG Holding Company, Inc.	100%*
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*Neiman Marcus Group LTD LLC merged with and into NMG Holding Company, Inc.

2022 FOREIGN LIMITED LIABILITY COMPANY AMENDED ANNUAL REPORT

DOCUMENT# M13000007181

Entity Name: THE NEIMAN MARCUS GROUP LLC**Current Principal Place of Business:**ONE MARCUS SQUARE
1618 MAIN STREET ATTN: TAX DEPT
DALLAS, TX 75201**Current Mailing Address:**ONE MARCUS SQUARE
1618 MAIN STREET ATTN: TAX DEPT
DALLAS, TX 75201 US**FEI Number:** 95-4119509**Certificate of Status Desired:** Yes**Name and Address of Current Registered Agent:**C T CORPORATION SYSTEM
1200 SOUTH PINE ISLAND ROAD
PLANTATION, FL 33324 US*The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.***SIGNATURE:**

Electronic Signature of Registered Agent

Date

Authorized Person(s) Detail :

Title	MGRM
Name	NEIMAN MARCUS GROUP LTD LLC
Address	ONE MARCUS SQUARE, 1618 MAIN STREET
City-State-Zip:	DALLAS TX 75201
Title	EXECUTIVE VICE PRESIDENT AND CHIEF LEGAL OFFICER AND CORPORATE SECRETARY AND CHIEF COMPLIANCE OFFICER
Name	KIM, HANNAH
Address	ONE MARCUS SQUARE 1618 MAIN STREET ATTN: TAX DEPT
City-State-Zip:	DALLAS TX 75201

Title	CEO
Name	VAN RAEMDONCK, GEOFFROY
Address	1618 MAIN STREET
City-State-Zip:	DALLAS TX 75201
Title	VICE PRESIDENT AND ASSISTANT GENERAL COUNSEL AND ASSISTANT SECRETARY
Name	MATTEI, TOM
Address	ONE MARCUS SQUARE 1618 MAIN STREET ATTN: TAX DEPT
City-State-Zip:	DALLAS TX 75201

I hereby certify that the information indicated on this report or supplemental report is true and accurate and that my electronic signature shall have the same legal effect as if made under oath; that I am a managing member or manager of the limited liability company or the receiver or trustee empowered to execute this report as required by Chapter 605, Florida Statutes; and that my name appears above, or on an attachment with all other like empowered.

SIGNATURE: TOM MATTEIVICE PRESIDENT AND
ASSISTANT GENERAL
COUNSEL AND
ASSISTANT SECRETARY

06/16/2022

**SECTION 8 - AFFIDAVIT OF APPLICANT
NOTARIZATION REQUIRED**

Business Name (D/B/A) _____

"I, the undersigned individually, or if a registered legal entity for itself and its related parties, hereby swear or affirm that I am duly authorized to make the above and foregoing application and, as such, I hereby swear or affirm that the attached sketch is a true and correct representation of the premises to be licensed and agree that the place of business, if licensed, may be inspected and searched during business hours or at any time business is being conducted on the premises without a search warrant by officers of the Division of Alcoholic Beverages and Tobacco, the Sheriff, his Deputies, and Police Officers for the purposes of determining compliance with the beverage and retail tobacco laws."

"I swear under oath or affirmation under penalty of perjury as provided for in Sections 559.791, 562.45 and 837.06, Florida Statutes, that the foregoing information is true and that no other person or entity except as indicated herein has an interest in the alcoholic beverage license and/or tobacco permit, and all of the above listed persons or entities meet the qualifications necessary to hold an interest in the alcoholic beverage license and/or tobacco permit."

STATE OF _____

COUNTY OF _____

APPLICANT SIGNATURE

APPLICANT SIGNATURE

The foregoing was () Sworn to and Subscribed OR () Acknowledged Before me this _____ Day
of _____, 20_____, By _____ who is () personally
(print name(s) of person(s) making statement)

known to me OR () who produced _____ as identification.

Notary Public Commission Expires: _____

SECTION 9 – RELATED PARTY PERSONAL INFORMATION						
This section must be completed for <u>each</u> person directly connected with the business, unless they are a current licensee.						
1.	Business Name (D/B/A)					
2.	Full Name of Individual					
	Social Security Number*			Home Telephone Number		Date of Birth
	Race	Sex	Height	Weight	Eye Color	Hair Color
3.	Are you a U.S. citizen? <input type="checkbox"/> Yes <input type="checkbox"/> No If no, immigration card number or passport number:					
4.	Home Address (Street and Number)					
	City				State	Zip Code
5.	Do you currently own or have an interest in any business selling alcoholic beverages, wholesale cigarette or tobacco products, or a bottle club? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, provide the information requested below. The location address should include the city and state.					
	Business Name (D/B/A)				License Number	
	Location Address					
6.	Have you had any type of alcoholic beverage , or bottle club license, or cigarette, or tobacco permit refused, revoked or suspended anywhere in the past 15 years? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, provide the information requested below. The location address should include the city and state.					
	Business Name (D/B/A)				Date	
	Location Address					
7.	Have you been convicted of a felony within the past 15 years? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, provide the information requested below and provide a Copy of the Arrest Disposition , as requested in the Application Requirements checklist.					
	Date		Location			
	Type of Offense					
8.	Have you been convicted of an offense involving alcoholic beverages anywhere within the past 5 years? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, provide the information requested below and provide a Copy of the Arrest Disposition , as requested in the Application Requirements checklist.					
	Date		Location			
	Type of Offense					

SECTION 10 - CURRENT LICENSEE UPDATE DATA SHEET

This section is to be completed for all **current** alcoholic beverage and/or tobacco license holders listed on the application to ensure the most up to date information is captured.

Business Name (D/B/A)

Last Name First M.I.

Current Alcohol Beverage and/or Tobacco License Permit/Number(s)

Date of Birth Social Security Number*

Street Address

City State Zip Code

Last Name First M.I.

Current Alcohol Beverage and/or Tobacco License Permit/Number(s)

Date of Birth Social Security Number*

Street Address

City State Zip Code

Last Name First M.I.

Current Alcohol Beverage and/or Tobacco License Permit/Number(s)

Date of Birth Social Security Number*

Street Address

City State Zip Code

Last Name First M.I.

Current Alcohol Beverage and/or Tobacco License Permit/Number(s)

Date of Birth Social Security Number*

Street Address

City State Zip Code

Last Name First M.I.

Current Alcohol Beverage and/or Tobacco License Permit/Number(s)

Date of Birth Social Security Number*

Street Address

City State Zip Code

BAL HARBOUR

- VILLAGE -

COUNCIL ITEM SUMMARY

Condensed Title:

A RESOLUTION APPROVING THE PURCHASE OF INDOOR PROGRAM FURNITURE FROM EMPIRE OFFICE, INC. FOR THE NEW WATERFRONT PARK, IN AN AMOUNT NOT TO EXCEED \$98,482.97.

Issue:

Should the Village approve the purchase of various program furniture (for the multi-purpose rooms and the teen room) for the new waterfront park, with Empire Office Inc.?

The Bal Harbour Experience:

- | | | |
|---|--|--|
| <input type="checkbox"/> Beautiful Environment | <input type="checkbox"/> Safety | <input type="checkbox"/> Modernized Public Facilities/Infrastructure |
| <input checked="" type="checkbox"/> Destination & Amenities | <input checked="" type="checkbox"/> Unique & Elegant | <input type="checkbox"/> Resiliency & Sustainable Community |
| <input type="checkbox"/> Other: _____ | | |

Item Summary / Recommendation:

As the waterfront park is nearing completion, various furniture needs to be coordinated for the program spaces. Village staff obtained quotes from multiple vendors.

Empire Office Inc. provided a proposal, based on competitively procured contract pricing through The Interlocal Purchasing System (TIPS). The proposal included various tables, chairs, and lounge seating to outfit the two multi-purpose rooms, and the teen space on the second floor of the facility, as well as some additional minor items. The proposal includes freight, delivery and install as applicable.

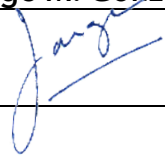
We are requesting approval for an amount of \$98,482.97, which includes a 10% contingency to account for any changes in the market or any potential additional needs that may arise.

THE ADMINISTRATION RECOMMENDS APPROVAL OF THIS RESOLUTION.

Financial Information:

	Amount	Account	Account #
	\$98,482.97	Capital Outlay - Park FF&E	01-73-506418

Sign off:

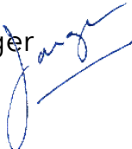
Recreation, Arts & Culture	Chief Financial Officer	Village Manager
Sylvia Flores	Claudia Dixon	Jorge M. Gonzalez
		

BAL HARBOUR

- V I L L A G E -

COUNCIL MEMORANDUM

TO: Honorable Mayor and Village Council

FROM: Jorge M. Gonzalez, Village Manager 

DATE: April 18, 2023

SUBJECT: **A RESOLUTION APPROVING THE PURCHASE OF INDOOR PROGRAM FURNITURE FROM EMPIRE OFFICE INC. FOR THE NEW WATERFRONT PARK, IN AN AMOUNT NOT TO EXCEED \$98,482.97.**

ADMINISTRATIVE RECOMMENDATION

I am recommending approval of this Resolution.

BACKGROUND

With the approaching completion of the new waterfront park, various furniture, including tables, chairs, and lounge seating are needed for the program areas. Vendors were contacted to obtain estimates to find the products that best meet the needs of the Village, while also ensuring competitive pricing.

ANALYSIS

The Interlocal Purchasing System (TIPS) is a national purchasing cooperative that offers access to competitively procured purchasing contracts. Village staff obtained an estimate from Empire Office Inc. for furniture for the various program areas in the new waterfront park, to include the following:

- Tables and chairs for the large multi-purpose room on the first floor
- Tables and chairs for the smaller multi-purpose room on the second floor
- Transport Racks for both the chairs and tables
- Seating for the teen room
- Vanity piece for the ladies restroom on the first floor
- Table and chairs for staff breakroom

Empire Office Inc. utilized the competitively procured purchasing contracts through TIPS to provide an estimate for the needed items. The amount of the proposal is \$89,529.98 and we are requesting a 10% contingency amount to allow for any necessary revisions, bringing the total approval amount for the resolution to \$98,482.97.

THE BAL HARBOUR EXPERIENCE

The new waterfront park is approaching completion and will elevate the quality of life for our residents and guests, with a unique and elegant facility and park. Properly outfitted

program spaces are vital to ensuring each visit to the park furthers the Bal Harbour Experience.

CONCLUSION

Council is asked to consider the importance of including furniture in the new Bal Harbour Waterfront Park, to ensure that we can meet the programming needs of the community, whether through classes, lectures, movies, etc. I, therefore, recommend approval of this item.

Attachments:

1. Estimate from Empire Office Inc.
2. TIPS Contract #200301 - Trearc Brands Inc. dba eko
3. TIPS Contract #210305 - Leland International
4. TIPS Contract #210305 - Howe US Inc

RESOLUTION NO. 2023-____

A RESOLUTION APPROVING A PURCHASE OF INDOOR PROGRAM FURNITURE FROM EMPIRE OFFICE INC. FOR THE NEW WATERFRONT PARK, IN AN AMOUNT NOT TO EXCEED \$98,482.97, WHICH INCLUDES A 10% CONTINGENCY AMOUNT OF \$8,952.99; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, with the approaching completion of the new waterfront park, various furniture, including tables, chairs, and lounge seating for the multipurpose rooms and teen room are needed; and

WHEREAS, Village staff obtained an estimate from Empire Office Inc. ("Empire") for the needed items in the amount of \$89,529.98, utilizing approved pricing through The Interlocal Purchasing System (TIPS) Contract #210305 and Contract #200301; and

WHEREAS, Village staff is requesting an additional 10% contingency amount, if the need arises, which totals \$8,952.99; and

WHEREAS, the Village Manager is recommending the Village Council utilize the contract pricing, as provided by Empire as described in the quotation attached hereto as Exhibit "A" and approve the purchase, including a 10% contingency amount, for a total amount of \$98,482.97; and

WHEREAS, this Council has determined it is in the best interest of the Village to approve this purchase.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. That the above-stated recitals are hereby adopted and confirmed.

Section 2. Purchase Approved. That the purchase of indoor furniture for the waterfront park in the amount of \$98,482.97, which includes a 10% contingency, is hereby approved.

Section 3. Implementation Approved. That the Village Manager is hereby authorized to take all actions necessary to implement the purpose of this Resolution.

Section 4. Effective Date. That this Resolution shall take effect immediately upon the adoption hereof.

PASSED AND ADOPTED this 18th day of April, 2023.



Mayor Jeffrey P. Freimark

ATTEST:

Dwight S. Danie, Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Village Attorney
Weiss Serota Helfman Cole & Bierman P.L.

Quotation - 355420

Quote Date - 04/07/23

Customer PO # - QUOTE 1

Customer 016450

Terms - NET 30

Account Representative PERI SILBER

Quote Presented To

ACCOUNTS PAYABLE
BAL HARBOR VILLAGE
655 96TH STREET
BAL HARBOR FL 33154

Customer Ship To

ACCOUNTS PAYABLE
BAL HARBOR VILLAGE
655 96TH STREET
BAL HARBOR FL 33154

Phone +1 (305) 866-4633

Phone +1 (305) 866-4633

Bal Harbour Village Q1- Rev J

Quoted lead times are an estimate and are not guaranteed. Lead times are subject to changes beyond Empire's control and may be attributable to supply chain, transportation, production, etc. Should Empire learn of a delay, client shall be advised.

Description	Quantity	Unit Price	Extended Price
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Multi-Purpose Room- First Floor

1	SL4-PO-BS-MBS-S - Model: SLAM Side Chair, 4 Leg Tubular Base Shell Selection: Polypropylene Frame Finish: Matte Blue Sky Leg Finish: Blue Sky Glide or Caster Type: Standard LELAND Tag For First Floor	45	228.07	10,263.15				
<table><tr><th>Qty</th><th>Description</th></tr><tr><td>45</td><td>.</td></tr></table>					Qty	Description	45	.
Qty	Description							
45	.							
2	SLAM DOLLY - Slam Transport/Stacking Dolly capacity: 4-Leg Base: 10 high on dolly (8 high on floor) LELAND	5	959.04	4,795.20				
3	SIMPLA FOLDING TABLE - SIMPLA FOLD LAMINATE US Rectangular 60" x 30" 3/4", 0.08" matching ABS edge HOWE standard laminate, matching edge White Without linking Without modesty panel Without access port or electrification Without position of access port/electrification Without cable tray Frame 4xqld alu grey w/ glides	15	1,341.45	20,121.75				

Prices will be held for 30 days but are subject to increase by manufacturer. Please be advised that this quote may not include applicable sales and use tax.

Quote authorized by:

Peter Gaslow - President
Empire Office, Inc.

ACCEPTED BY:

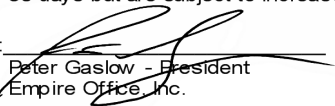
46

TITLE: DATE:

Description	Quantity	Unit Price	Extended Price
3 HOWE FURN			
4 SIMPLA TRANSPORTER - Simpla Transporter, Standard, Adjustable for 1000- 1800 tables, B10 Howe grey Standard Adjustable for 1000-1800 tables B10 Howe grey Capacity: Up to 8 tables HOWE FURN	2	1,213.30	2,426.60
Sub Total			37,606.70
Total			37,606.70
Women's Restroom			
5 PINK MU VANITY - Pink Makeup Vanity Set with Storage Drawers Side Cabinet & Mirror & Stool Included EMPIRE OFF Tag For RACINE	1	2,249.99	2,249.99
Sub Total			2,249.99
Total			2,249.99
Multi-Purpose Room- Second Floor			
6 SL4-PO-BS-MBS-S - Model: SLAM Side Chair, 4 Leg Tubular Base Shell Selection: Polypropylene Frame Finish: Matte Blue Sky Leg Finish: Blue Sky Glide or Caster Type: Standard LELAND	30	228.07	6,842.10
7 SLAM DOLLY - Slam Transport/Stacking Dolly capacity: 4-Leg Base: 10 high on dolly (8 high on floor) LELAND	4	959.04	3,836.16
8 SIMPLA FOLDING TABLE - SIMPLA FOLD LAMINATE US Rectangular 60" x 30" 3/4", 0.08" matching ABS edge HOWE standard laminate, matching edge White Without linking Without modesty panel Without access port or electrification Without position of access port/electrification Without cable tray Frame 4xgld alu grey w/ glides	10	1,341.45	13,414.50

Prices will be held for 30 days but are subject to increase by manufacturer. Please be advised that this quote may not include applicable sales and use tax.

Quote authorized by:


Peter Gaslow - President
Empire Office, Inc.

ACCEPTED BY: _____

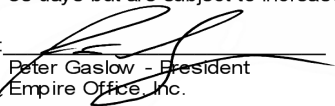
47

TITLE: _____ DATE: _____

Description	Quantity	Unit Price	Extended Price
8 HOWE FURN			
9 SIMPLA TRANSPORTER - Simpla Transporter, Standard, Adjustable for 1000- 1800 tables, B10 Howe grey Standard Adjustable for 1000-1800 tables B10 Howe grey Capacity: Up to 8 tables HOWE FURN	2	1,213.30	2,426.60
Sub Total			26,519.36
Total			26,519.36
Teen Room			
10 HASSOCK-LL - HASSOCK- LL COM: Design Tex- Aqua- 3776-403 EKO CONTRA	1	333.20	333.20
11 3776-403 - Hint- Aqua DESIGNTEX	4	76.25	305.00
12 HASSOCK-S - Hassock- S COM: Design Tex- Hint- Sea Green- 3776-502 EKO CONTRA	1	259.70	259.70
13 3776-502 - Hint- Sea Green DESIGNTEX	4	76.25	305.00
14 OVI - OVI-XL-XL COM: DESIGN TEX Hint- Sea Green 3776-502 EKO CONTRA	1	467.95	467.95
15 3776-502 - Hint- Sea Green DESIGNTEX	5	76.25	381.25
16 OVI - OVI-XL-XL COM: DESIGN TEX Hint- Aqua- 3776-403 EKO CONTRA	1	467.95	467.95
17 3776-403 - Hint- Aqua DESIGNTEX	5	76.25	381.25
18 OVI - OVI-XL-XL COM: DESIGN TEX Hint- Sandstone- 3776-107 EKO CONTRA	2	467.95	935.90
19 3776-107 - Hint- Sandstone DESIGNTEX	10	76.25	762.50

Prices will be held for 30 days but are subject to increase by manufacturer. Please be advised that this quote may not include applicable sales and use tax.

Quote authorized by:


Peter Gaslow - President
Empire Office, Inc.

ACCEPTED BY: _____

48

TITLE: _____ DATE: _____

Description		Quantity	Unit Price	Extended Price
Sub Total				4,599.70
Total				4,599.70
Breakroom				
20	SL4-PO-BS-MBS-S - Model: SLAM Side Chair, 4 Leg Tubular Base Shell Selection: Polypropylene Frame Finish: Matte Blue Sky Leg Finish: Blue Sky Glide or Caster Type: Standard LELAND	5	228.07	1,140.35
21	TS4WSFTREC - 28 1/2" H Working Height Soft Rectangle Table SIZE OPTION: PARAMETRIC DEPTH: 36.00000 WIDTH: 72.00000 TOP FINISH: SOLID LPL 2L84 - MILK (LPL) BASE TYPE: COLUMN BASE FINISH: SMOOTH PAINT 4242 - MILK SMOOTH STEELCASE	1	980.32	980.32
Sub Total				2,120.67
Total				2,120.67
Freight & Install				
22	LELAND FREIGHT - Freight LELAND	1	5,554.50	5,554.50
23	EKO FREIGHT - Freight EKO CONTRA	1	964.29	964.29
24	HOWE FREIGHT - Freight HOWE FURN	1	2,785.71	2,785.71
25	DESIGNTEX FREIGHT - Design Tex- COM Freight DESIGNTEX	1	129.06	129.06
26	D&I - deliver and install on regular time EMPIRE OFF	1	7,000.00	7,000.00
Sub Total				16,433.56
Total				16,433.56
Quotation Totals				

Prices will be held for 30 days but are subject to increase by manufacturer. Please be advised that this quote may not include applicable sales and use tax.

Quote authorized by:

Peter Gaslow - President
Empire Office, Inc.

ACCEPTED BY:

49

TITLE: DATE:

Sub Total	89,529.98
Grand Total	89,529.98

End of Quotation

Prices will be held for 30 days but are subject to increase by manufacturer. Please be advised that this quote may not include applicable sales and use tax.

Quote authorized by: 
Peter Gaslow - President
Empire Office, Inc.

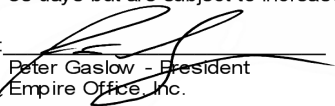
ACCEPTED BY: _____
59 TITLE: _____ DATE: _____

Empire Office, Inc. Standard Terms & Conditions of Sale

- These Terms & Conditions are superseded by any contradictory terms and conditions included in a contract between Empire Office, Inc. ("Empire") and the client in effect at the time of purchase. If these Terms and Conditions are attached to an approved quote/order or if included on such a quote/order attached to any client issued purchase order, the parties shall be bound by these Terms and Conditions, irrespective of whether or not client accepts these Terms and Conditions by written acknowledgement, by implication, or acceptance and payment of goods and services ordered hereunder.
- Payment and Terms:** A deposit of 50% of the purchase price is required at the time an order is placed by Empire, 40% is payable on delivery, and 10% is payable after installation, unless different credit terms were agreed in writing between client and Empire. Empire's final invoice is due net 30 days from the completion date of delivery and installation. A service charge at the highest interest rate permitted by local law will be assessed on past due invoices, accruing on a daily basis from the invoice's original due date. In addition to the service charge, client shall pay legal fees incurred by Empire in connection with collection of past due invoices. If Empire is not permitted to deliver the furniture when it is received from manufacturer(s), the client will be invoiced for the full amount upon the earlier to occur of: (a) Empire's attempt to deliver the furniture; or (b) the date originally scheduled for delivery. Title to the merchandise passes to the client only when the purchase price and all other charges hereunder have been paid in full, provided, however, risk of loss shall transfer to the client upon delivery of furniture. Client agrees that in the event of any default in payment, Empire, at its option, may repossess all of the merchandise if such payment default is not cured within 30 days from its original due date.
- Tax:** Empire will add the appropriate sales tax on the invoice unless the client provides a valid sales tax exemption certificate.
- Client Orders:** Empire will process client orders after receipt of an executed copy of these Terms and Conditions, a client-signed valid quote or a client-signed valid purchase order, and completion of any Credit Department requirements for deposit or payment. Except for credit and payment terms, these Terms and Conditions will continue to apply to all subsequent orders, unless otherwise agreed in writing. Empire may modify credit and/or payment terms from time to time as necessary.
- Changes and Cancellations:** Upon Empire's order placement with its manufacturers, orders cannot be changed or cancelled without Empire's written consent. The costs of approved changes and/or cancellations are the responsibility of the client, including any design and administrative work performed by Empire to implement the changes as well as any charges incurred by Empire from its suppliers relating to such changes or cancellations. In addition to the charges mentioned herein, in case of cancellation, Empire shall charge client 17.5% of the quoted purchase price for Empire's overhead.
- Returns:** Merchandise is not returnable unless it has been authorized by the Manufacturer with the client bearing all costs including, but not limited to, freight, pickup, delivery, restocking plus 17.5% of the quoted purchase price for Empire's overhead.
- Delivery and Installation:** Empire is responsible for delivery and installation during normal working hours 8:00 AM and 4:00 PM, Monday through Friday, unless otherwise agreed in writing between client and Empire. Except as otherwise agreed in writing between client and Empire, the client will be responsible for overtime premium for work performed outside normal hours. The client is also responsible for required prevailing wage or union labor and related benefits to the extent they exceed non-union regular time rates. It is the responsibility of client to be present at time of installation/delivery, to acknowledge receipts and verify the condition of the product delivered. Client's failure to sign for receipt may result in either a redelivery via an additional trip by Empire, at an additional cost to client, or deemed acceptance of the delivery as to volume, condition, and specification. Any loss or damage of furniture stored at the client's location is the client's responsibility, regardless of the cause.
- Condition of Job Site:** The job site must be clean and free of all other trades and construction debris prior to installation, with sufficient electrical current, HVAC, elevator service and a secure staging area available during the course of the installation. The client is responsible for obtaining all permits and scheduling all elevators, elevator operators, security, hoisting, loading docks, power and any other building services needed. Failure to provide a job site in the proper condition may result in installation delays and/or additional charges, at Empire's sole discretion.
- Partial deliveries can be made at the client's request or if conditions on site require them and will be subject to an additional charge.
- Storage:** Merchandise originally planned to be delivered to an Empire warehouse can be held without a cost for up to 30 days at Empire's warehouse. Any merchandise held beyond 30 days or merchandise that was planned to be delivered to client's site and had (due to no fault of Empire) to be diverted to an Empire warehouse will incur a storage fee of 2% of the purchase price per month, accruing pro rata on a daily basis. Any product owned by the client that is brought to and held by Empire will incur a storage fee of \$1.35 per square foot of space occupied and billed to the client on a monthly basis.
- Warranties, Maintenance & Repair:** If Empire's performance is not in accordance with the specifications of the work or the executed quote and order, it should be noted on the Punch List to be provided to Empire by client within five (5) business days after the completion of installation by Empire. Damaged merchandise will be modified to conform to the specifications of the order, or will be replaced. It is expressly understood that the entire invoice is due and payable, under the credit terms extended by Empire, regardless of the presence or extent of Punch List items. All claims for breach of product warranty, expressed or implied shall be made solely upon the manufacturer, it being agreed that Empire is not responsible for any such item. Empire will provide the necessary service at no charge to correct defects it caused or which are covered by the manufacturer's warranty (the terms of which vary by manufacturers). Non-warranty repairs and maintenance will be performed at Empire's standard pricing. Client will be notified in advance if there will be a charge for a service. THE FOREGOING IS IN LIEU OF ANY OTHER WARRANTY, EXPRESS, IMPLIED OR STATUTORY, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ALL OF WHICH OTHER WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED BY EMPIRE. THE CLIENT ASSUMES ALL RISK OF LOSS RELATED TO ANY CLAIMS THAT THE MERCHANDISE AS INSTALLED BY EMPIRE DOES NOT COMPLY WITH ANY APPLICABLE LAWS, INCLUDING, WITHOUT LIMITATION, ANY AND ALL APPLICABLE CURRENT OR FUTURE LAWS REGARDING HEALTH AND SAFETY IN THE WORKPLACE.
- Use of Materials and Name:** Empire may list the project and client in its published lists of its clients and projects, including on its website. Empire may also use copies of images and videos of the project and related content for its portfolio purposes in connection with its marketing materials provided to prospective clients and other interested parties.
- Force Majeure:** Empire shall not be liable for any damages resulting from: any delay or failure of performance arising from any cause not reasonably within Empire's control, including, without limitation, accidents to, breakdowns or mechanical failure of machinery or equipment, however caused; strikes or other labor troubles, shortage of labor, transportation, raw materials, energy sources, or failure of usual means of supply; fire; flood; war, declared or undeclared; epidemics, pandemics, insurrection; riots; acts of God or the public enemy; or priorities, allocations or limitations or other acts required or requested by Federal, State or local governments or any of their sub-divisions, bureaus or agencies related to the foregoing or otherwise. Upon the occurrence of any of the foregoing, Empire may, at its option, (i) cancel the order subject to these Terms and Conditions or (ii) delay performance hereunder without penalty for any period reasonably necessary due to any of the foregoing, during which time these Terms and Conditions shall remain in full force and effect and may increase the purchase price hereunder by the amount of increased costs incurred by Empire due to any of the foregoing events, including, without limitation, any increased materials, supplies, services, labor or overhead.
- LIMITATION OF LIABILITY:** EMPIRE SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, HOWSOEVER CAUSED, INCLUDING BUT NOT LIMITED TO, ANY LOST PROFITS, LOSS OF DEPOSITS OR ADVANCES PROVIDED BY CLIENT TO EMPIRE IF SUCH DEPOSITS WERE EXTENDED BY EMPIRE TO SUPPLIERS OR MANUFACTURERS WHO FAIL TO PERFORM PROPERLY AND COMPLETELY, LOST SAVINGS, PUNITIVE, EXEMPLARY, AGGRAVATED OR ECONOMIC DAMAGES, ARISING OUT OF THE MERCHANDISE OR SERVICES PROVIDED BY EMPIRE OR OTHERWISE RELATED TO THESE TERMS AND CONDITIONS, EVEN IF EMPIRE OR ANY OF ITS LAWFUL AGENTS, CONTRACTORS, EMPLOYEES OR AFFILIATES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR CLAIM, IN NO CASE WILL EMPIRE'S TOTAL LIABILITY ARISING UNDER ANY CAUSE WHATSOEVER (INCLUDING WITHOUT LIMITATION BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, GROSS NEGLIGENCE OR OTHERWISE) BE GREATER THAN THE AMOUNT ACTUALLY PAID TO EMPIRE BY THE CLIENT FOR THE SPECIFIC PRODUCTS AND SERVICES PURCHASED BY THE CLIENT AND TO WHICH THE CLAIM RELATES.
- Indemnification:** Client agrees to release, indemnify, defend and hold Empire, its officers, agents, and employees harmless from any losses or claims of whatsoever kind or nature, including, without limitation, any deposits paid by Empire to any supplier, in each case, to the extent arising out of or incidental to Empire's performance of work hereunder, except to the extent caused by the gross negligence or willful misconduct of Empire.
- Design:** Client acknowledges that in the event the order includes design services, client is allowed one design change unless otherwise agreed in writing. Any subsequent changes not due to any act or omission of Empire will result in additional charges to client at Empire's rates for design services.

Prices will be held for 30 days but are subject to increase by manufacturer. Please be advised that this quote may not include applicable sales and use tax.

Quote authorized by:


Peter Gaslow - President
Empire Office, Inc.

ACCEPTED BY: _____

51

TITLE: _____ DATE: _____

EMPIRE OFFICE



Bal Harbour Village

March 2023

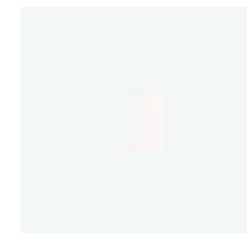


Multipurpose Room



Howe
Simpla

54



Tops
Snow Velvet

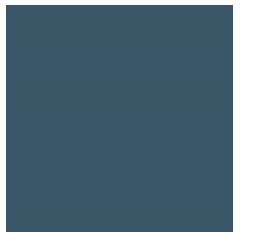


Vinyl
Valencia 4045

Multipurpose Room



Leland
Slam



Poly and Powder Coat
Sky Blue

Women's Restroom



Vanity

Teen Room



Eko
Ovi



DesignTex
Sandstone



DesignTex
Sea Green



DesignTex
Aqua

EMPIRE OFFICE

954.226.9621 | psilber@EMPIREOFFICE.COM | EMPIREOFFICE.COM

TIPS VENDOR AGREEMENT

Between Trearc Brands Inc dba eko - The Craft of Seating and
(Company Name)

THE INTERLOCAL PURCHASING SYSTEM (TIPS),
a Department of Texas Education Service Center Region 8 for
TIPS RFP 200301 Furniture, Furnishings and Services

General Information

The Vendor Agreement ("Agreement") made and entered into by and between The Interlocal Purchasing System (hereinafter "TIPS") a government cooperative purchasing program authorized by the Region 8 Education Service Center, having its principal place of business at 4845 US Hwy 271 North, Pittsburg, Texas 75686 and the TIPS Vendor. This Agreement consists of the provisions set forth below, including provisions of all attachments referenced herein. In the event of a conflict between the provisions set forth below and those contained in any attachment, the provisions set forth shall control unless otherwise agreed by the parties in writing and by signature and date on the attachment.

A Purchase Order ("PO"), Agreement or Contract is the TIPS Member's approval providing the authority to proceed with the negotiated delivery order under the Agreement. Special terms and conditions as agreed between the Vendor and TIPS Member should be added as addendums to the Purchase Order, Agreement or Contract. Items such as certificate of insurance, bonding requirements, small or disadvantaged business goals are some, but not all, of the possible addendums.

Terms and Conditions

Freight

All quotes to Members shall provide a line item for cost for freight or shipping regardless if there is a charge or not. If no charge for freight or shipping, indicate by stating "No Charge", "\$0", "included in price" or other similar indication. Otherwise, all shipping, freight or delivery changes shall be passed through to the TIPS Member at cost with no markup and said charges shall be agreed by the TIPS Member unless alternative shipping terms are agreed by TIPS as a result of the proposal award.

Warranty Conditions

All new supplies equipment and services shall include manufacturer's minimum standard warranty unless otherwise agreed to in writing. Vendor shall be legally permitted to sell all products offered for sale to TIPS Members if the offering is included in the Request for Proposal ("RFP") category. All goods proposed and sold shall be new unless clearly stated in writing.

Customer Support

The Vendor shall provide timely and accurate customer support for orders to TIPS Members as agreed by the Parties. Vendors shall respond to such requests within a commercially reasonable time after receipt of

the request. If support and/or training is a line item sold or packaged with a sale, support shall be as agreed with the TIPS Member.

Agreements

Agreements for purchase will normally be put into effect by means of a purchase order(s) executed by authorized agents of the TIPS Member participating government entities, but other means of placing an order may be used at the Member's discretion.

Tax exempt status

Most TIPS Members are tax exempt and the related laws and/or regulations of the controlling jurisdiction(s) of the TIPS Member shall apply.

Assignments of Agreements

No assignment of this Agreement may be made without the prior notification of TIPS. Written approval of TIPS shall not be unreasonably withheld. Payment for delivered goods and services can only be made to the awarded Vendor, Vendor designated reseller or vendor assigned company.

Disclosures

- Vendor and TIPS affirm that he/she, or any authorized employees or agents, has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with this Agreement.
- Vendor shall attach, in writing, a complete description of any and all relationships that might be considered a conflict of interest in doing business with the TIPS program.
- The Vendor affirms that, to the best of his/her knowledge, the offer has been arrived at independently, and is submitted without collusion with anyone to obtain information or gain any favoritism that would in any way limit competition or give an unfair advantage over other vendors in the award of this Agreement.

Term and Renewal of Agreements

The Agreement with TIPS is for three (3) years with an option for renewal for an additional one (1) consecutive year if both parties agree. TIPS may or may not exercise the one-year extension beyond the base three-year term and whether or not to offer the extension is at the sole discretion of TIPS. The scheduled Agreement termination date shall be the last date of the month of the last month of the agreement's legal effect. **Example:** *If the agreement is scheduled to end on May 23, the anniversary date of the award, it would actually be extended to May 31 in the last month of the last year the contract is active.*

Automatic Renewal Clauses Incorporated in Awarded Vendor Agreements with TIPS Members Resulting from the Solicitation and with the Vendor Named in this Agreement.

No Agreement for goods or services with a TIPS Member by the awarded vendor named in this Agreement that results from the solicitation award named in this Agreement, may incorporate an automatic renewal clause that exceeds month to month terms with which the TIPS Member must comply. All renewal terms incorporated in an Agreement by the vendor with the TIPS Member shall only be valid and enforceable when the vendor receives written confirmation by purchase order, executed Agreement or other written instruction issued by the TIPS Member for any renewal period. The purpose of this clause is to avoid a TIPS

Member inadvertently renewing an Agreement during a period in which the governing body of the TIPS Member has not properly appropriated and budgeted the funds to satisfy the Agreement renewal. This term is not negotiable and any Agreement between a TIPS Member and a TIPS awarded vendor with an automatic renewal clause that conflicts with these terms is rendered void and unenforceable.

Shipments

The Vendor shall ship, deliver or provide ordered products or services within a commercially reasonable time after the receipt of the order from the TIPS Member. If a delay in said delivery is anticipated, the Vendor shall notify TIPS Member as to why delivery is delayed and shall provide an estimated time for completion of the order. TIPS or the requesting entity may cancel the order if estimated delivery time is not acceptable or not as agreed by the parties.

Invoices

Each invoice or pay request shall include the TIPS Member's purchase order number or other identifying designation as provided in the order by the TIPS Member. If applicable, the shipment tracking number or pertinent information for verification of TIPS Member receipt shall be made available upon request.

Payments

The TIPS Member will make payments directly to the Vendor, the Vendor Assigned Dealer or as agreed by the Vendor and the TIPS Member after receiving invoice and in compliance with applicable payment statute(s), whichever is the greater time or as otherwise provided by an agreement of the parties.

Pricing

Price increases will be honored according to the terms of the solicitation. All pricing submitted to TIPS shall include the participation fee, as provided in the solicitation, to be remitted to TIPS by the Vendor. Vendor will not show adding the fee to the invoice presented to TIPS Member customer.

Participation Fees and Reporting of Sales to TIPS by Vendor

The Participation Fee that was published as part of the Solicitation and the fee published is the legally effective fee, along with any fee conditions stated in the Solicitation. Collection of the fees by TIPS is required under Texas Government Code §791.011 Et seq. Fees are due on all TIPS purchases reported by either Vendor or Member. Fees are due to TIPS upon payment by the Member to the Vendor, Reseller or Vendor Assigned Dealer. Vendor, Reseller or Vendor Assigned Dealer agrees to pay the participation fee to TIPS for all Agreement sales upon receipt of payment including partial payment, from the Member Entity or as otherwise agreed by TIPS in writing and signed by an authorized signatory of TIPS. Thus, when an awarded Vendor, Reseller or Vendor Assigned Dealer receives any amount of payment, even partial payment, for a TIPS sale, the legally effective fee for that amount is due to TIPS from the Vendor.

Reporting of Sales to TIPS by Vendor

Vendor is required to report all sales under the TIPS contract to TIPS. If the TIPS Member entity requesting a price from the awarded Vendor requests the TIPS contract, Vendor must include the TIPS Contract number on any communications with the TIPS Member entity. To report sales, the Vendor must login to the TIPS Vendor Portal online at https://www.tips-usa.com/vendors_form.cfm and click on the PO's and Payments tab. Pages 3-7 of the [Vendor Portal User Guide](#) will walk you through the process of reporting sales to TIPS. Please refer to the TIPS [Accounting FAQ's](#) for more information about reporting sales and if you have further questions, contact the Accounting Team at accounting@tips-usa.com. The Vendor or vendor assigned dealers are responsible for keeping record of all sales that go through the TIPS Agreement and submitting same to TIPS. Failure to render the participation fee to TIPS shall constitute a breach of this agreement with our parent

governmental entity, Texas Education Service Center Region 8, as established by the Texas legislature and shall be grounds for termination of this agreement and any other agreement held with TIPS and possible legal action. Any overpayment of participation fees to TIPS by a Vendor will be refunded to the Vendor within ninety (90) days of receipt of notification if TIPS receives written notification of the overpayment not later than the expiration of six (6) months from the date of overpayment and TIPS determines that the amount was not legally due to TIPS pursuant to this agreement and applicable law. It is the Vendor's responsibility to identify which sales are TIPS Agreement sales and pay the correct participation fee due for TIPS Agreement sales. Any notification of overpayment received by TIPS after the expiration of six (6) months from the date of overpayment will be non-refundable. Region 8 ESC and TIPS reserve the right to extend the six (6) month deadline to notify if approved by the Region 8 ESC Board of Directors. TIPS reserves all rights under the law to collect the fees due. Please contact TIPS at tips@tips-usa.com or call (866) 839-8477 if you have questions about paying fees.

Indemnity

The Vendor agrees to indemnify and hold harmless and defend TIPS, TIPS Member(s), officers and employees from and against all claims and suits by third parties for damages, injuries to persons (including death), property damages, losses, and expenses including court costs and reasonable attorney's fees, arising out of, or resulting from, Vendor's performance under this Agreement, including all such causes of action based upon common, constitutional, or statutory law, or based in whole or in part, upon allegations of negligent or intentional acts on the part of the Vendor, its officers, employees, agents, subcontractors, licensees, or invitees. Parties found liable shall pay their proportionate share of damages as agreed by the parties or as ordered by a court of competent jurisdiction over the case. **NO LIMITATION OF LIABILITY FOR DAMAGES FOR PERSONAL INJURY OR PROPERTY DAMAGE ARE PERMITTED OR AGREED BY TIPS/ESC REGION 8.** Per Texas Education Code §44.032(f), and pursuant to its requirements only, reasonable Attorney's fees are recoverable by the prevailing party in any dispute resulting in litigation.

State of Texas Franchise Tax

By signature hereon, the Vendor hereby certifies that he/she is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171, Tax Code.

Miscellaneous

The Vendor acknowledges and agrees that continued participation in TIPS is subject to TIPS sole discretion and that any Vendor may be removed from the participation in the Program at any time with or without cause. Nothing in the Agreement or in any other communication between TIPS and the Vendor may be construed as a guarantee that TIPS or TIPS Members will submit any orders at any time. TIPS reserves the right to request additional proposals for items or services already on Agreement at any time.

Purchase Order Pricing/Product Deviation

If a deviation of pricing/product on a Purchase Order or contract modification occurs between the Vendor and the TIPS Member, TIPS must be notified within five (5) business days of receipt of change order.

Termination for Convenience of TIPS Agreement Only

TIPS reserves the right to terminate this agreement for cause or no cause for convenience with a thirty (30) days prior written notice. Termination for convenience is conditionally required under Federal Regulations 2 CFR part 200 if the customer is using federal funds for the procurement. All purchase orders presented to the Vendor, but not fulfilled by the Vendor, by a TIPS Member prior to the actual termination of this agreement shall be honored at the option of the TIPS Member. The awarded Vendor may terminate the agreement with ninety (90) days prior written notice to TIPS 4845 US Hwy North, Pittsburg, Texas 75686.

The vendor will be paid for goods and services delivered prior to the termination provided that the goods and services were delivered in accordance with the terms and conditions of the terminated agreement. This termination clause does not affect the sales agreements executed by the Vendor and the TIPS Member customer pursuant to this agreement. TIPS Members may negotiate a termination for convenience clause that meets the needs of the transaction based on applicable factors, such as funding sources or other needs.

TIPS Member Purchasing Procedures

Usually, purchase orders or their equal are issued by participating TIPS Member to the awarded vendor and should indicate on the order that the purchase is per the applicable TIPS Agreement Number. Orders are typically emailed to TIPS at tipspo@tips-usa.com.

- Awarded Vendor delivers goods/services directly to the participating member.
- Awarded Vendor invoices the participating TIPS Member directly.
- Awarded Vendor receives payment directly from the participating member.
- Fees are due to TIPS upon payment by the Member to the Vendor. Vendor agrees to pay the participation fee to TIPS for all Agreement sales upon receipt of payment including partial payment, from the Member Entity or as otherwise agreed by TIPS in writing and signed by an authorized signatory of TIPS.

Licenses

Awarded Vendor shall maintain, in current status, all federal, state and local licenses, bonds and permits required for the operation of the business conducted by awarded Vendor. Awarded Vendor shall remain reasonably fully informed of and in compliance with all ordinances and regulations pertaining to the lawful provision of goods or services under the Agreement. TIPS and TIPS Members reserves the right to stop work and/or cancel an order or terminate this or any other sales Agreement of any awarded Vendor whose license(s) required for performance under this Agreement have expired, lapsed, are suspended or terminated subject to a 30-day cure period unless prohibited by applicable statute or regulation.

Novation

If awarded Vendor sells or transfers all assets, rights or the entire portion of the assets or rights required to perform this Agreement, a successor in interest must guarantee to perform all obligations under this Agreement. A simple change of name agreement will not change the Agreement obligations of awarded vendor. TIPS will consider Contract Assignments on a case by case basis. TIPS must be notified within five (5) business days of the transfer of assets or rights.

Site Requirements (*only when applicable to service or job*)

Cleanup: When performing work on site at a TIPS Member's property, awarded Vendor shall clean up and remove all debris and rubbish resulting from their work as required or directed by TIPS Member or as agreed by the parties. Upon completion of work, the premises shall be left in good repair and an orderly, neat, clean and unobstructed condition.

Preparation: Awarded Vendor shall not begin a project for which TIPS Member has not prepared the site, unless awarded Vendor does the preparation work at no cost, or until TIPS Member includes the cost of site preparation in a purchase order. Site preparation includes, but is not limited to: moving furniture, installing wiring for networks or power, and similar pre-installation requirements.

Registered sex offender restrictions: For work to be performed at schools, awarded Vendor agrees that no employee of a subcontractor who has been adjudicated to be a registered sex offender will perform work at any time when students are, or reasonably expected to be, present unless otherwise agreed by the TIPS Member. Awarded Vendor agrees that a violation of this condition shall be considered a material breach and may result in the cancellation of the purchase order at the TIPS Member's discretion. Awarded

Vendor must identify any additional costs associated with compliance of this term. If no costs are specified, compliance with this term will be provided at no additional charge. **Safety measures:** Awarded Vendor shall take all reasonable precautions for the safety of employees on the worksite, and shall erect and properly maintain all necessary safeguards for protection of workers and the public. Awarded Vendor shall post warning signs against all hazards created by the operation and work in progress. Proper precautions shall be taken pursuant to state law and standard practices to protect workers, general public and existing structures from injury or damage.

Safety Measures

Awarded Vendor shall take all reasonable precautions for the safety of employees on the worksite, and shall erect and properly maintain all necessary safeguards for protection of workers and the public. Awarded vendor shall post warning signs against all hazards created by the operation and work in progress. Proper precautions shall be taken pursuant to state law and standard practices to protect workers, general public and existing structures from injury or damage.

Smoking

Persons working under Agreement shall adhere to the TIPS Member's or local smoking statutes, codes or policies.

Marketing

Awarded Vendor agrees to allow TIPS to use their name and logo within TIPS website, marketing materials and advertisement subject to any reasonable restrictions provided to TIPS in the Proposal to the Solicitation. The Vendor may submit an acceptable use directive for Vendor's names and logos with which TIPS agrees to comply. Any use of TIPS name and logo or any form of publicity, inclusive of press release, regarding this Agreement by awarded vendor must have prior approval from TIPS which will not be unreasonably withheld. Request may be made by email to TIPS@TIPS-USA.COM.

Supplemental Agreements

The TIPS Member entity participating in the TIPS Agreement and awarded Vendor may enter into a separate Supplemental Agreement or contract to further define the level of service requirements over and above the minimum defined in this Agreement such as but not limited to, invoice requirements, ordering requirements, specialized delivery, etc. Any Supplemental Agreement or contract developed as a result of this Agreement is exclusively between the TIPS Member entity customer and the Vendor. TIPS, its agents, TIPS Members and employees not a party to the Supplemental Agreement with the TIPS Member customer, shall not be made party to any claim for breach of such agreement unless named and agreed by the Party in question in writing in the agreement. If a Vendor submitting a Proposal requires TIPS and/or TIPS Member to sign an additional agreement, those agreements shall comply with the award made by TIPS to the Vendor. Supplemental Vendor's Agreement documents may not become part of TIPS' Agreement with Vendor unless and until an authorized representative of TIPS reviews and approves it. TIPS review and approval may be at any time during the life of this Vendor Agreement. TIPS permits TIPS Members to negotiate additional terms and conditions with the Vendor for the provision of goods or services under the Vendor's TIPS Agreement so long as they do not materially conflict with this Agreement.

Survival Clause

All applicable sales, leases, Supplemental Agreements, contracts, software license agreements, warranties or service agreements that were entered into between Vendor and TIPS or the TIPS Member Customer under the terms and conditions of this Agreement shall survive the expiration or termination of this Agreement. All Orders, Purchase Orders issued or contracts executed by TIPS or a TIPS Member and accepted by the Vendor

prior to the expiration or termination of this agreement, shall survive expiration or termination of the Agreement, subject to previously agreed terms and conditions agreed by the parties or as otherwise specified herein relating to termination of this agreement.

Legal obligations

It is the responding Vendor's responsibility to be aware of and comply with all local, state and federal laws governing the sale of products/services identified in the applicable Solicitation that resulted in this Vendor Agreement and any awarded Agreement thereof. Applicable laws and regulations must be followed even if not specifically identified herein.

Audit rights

Due to transparency statutes and public accountability requirements of TIPS and TIPS Members', the awarded Vendor shall, at their sole expense, maintain appropriate due diligence of all purchases made by TIPS Member that utilizes this Agreement. TIPS and Region 8 ESC each reserve the right to audit the accounting of TIPS related purchases for a period of three (3) years from the time such purchases are made. This audit right shall survive termination of this Agreement for a period of one (1) year from the effective date of termination. In order to ensure and confirm compliance with this agreement, TIPS shall have authority to conduct audits of Awarded Vendor's pricing or TIPS transaction documentation with TIPS Members with 30 days' notice unless the audit is ordered by a Court Order or by a Government Agency with authority to do so without notice. Notwithstanding the foregoing, in the event that TIPS is made aware of any pricing being offered to eligible entities that is materially inconsistent with the pricing under this agreement, TIPS shall have the ability to conduct the audit internally or may engage a third- party auditing firm to investigate any possible non- compliant conduct or may terminate the Agreement according to the terms of this Agreement. In the event of an audit, the requested materials shall be reasonably provided in the time, format and at the location acceptable to Region 8 ESC or TIPS. TIPS agrees not to perform a random audit the TIPS transaction documentation more than once per calendar year, but reserves the right to audit for just cause or as required by any governmental agency or court with regulatory authority over TIPS or the TIPS Member.

Force Majeure

If by reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement then such party shall give notice and full particulars of Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch.

Choice of Law

The Agreement between the Vendor and TIPS/ESC Region 8 and any addenda or other additions resulting from this procurement process, however described, shall be governed by, construed and enforced in accordance with the laws of the State of Texas, regardless of any conflict of laws principles.

Venue, Jurisdiction and Service of Process

Any Proceeding arising out of or relating to this procurement process or any contract issued by TIPS resulting from or any contemplated transaction shall be brought in a court of competent jurisdiction in Camp County, Texas and each of the parties irrevocably submits to the exclusive jurisdiction of said court in any such proceeding, waives any objection it may now or hereafter have to venue or to convenience of forum, agrees

that all claims in respect of the Proceeding shall be heard and determined only in any such court, and agrees not to bring any proceeding arising out of or relating to this procurement process or any contract resulting from or any contemplated transaction in any other court. The parties agree that either or both of them may file a copy of this paragraph with any court as written evidence of the knowing, voluntary and freely bargained for agreement between the parties irrevocably to waive any objections to venue or to convenience of forum. Process in any Proceeding referred to in the first sentence of this Section may be served on any party anywhere in the world. Venue for any dispute resolution process, other than litigation, between TIPS and the Vendor shall be located in Camp or Titus County, Texas.

Project Delivery Order Procedures

The TIPS Member having approved and signed an interlocal agreement, or other TIPS Membership document, may make a request of the awarded Vendor under this Agreement when the TIPS Member desires goods or services awarded to the Vendor. Notification may occur via phone, the web, courier, email, fax, or in person. Upon notification of a pending request, the awarded Vendor shall acknowledge the TIPS Member's request as soon as possible, but must make contact with the TIPS Member within two working days.

Status of TIPS Members as Related to This Agreement

TIPS Members stand in the place of TIPS as related to this agreement and have the same access to the proposal information and all related documents. TIPS Members have all the same rights under the awarded Agreement as TIPS.

Vendor's Resellers as Related to This Agreement

Vendor's Named Resellers ("Resellers") under this Agreement shall comply with all terms and conditions of this agreement and all addenda or incorporated documents. All actions related to sales by Authorized Vendor's Resellers under this Agreement are the responsibility of the awarded Vendor. If Resellers fail to report sales to TIPS under your Agreement, the awarded Vendor is responsible for their contractual failures and shall be billed for the fees. The awarded Vendor may then recover the fees from their named reseller.

Support Requirements

If there is a dispute between the awarded Vendor and TIPS Member, TIPS or its representatives may, at TIPS sole discretion, assist in conflict resolution if requested by either party. TIPS, or its representatives, reserves the right to inspect any project and audit the awarded Vendor's TIPS project files, documentation and correspondence related to the requesting TIPS Member's order. If there are confidentiality requirements by either party, TIPS shall comply to the extent permitted by law.

Incorporation of Solicitation

The TIPS Solicitation which resulted in this Vendor Agreement, whether a Request for Proposals, the Request for Competitive Sealed Proposals or Request for Qualifications solicitation, or other, the Vendor's response to same and all associated documents and forms made part of the solicitation process, including any addenda, are hereby incorporated by reference into this Agreement as if copied verbatim.

SECTION HEADERS OR TITLES

THE SECTION HEADERS OR TITLES WITHIN THIS DOCUMENT ARE MERELY GUIDES FOR CONVENIENCE AND ARE NOT FOR CLASSIFICATION OR LIMITING OF THE RESPONSIBILITIES OF THE PARTIES TO THIS DOCUMENT.

STATUTORY REQUIREMENTS

Texas governmental entities are prohibited from doing business with companies that fail to certify to this

condition as required by Texas Government Code Sec. 2270.

By executing this agreement, you certify that you are authorized to bind the undersigned Vendor and that your company (1) does not boycott Israel; and (2) will not boycott Israel during the term of the Agreement.

You certify that your company is not listed on and does not and will not do business with companies that are on the Texas Comptroller of Public Accounts list of Designated Foreign Terrorists Organizations per Texas Gov't Code 2270.0153 found at <https://comptroller.texas.gov/purchasing/docs/foreign-terrorist.pdf>

You certify that if the certified statements above become untrue at any time during the life of this Agreement that the Vendor will notify TIPS within three (3) business day of the change by a letter on Vendor's letterhead from and signed by an authorized representative of the Vendor stating the non-compliance decision and the TIPS Agreement number and description at:

Attention: General Counsel
ESC Region 8/The Interlocal Purchasing System (TIPS)
4845 Highway 271 North
Pittsburg, TX, 75686
And by an email sent to bids@tips-usa.com

Insurance Requirements

The undersigned Vendor agrees to maintain the below minimum insurance requirements for TIPS Contract Holders:

General Liability	\$1,000,000 each Occurrence/ Aggregate
Automobile Liability	\$300,000 Includes owned, hired & non-owned
Workers' Compensation	Statutory limits for the jurisdiction in which the Vendor performs under this Agreement.
Umbrella Liability	\$1,000,000

When the Vendor or its subcontractors are liable for any damages or claims, the Vendor's policy, when the Vendor is responsible for the claim, must be primary over any other valid and collectible insurance carried by the Member. Any immunity available to TIPS or TIPS Members shall not be used as a defense by the contractor's insurance policy. The coverages and limits are to be considered minimum requirements and in no way limit the liability of the Vendor(s). Insurance shall be written by a carrier with an A-; VII or better rating in accordance with current A.M. Best Key Rating Guide. Only deductibles applicable to property damage are acceptable, unless proof of retention funds to cover said deductibles is provided. "Claims made" policies will not be accepted. Vendor's required minimum coverage shall not be suspended, voided, cancelled, non-renewed or reduced in coverage or in limits unless replaced by a policy that provides the minimum required coverage except after thirty (30) days prior written notice by certified mail, return receipt requested has been given to TIPS or the TIPS Member if a project or pending delivery of an order is ongoing. Upon request, certified copies of all insurance policies shall be furnished to the TIPS or the TIPS Member.

Special Terms and Conditions

- **Orders:** All Vendor orders received from TIPS Members must be emailed to TIPS at tipspo@tips-usa.com. Should a TIPS Member send an order directly to the Vendor, it is the Vendor's responsibility

to forward a copy of the order to TIPS at the email above within 3 business days and confirm its receipt with TIPS.

- **Vendor Encouraging Members to bypass TIPS agreement:** Encouraging TIPS Members to purchase directly from the Vendor or through another agreement, when the Member has requested using the TIPS cooperative Agreement or price, and thereby bypassing the TIPS Agreement is a violation of the terms and conditions of this Agreement and will result in removal of the Vendor from the TIPS Program.
- **Order Confirmation:** All TIPS Member Agreement orders are approved daily by TIPS and sent to the Vendor. The Vendor should confirm receipt of orders to the TIPS Member (customer) within 3 business days.
- **Vendor custom website for TIPS:** If Vendor is hosting a custom TIPS website, updated pricing when effective. TIPS shall be notified when prices change in accordance with the award.
- **Back Ordered Products:** If product is not expected to ship within the time provided to the TIPS Member by the Vendor, the Member is to be notified within 3 business days and appropriate action taken based on customer request.

The TIPS Vendor Agreement Signature Page is inserted here.

TIPS Vendor Agreement Signature Form

RFP 200301 Furniture, Furnishings and Services

Company Name Trearc Brands Inc dba eko - The Craft of Seating

Address 145 Rymer Road

City Cleveland State TN Zip 37323

Phone 866.814.8356 Fax _____

Email of Authorized Representative djones@ekocontract.com

Name of Authorized Representative Dustin Jones

Title Director of Business Development

Signature of Authorized Representative 

Date 04/10/20

TIPS Authorized Representative Name Meredith Barton

Title Chief Operating Officer

TIPS Authorized Representative Signature 

Approved by ESC Region 8 

Date 5/21/2020

NOTICE TO MEMBERS REGARDING ATTRIBUTE RESPONSES

TIPS VENDORS RESPOND TO ATTRIBUTE QUESTIONS AS PART OF TIPS COMPETITIVE SOLICITATION PROCESS. THE VENDOR'S RESPONSES TO ATTRIBUTE QUESTIONS ARE INCLUDED HEREIN AS "SUPPLIER RESPONSE." PLEASE BE ADVISED THAT DEVIATIONS, IF ANY, IN VENDOR'S RESPONSE TO ATTRIBUTE QUESTIONS MAY NOT REFLECT VENDOR'S FINAL ATTRIBUTE RESPONSE, WHICH IS SUBJECT TO NEGOTIATIONS PRIOR TO AWARD. PLEASE CONTACT THE TIPS OFFICE AT 866-839-8477 WITH QUESTIONS OR CONCERNS REGARDING VENDOR ATTRIBUTE RESPONSE DEVIATIONS. PLEASE KEEP IN MIND THAT TIPS DOES NOT PROVIDE LEGAL COUNSEL TO MEMBERS. TIPS RECOMMENDS THAT YOU CONSULT YOUR LEGAL COUNSEL WHEN EXECUTING CONTRACTS WITH OR MAKING PURCHASES FROM TIPS VENDORS.



200301
eko contract
Supplier Response

Event Information

Number: 200301
Title: Furniture, Furnishings and Services
Type: Request for Proposal
Issue Date: 3/5/2020
Deadline: 4/24/2020 03:00 PM (CT)

Contact Information

Address: Region 8 Education Service Center
4845 US Highway 271 North
Pittsburg, TX 75686
Phone: +1 (866) 839-8477
Email: bids@tips-usa.com

eko contract Information

Contact: Dustin Jones
Address: 145 Rymer Road NE
Cleveland, TN 37312
Phone: (423) 303-8188
Fax: (423) 303-8188
Toll Free: (423) 303-8188 x423
Email: djones@ekocontract.com

By submitting your response, you certify that you are authorized to represent and bind your company.

Daniel Dustin Jones

Signature

Submitted at 4/12/2020 10:41:17 AM

djones@ekocontract.com

Email

Requested Attachments

Vendor Agreement

200301_Vendor_Agreement.pdf

The vendor must download the Vendor Agreement from the attachment tab, fill in the requested information and upload the completed agreement.

DO NOT UPLOAD encrypted or password protected files.

Agreement Signature Form

200301_Agreement_Signature_Form.pdf

If you have not taken exception or deviation to the agreement language in the solicitation attributes, download the AGREEMENT SIGNATURE FORM from the "ATTACHMENTS" tab. This PDF document is a fillable form. Download the document to your computer, fill in the requested company information, print the file, SIGN the form, SCAN the completed and signed AGREEMENT SIGNATURE FORM, and upload here.

If you have taken exception to any of the agreement language and noted the exception in the deviations section of the attributes for the agreement, complete the AGREEMENT SIGNATURE FORM, but DO NOT SIGN until those deviations have been negotiated and resolved with TIPS management. Upload the unsigned form here, because this is a required document.

Pricing Spreadsheet #1

200301_Pricing_form_1.xlsx

The vendor must download the PRICING SPREADSHEET SHEET from the attachment tab, fill in the requested information and upload the completed spreadsheet.

DO NOT UPLOAD encrypted or password protected files.

Pricing Spreadsheet #2

200301_Pricing_form_2.xlsx

The vendor must download the PRICING SPREADSHEET SHEET from the attachment tab, fill in the requested information and upload the completed spreadsheet.

DO NOT UPLOAD encrypted or password protected files.

References

Reference_Form.xls

The vendor must download the References spreadsheet from the attachment tab, fill in the requested information and upload the completed spreadsheet. DO NOT UPLOAD encrypted or password protected files.

Proposed Goods and Services

TIPS_2020.pdf

Please upload one or more documents or sheets describing your offerings, line cards, catalogs, links to offerings OR list links to your offerings that illustrate the catalog of proposed lines of goods and or services you carry and offer under this proposal. It does not have to be exhaustive but should, at a minimum tell us what you are offering. It could be as simple as a sheet with your link to your online catalog of goods and services.

Resellers/Dealers - COMPLETE AND UPLOAD ONLY IF YOU HAVE RESELLER OF YOUR GOODS OR SERVICES PROPOSED

Reseller_Dealers_Sheet.xlsx

If the PROPOSING vendor has resellers that will be selling for the vendor UNDER this contract, the vendor must download the Resellers/Dealers spreadsheet from the attachment tab, fill in the requested information and upload the completed spreadsheet.

DO NOT UPLOAD encrypted or password protected files.

D/M/WBE Certification OPTIONAL

No response

D/M/WBE Certification documentation may be scanned and uploaded if you desire to claim your status as one of the identified enterprises. (Disadvantaged Business Enterprise, Minority Business Enterprise and/or Woman Business Enterprise) If vendor has more than one certification scan into one document. (PDF Format ONLY)

DO NOT UPLOAD encrypted or password protected files.

Warranty

EKO_Terms_and_Conditions_2020_1.pdf

Warranty information (if applicable) must be scanned and uploaded. (PDF Format ONLY)

DO NOT UPLOAD encrypted or password protected files.

Supplementary

TIPS_2020.pdf

Supplementary information may be scanned and uploaded. (Company information, brochures, catalogs, etc.) (PDF Format ONLY)

DO NOT UPLOAD encrypted or password protected files.

All Other Certificates

No response

All Other Certificates (if applicable) must be scanned and uploaded. If vendor has more than one other certification scan into one document. (PDF Format ONLY)

DO NOT UPLOAD encrypted or password protected files.

Logo and Other Company Marks

Eko_HorizontalTag_Black_RGB (5).jpg

If you desire, please upload your company logo to be added to your individual profile page on the TIPS website. If any particular specifications are required for use of your company logo, please upload that information under the Supplementary section or another non-required section under the "Response Attachment" tab. Preferred Logo Format: 300 x 225 px - .png, .eps, .jpeg preferred

Conflict of Interest Form CIQ- ONLY REQUIRED IF A CONFLICT EXISTS PER THE INSTRUCTIONS

No response

ONLY REQUIRED IF A CONFLICT EXISTS PER THE INSTRUCTIONS

Conflict of Interest Form for Vendors that are required to submit the form. The Conflict of Interest Form is included in the Base documents or can be found at <https://www.tips-usa.com/assets/documents/docs/CIQ.pdf>.

Certificate of Corporate Offerer - COMPLETE ONLY IF OFFERER IS A CORPORATION

CERTIFICATION_OF_CORPORATE_OFFERER_FORM-signed.pdf

COMPLETE AND UPLOAD FORM IN ATTACHMENTS SECTION ONLY IF OFFERER IS A CORPORATION

Disclosure of Lobbying Activities Standard Form LLL

Disclosure_of_Lobbying_Activities_Standard_Form_LLL.pdf

ONLY IF you answered "I HAVE Lobbied per above" to attribute #66, please download and complete and upload the Standard Form-LLL, "disclosure Form to Report Lobbying," in the Response attachments section.

Confidentiality Form

CONFIDENTIALITY_CLAIM_FORM_rev111819RP.pdf

REQUIRED CONFIDENTIALITY FORM. Complete the form according to your company requirements, make any desired attachments and upload to the appropriate section under "Response Attachments" THIS FORM DETERMINES HOW ESC8/TIPS RESPONDS TO LEGAL PUBLIC INFORMATION REQUESTS.

Bid Attributes

1 Yes - No

Disadvantaged/Minority/Women Business Enterprise - D/M/WBE (Required by some participating governmental entities) Vendor certifies that their firm is a D/M/WBE? Vendor must upload proof of certification to the "Response Attachments" D/M/WBE CERTIFICATES section.

NO

2 Yes - No

Historically Underutilized Business - HUB (Required by some participating governmental entities) Vendor certifies that their firm is a HUB as defined by the State of Texas at <https://comptroller.texas.gov/purchasing/vendor/hub/> or in a HUBZone as defined by the US Small Business Administration at <https://www.sba.gov/offices/headquarters/ohp>

Proof of one or both may be submitted. Vendor must upload proof of certification to the "Response Attachments" HUB CERTIFICATES section.

No

3 Yes - No

The Vendor can provide services and/or products to all 50 US States?

No

4 States Served:

If answer is NO to question #3, please list which states can be served. (Example: AR, OK, TX)

All states with the exception of Alaska and Hawaii

5 Company and/or Product Description:

This information will appear on the TIPS website in the company profile section, if awarded a TIPS contract. (Limit 750 characters.)

eko - The Craft of Seating is a manufacturer of soft seating and ancillary items for the contract market.

6 Primary Contact Name

Primary Contact Name

Dustin Jones

7 Primary Contact Title

Primary Contact Title

co-owner, business development

8 Primary Contact Email

Primary Contact Email

djones@ekocontract.com

9 Primary Contact Phone

Enter 10 digit phone number. (No dashes or extensions)

Example: 8668398477

866.814.8356

10	Primary Contact Fax Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 <input type="text" value="6156764861"/>
11	Primary Contact Mobile Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 <input type="text" value="4233038188"/>
12	Secondary Contact Name Secondary Contact Name <input type="text" value="Brandi Rayfield"/>
13	Secondary Contact Title Secondary Contact Title <input type="text" value="Administrative leader"/>
14	Secondary Contact Email Secondary Contact Email <input type="text" value="brandi@ekocontract.com"/>
15	Secondary Contact Phone Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 <input type="text" value="8668148356"/>
16	Secondary Contact Fax Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 <input type="text" value="6156764861"/>
17	Secondary Contact Mobile Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 <input type="text" value="No response"/>
18	Admin Fee Contact Name Admin Fee Contact Name. This person is responsible for paying the admin fee to TIPS. <input type="text" value="Brandi Rayfield"/>
19	Admin Fee Contact Email Admin Fee Contact Email <input type="text" value="brandi@ekocontract.com"/>

20	Admin Fee Contact Phone Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 <input type="text" value="8668148356"/>
21	Purchase Order Contact Name Purchase Order Contact Name. This person is responsible for receiving Purchase Orders from TIPS. <input type="text" value="Brandi Rayfield"/>
22	Purchase Order Contact Email Purchase Order Contact Email <input type="text" value="brandi@ekocontract.com"/>
23	Purchase Order Contact Phone Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 <input type="text" value="8668148356"/>
24	Company Website Company Website (Format - www.company.com) <input type="text" value="www.ekocontract.com"/>
25	Federal ID Number: Federal ID Number also known as the Employer Identification Number. (Format - 12-3456789) <input type="text" value="62-1349778"/>
26	Primary Address Primary Address <input type="text" value="145 Rymer Road NE"/>
27	Primary Address City Primary Address City <input type="text" value="Cleveland"/>
28	Primary Address State Primary Address State (2 Digit Abbreviation) <input type="text" value="TN"/>
29	Primary Address Zip Primary Address Zip <input type="text" value="37323"/>

3
0**Search Words:**

Please list search words to be posted in the TIPS database about your company that TIPS website users might search. Words may be product names, manufacturers, or other words associated with the category of award. YOU MAY NOT LIST NON-CATEGORY ITEMS. (Limit 500 words) (Format: product, paper, construction, manufacturer name, etc.)

lounge chairs, loveseats, worklounge, tables, soft seating, ancillary tables, laptop tables, wire tables, sofas, modular seating, seating, lobby, lounge, collaborative

3
1**Do you want TIPS Members to be able to spend Federal grant funds with you if awarded? Is it your intent to be able to sell to our members regardless of the fund source, whether it be local, state or federal?**

Most of our members receive Federal Government grants and they make up a significant portion of their budgets. The Members need to know if your company is willing to sell to them when they spend federal budget funds on their purchase. There are attributes that follow that include provisions from the federal regulations in 2 CFR part 200. Your answers will determine if your award will be designated as Federal or Education Department General Administrative Regulations (EDGAR) compliant.

Do you want TIPS Members to be able to spend Federal grant funds with you if awarded and is it your intent to be able to sell to TIPS Members regardless of the fund source, whether it be local, state or federal?

Yes

3
2**Yes - No**

Certification of Residency (Required by the State of Texas) The vendor's ultimate parent company or majority owner:

(A) has its principal place of business in Texas;

OR

(B) employs at least 500 persons in Texas?

This question is required as a data gathering function for information to our members making purchases with awarded vendors. It does not affect scoring with TIPS.

No

3
3**Company Residence (City)**

Vendor's principal place of business is in the city of?

Cleveland

3
4**Company Residence (State)**

Vendor's principal place of business is in the state of?

TN

3
5**Discount Offered - CAUTION READ CAREFULLY BECAUSE VENDORS FREQUENTLY MAKE MISTAKES ON THIS ATTRIBUTE QUESTION**

Remember this is a MINIMUM discount percentage. So, be sure that the discount percentage inserted here can be applied to ANY OFFERING OF GOODS OR SERVICES THROUGHOUT THE LIFE OF THE CONTRACT

CAUTION: BE CERTAIN YOU CAN HONOR THIS MINIMUM DISCOUNT PERCENTAGE ON ANY OFFERED SERVICE OR GOOD NOW OR DURING THE LIFE OF THE CONTRACT.

What is the MINIMUM percentage discount off of any item or service you offer to TIPS Members that is in your regular catalog (as defined in the solicitation specifications document), website, store or shelf pricing or when adding new goods or services to your offerings during the life of the contract? The resulting price of any goods or services Catalog list prices after this discount is applied is a ceiling on your pricing and not a floor because, in order to be more competitive in the individual circumstance, you may offer a larger discount depending on the items or services purchased and the quantity at time of sale.

Must answer with a number between 0% and 100%.

3
6**TIPS Administration Fee**

By submitting a proposal, I agree that all pricing submitted to TIPS shall include the Administration Fee, as designated in the solicitation or as otherwise agreed in writing which shall be remitted to TIPS by the Vendor, or the vendor's named resellers, and as agreed to in the Vendor Agreement. I agree that the fee shall not and will not be added by the Vendor as a separate line item on a TIPS member invoice, quote, proposal or any other written communications with the TIPS member.

3
7**Yes - No**

Vendor agrees to remit to TIPS the required administration fee or, if resellers are named, Vendor agrees to guarantee the fee remittance by or for the reseller named by the vendor?

TIPS/ESC Region 8 is required by Texas Government Code § 791 to be compensated for its work and thus, failure to agree shall render your response void and it will not be considered.

3
8**Yes - No**

Do you offer additional discounts to TIPS members for large order quantities or large scope of work?

3
9**Years experience in category of goods or services**

Company years experience in this category of goods or services? This is an evaluation criterion worth a maximum of 10 points. See RFP for more information.

4
0**Resellers:**

Does the vendor have resellers that it will name under this contract? Resellers are defined as other companies that sell your products under an agreement with you, the awarded vendor of TIPS.

EXAMPLE: BIGmart is a reseller of ACME brand televisions. If ACME were a TIPS awarded vendor, then ACME would list BIGmart as a reseller.

(If applicable, vendor should download the Reseller/Dealers spreadsheet from the Attachments section, fill out the form and submit the document in the "Response Attachments" RESELLERS section.

4
1**Pricing discount percentage are guaranteed for?**

Does the vendor agrees to honor the proposed pricing discount percentage off regular catalog (as defined in the RFP document), website, store or shelf pricing for the term of the award?

4
2**Right of Refusal**

Does the proposing vendor wish to reserve the right not to perform under the awarded agreement with a TIPS member at vendor's discretion?

4
3**NON-COLLUSIVE BIDDING CERTIFICATE**

By submission of this bid or proposal, the Bidder certifies that:

- 1) This bid or proposal has been independently arrived at without collusion with any other Bidder or with any Competitor;
- 2) This bid or proposal has not been knowingly disclosed and will not be knowingly disclosed, prior to the opening of bids, or proposals for this project, to any other Bidder, Competitor or potential competitor;
- 3) No attempt has been or will be made to induce any other person, partnership or corporation to submit or not to submit a bid or proposal;
- 4) The person signing this bid or proposal certifies that he has fully informed himself regarding the accuracy of the statements contained in this certification, and under the penalties being applicable to the Bidder as well as to the person signing in its behalf.

Not a negotiable term. Failure to agree will render your proposal non-responsive and it will not be considered.

4
4**CONFLICT OF INTEREST QUESTIONNAIRE - FORM CIQ - Do you have any CONFLICT OF INTEREST TO REPORT OR DISCLOSE under this statutory requirement?**

Do you have any CONFLICT OF INTEREST TO REPORT OR DISCLOSE under this statutory requirement? YES or NO

If you have a conflict of interest as described in this form or the Local Government Code Chapter 176, cited therein- you are required to complete and file with TIPS.

You may find the Blank CIQ form on our website at:

Copy and Paste the following link into a new browser or tab:

<https://www.tips-usa.com/assets/documents/docs/CIQ.pdf>

There is an optional upload for this form provided if you have a conflict and must file the form.

No

4
5**Filing of Form CIQ**

If yes (above), have you filed a form CIQ by uploading the form to this RFP as directed above?

No

4
6**Regulatory Standing**

I certify to TIPS for the proposal attached that my company is in good standing with all governmental agencies Federal or state that regulate any part of our business operations. If not, please explain in the next attribute question.

Yes

4
7**Regulatory Standing**

Regulatory Standing explanation of no answer on previous question.

No response

4
8**Antitrust Certification Statements (Tex. Government Code § 2155.005)**

By submission of this bid or proposal, the Bidder certifies that:

I affirm under penalty of perjury of the laws of the State of Texas that:

(1) I am duly authorized to execute this contract on my own behalf or on behalf of the company, corporation, firm, partnership or individual (Company) listed below;

(2) In connection with this bid, neither I nor any representative of the Company has violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15;

(3) In connection with this bid, neither I nor any representative of the Company has violated any federal antitrust law;

(4) Neither I nor any representative of the Company has directly or indirectly communicated any of the contents of this bid to a competitor of the Company or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Company.

Suspension or Debarment Instructions

Instructions for Certification:

1. By answering yes to the next Attribute question below, the vendor and prospective lower tier participant is providing the certification set out herein in accordance with these instructions.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and / or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participants," "person," "primary covered transaction," "principal," "proposal" and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and / or debarment.

50

Suspension or Debarment Certification

By answering yes, you certify that no federal suspension or debarment is in place, which would preclude receiving a federally funded contract as described above.

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

By answering yes, you certify that no federal suspension or debarment is in place, which would preclude receiving a federally funded contract as described above.

51

Non-Discrimination Statement and Certification

In accordance with Federal civil rights law, all U.S. Departments, including the U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at [How to File a Program Discrimination Complaint](#) and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov.

(Title VI of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Title 7 CFR Parts 15, 15a, and 15b; the Americans with Disabilities Act; and FNS Instruction 113-1, Civil Rights Compliance and Enforcement – Nutrition Programs and Activities)

All U.S. Departments, including the USDA are equal opportunity provider, employer, and lender.

Not a negotiable term. Failure to agree by answering YES will render your proposal non-responsive and it will not be considered. I certify that in the performance of a contract with TIPS or its members, that our company will conform to the foregoing anti-discrimination statement and comply with the cited and all other applicable laws and regulations.

5 2 2 CFR PART 200 Contract Provisions Explanation

Required Federal contract provisions of Federal Regulations for Contracts for contracts with ESC Region 8 and TIPS Members:

The following provisions are required to be in place and agreed if the procurement is funded in any part with federal funds.

The ESC Region 8 and TIPS Members are the subgrantee or Subrecipient by definition. Most of the provisions are located in 2 CFR PART 200 - Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards at 2 CFR PART 200. Others are included within 2 CFR part 200 et al.

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

5 3 2 CFR PART 200 Contracts

Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

Notice: Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members reserves all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party.

Does vendor agree?

5 4 2 CFR PART 200 Termination

Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members reserves the right to terminate any agreement in excess of \$10,000 resulting from this procurement process for cause after giving the vendor an appropriate opportunity and up to 30 days, to cure the causal breach of terms and conditions. ESC Region 8 and TIPS Members reserves the right to terminate any agreement in excess of \$10,000 resulting from this procurement process for convenience with 30 days notice in writing to the awarded vendor. The vendor would be compensated for work performed and goods procured as of the termination date if for convenience of the ESC Region 8 and TIPS Members. Any award under this procurement process is not exclusive and the ESC Region 8 and TIPS reserves the right to purchase goods and services from other vendors when it is in the best interest of the ESC Region 8 and TIPS.

Does vendor agree?

5
5**2 CFR PART 200 Clean Air Act**

Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

Pursuant to the Clean Air Act, et al above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members requires that the proposer certify that during the term of an award by the ESC Region 8 and TIPS Members resulting from this procurement process the vendor agrees to comply with all of the above regulations, including all of the terms listed and referenced therein.

Does vendor agree?

5
6**2 CFR PART 200 Byrd Anti-Lobbying Amendment**

Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members requires the proposer certify that during the term and during the life of any contract with ESC Region 8 and TIPS Members resulting from this procurement process the vendor certifies to the terms included or referenced herein.

Does vendor agree?

5
7**2 CFR PART 200 Federal Rule**

Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000)

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members requires the proposer certify that in performance of the contracts, subcontracts, and subgrants of amounts in excess of \$100,000, the vendor will be in compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).

Does vendor certify that it is in compliance with the Clean Air Act?

5 8 2 CFR PART 200 Procurement of Recovered Materials

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Does vendor certify that it is in compliance with the Solid Waste Disposal Act as described above?

Yes

5 9 Certification Regarding Lobbying

Applicable to Grants, Subgrants, Cooperative Agreements, and Contracts Exceeding \$100,000 in Federal Funds

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

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

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

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all covered subawards exceeding \$100,000 in Federal funds at all appropriate tiers and that all subrecipients shall certify and disclose accordingly.

I HAVE NOT Lobbied per above

6 0 If you answered "I HAVE lobbied" to the above Attribute Question

If you answered "I HAVE lobbied" to the above Attribute question, you must download the Lobbying Report "Standard From LLL, disclosure Form to Report Lobbying" which includes instruction on completing the form, complete and submit it in the Response Attachments section as a report of the lobbying activities you performed or paid others to perform.

**6
1 Subcontracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms.**

Do you ever anticipate the possibility of subcontracting any of your work under this award if you are successful?

IF NO, DO NOT ANSWER THE NEXT ATTRIBUTE QUESTION. . IF YES, and ONLY IF YES, you must answer the next question YES if you want a TIPS Member to be authorized to spend Federal Grant Funds for Procurement.

YES

**6
2 ONLY IF YES TO THE PREVIOUS QUESTION OR if you ever do subcontract any part of your performance under the TIPS Agreement, do you agree to comply with the following federal requirements?**

ONLY IF YES TO THE PREVIOUS QUESTION OR if you ever do subcontract any part of your performance under the TIPS Agreement,

do you agree to comply with the following federal requirements?

Federal Regulation 2 CFR §200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms. (a)The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

(1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

(4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

(5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce ; and

(6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs(1) through (5) of this section.

YES

6
3**Indemnification**

The ESC Region 8 and TIPS is a Texas Political Subdivision and a local governmental entity; therefore, is prohibited from indemnifying third parties pursuant to the Texas Constitution (Article 3, Section 52) except as specifically provided by law or as ordered by a court of competent jurisdiction. A provision in a contract to indemnify or hold a party harmless is a promise to pay for any expenses the indemnified party incurs, if a specified event occurs, such as breaching the terms of the contract or negligently performing duties under the contract. Article III, Section 49 of the Texas Constitution states that "no debt shall be created by or on behalf of the State ... " The Attorney General has counseled that a contractually imposed obligation of indemnity creates a "debt" in the constitutional sense. Tex. Att'y Gen. Op. No. MW-475 (1982). Contract clauses which require the System or institutions to indemnify must be deleted or qualified with "to the extent permitted by the Constitution and Laws of the State of Texas." Liquidated damages, attorney's fees, waiver of vendor's liability, and waiver of statutes of limitations clauses should also be deleted or qualified with "to the extent permitted by the Constitution and laws of State of Texas."

Not a negotiable term. Failure to agree will render your proposal non-responsive and it will not be considered. Do you agree to these terms?

6
4**Remedies**

The parties shall be entitled to exercise any right or remedy available to it either at law or in equity, subject to the choice of law, venue and service of process clauses limitations agreed herein. Nothing in this agreement shall commit the TIPS to an arbitration resolution of any disagreement under any circumstances. Any Claim arising out of or related to the Contract, except for those specifically waived under the terms of the Contract, may, after denial of the Board of Directors, be subject to mediation at the request of either party. Any issues not resolved hereunder MAY be referred to non-binding mediation to be conducted by a mutually agreed upon mediator as a prerequisite to the filing of any lawsuit over such issue(s). The parties shall share the mediator's fee and any associated filing fee equally. Mediation shall be held in Camp or Titus County, Texas. Agreements reached in mediation shall be reduced to writing, and will be subject to the approval by the District's Board of Directors, signed by the Parties if approved by the Board of Directors, and, if signed, shall thereafter be enforceable as provided by the laws of the State of Texas.

Do you agree to these terms?

6
5**Remedies Explanation of No Answer**

6
6**Choice of Law**

The agreement between the Vendor and TIPS/ESC Region 8 and any addenda or other additions resulting from this procurement process, however described, shall be governed by, construed and enforced in accordance with the laws of the State of Texas, regardless of any conflict of laws principles.
THIS DOES NOT APPLY to a vendor's agreement entered into with a TIPS Member, as the Member may be located outside Texas.

Do you agree to these terms?

6
7**Venue, Jurisdiction and Service of Process**

Any Proceeding arising out of or relating to this procurement process or any contract issued by TIPS resulting from or any contemplated transaction shall be brought in a court of competent jurisdiction in Camp County, Texas and each of the parties irrevocably submits to the exclusive jurisdiction of said court in any such proceeding, waives any objection it may now or hereafter have to venue or to convenience of forum, agrees that all claims in respect of the Proceeding shall be heard and determined only in any such court, and agrees not to bring any proceeding arising out of or relating to this procurement process or any contract resulting from or any contemplated transaction in any other court. The parties agree that either or both of them may file a copy of this paragraph with any court as written evidence of the knowing, voluntary and freely bargained for agreement between the parties irrevocably to waive any objections to venue or to convenience of forum. Process in any Proceeding referred to in the first sentence of this Section may be served on any party anywhere in the world. Any dispute resolution process other than litigation shall have venue in Camp County or Titus County Texas.

Do you agree to these terms?

6
8**Infringement(s)**

The successful vendor will be expected to indemnify and hold harmless the TIPS and its employees, officers, agents, representatives, contractors, assignees and designees from any and all third party claims and judgments involving infringement of patent, copyright, trade secrets, trade or service marks, and any other intellectual or intangible property rights attributed to or claims based on the Vendor's proposal or Vendor's performance of contracts awarded and approved.

Do you agree to these terms?

6
9**Infringement(s) Explanation of No Answer**7
0**Contract Governance**

Any contract made or entered into by the TIPS is subject to and is to be governed by Section 271.151 et seq, Tex Loc Gov't Code. Otherwise, TIPS does not waive its governmental immunities from suit or liability except to the extent expressly waived by other applicable laws in clear and unambiguous language.

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Payment Terms and Funding Out Clause

Payment Terms:

TIPS or TIPS Members shall not be liable for interest or late payment fees on past-due balances at a rate higher than permitted by the laws or regulations of the jurisdiction of the TIPS Member.

Funding Out Clause:

Vendor agrees to abide by the laws and regulations, including Texas Local Government Code § 271.903, or any statutory or regulatory limitations of the jurisdiction of any TIPS Member which governs contracts entered into by the Vendor and TIPS or a TIPS Member that requires all contracts approved by TIPS or a TIPS Member are subject to the budgeting and appropriation of currently available funds by the entity or its governing body.

See statute(s) for specifics or consult your legal counsel.

Not a negotiable term. Failure to agree will render your proposal non-responsive and it will not be considered.

Do you agree to these terms?

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2

Insurance and Fingerprint Requirements Information

Insurance

If applicable and your staff will be on TIPS member premises for delivery, training or installation etc. and/or with an automobile, you must carry automobile insurance as required by law. You may be asked to provide proof of insurance.

Fingerprint

It is possible that a vendor may be subject to Chapter 22 of the Texas Education Code. The Texas Education Code, Chapter 22, Section 22.0834. Statutory language may be found at: <http://www.statutes.legis.state.tx.us/>

If the vendor has staff that meet both of these criterion:

(1) will have continuing duties related to the contracted services; and

(2) has or will have direct contact with students

Then you have "covered" employees for purposes of completing the attached form.

TIPS recommends all vendors consult their legal counsel for guidance in compliance with this law. If you have questions on how to comply, see below. If you have questions on compliance with this code section, contact the Texas Department of Public Safety Non-Criminal Justice Unit, Access and Dissemination Bureau, FAST-FACT at NCJU@txdps.state.tx.us and you should send an email identifying you as a contractor to a Texas Independent School District or ESC Region 8 and TIPS. Texas DPS phone number is (512) 424-2474.

See form in the next attribute to complete entitled:

Texas Education Code Chapter 22 Contractor Certification for Contractor Employees

Texas Education Code Chapter 22 Contractor Certification for Contractor Employees

Introduction: Texas Education Code Chapter 22 requires entities that contract with school districts to provide services to obtain criminal history record information regarding covered employees. Contractors must certify to the district that they have complied. Covered employees with disqualifying criminal histories are prohibited from serving at a school district.

Definitions: Covered employees: Employees of a contractor or subcontractor who have or will have continuing duties related to the service to be performed at the District and have or will have direct contact with students. The District will be the final arbiter of what constitutes direct contact with students. Disqualifying criminal history: Any conviction or other criminal history information designated by the District, or one of the following offenses, if at the time of the offense, the victim was under 18 or enrolled in a public school:

(a) a felony offense under Title 5, Texas Penal Code; (b) an offense for which a defendant is required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure; or (c) an equivalent offense under federal law or the laws of another state.

I certify that:

NONE (Section A) of the employees of Contractor and any subcontractors are covered employees, as defined above. If this box is checked, I further certify that Contractor has taken precautions or imposed conditions to ensure that the employees of Contractor and any subcontractor will not become covered employees. Contractor will maintain these precautions or conditions throughout the time the contracted services are provided.

OR

SOME (Section B) or all of the employees of Contractor and any subcontractor are covered employees. If this box is checked, I further certify that:

(1) Contractor has obtained all required criminal history record information regarding its covered employees. None of the covered employees has a disqualifying criminal history.

(2) If Contractor receives information that a covered employee subsequently has a reported criminal history, Contractor will immediately remove the covered employee from contract duties and notify the District in writing within 3 business days.

(3) Upon request, Contractor will provide the District with the name and any other requested information of covered employees so that the District may obtain criminal history record information on the covered employees.

(4) If the District objects to the assignment of a covered employee on the basis of the covered employee's criminal history record information, Contractor agrees to discontinue using that covered employee to provide services at the District.

Noncompliance or misrepresentation regarding this certification may be grounds for contract termination.

Some

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Texas Business and Commerce Code § 272 Requirements as of 9-1-2017

SB 807 prohibits construction contracts to have provisions requiring the contract to be subject to the laws of another state, to be required to litigate the contract in another state, or to require arbitration in another state. A contract with such provisions is voidable. Under this new statute, a "construction contract" includes contracts, subcontracts, or agreements with (among others) architects, engineers, contractors, construction managers, equipment lessors, or materials suppliers. "Construction contracts" are for the design, construction, alteration, renovation, remodeling, or repair of any building or improvement to real property, or for furnishing materials or equipment for the project. The term also includes moving, demolition, or excavation. BY RESPONDING TO THIS SOLICITATION, AND WHEN APPLICABLE, THE PROPOSER AGREES TO COMPLY WITH THE TEXAS BUSINESS AND COMMERCE CODE § 272 WHEN EXECUTING CONTRACTS WITH TIPS MEMBERS THAT ARE TEXAS GOVERNMENT ENTITIES.

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Texas Government Code 2270 Verification Form

Texas Government Code 2270 Verification Form

Texas 2017 House Bill 89 has been signed into law by the governor and as of September 1, 2017 will be codified as Texas Government Code § 2270 and 808 et seq.

The relevant section addressed by this form reads as follows:

Texas Government Code Sec. 2270.002. PROVISION REQUIRED IN CONTRACT. A governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract engaged by:

ESC Region 8/The Interlocal Purchasing System (TIPS)
4845 Highway 271 North
Pittsburg, TX, 75686

I verify by this writing that the above-named company affirms that it (1) does not boycott Israel; and (2) will not boycott Israel during the term of this contract, or any contract with the above-named Texas governmental entity in the future. I further affirm that if our company's position on this issue is reversed and this affirmation is no longer valid, that the above-named Texas governmental entity will be notified in writing within one (1) business day and we understand that our company's failure to affirm and comply with the requirements of Texas Government Code 2270 et seq. shall be grounds for immediate contract termination without penalty to the above-named Texas governmental entity.

AND

Our company is not listed on and we do not do business with companies that are on the the Texas Comptroller of Public Accounts list of Designated Foreign Terrorists Organizations per Texas Gov't Code 2270.0153 found at <https://comptroller.texas.gov/purchasing/docs/foreign-terrorist.pdf>

I swear and affirm that the above is true and correct.

YES

7
6**Logos and other company marks**

Please upload your company logo to be added to your individual profile page on the TIPS website. If any particular specifications are required for use of your company logo, please upload that information under the "Logo and Other Company Marks" section under the "Response Attachment" tab. Preferred Logo Format: 300 x 225 px - .png, .eps, .jpeg preferred

Potential uses of company logo:

* Your Vendor Profile Page of TIPS website

* Potentially on TIPS website scroll bar for Top Performing Vendors

* TIPS Quarterly eNewsletter sent to TIPS Members

* Co-branding Flyers and or email blasts to our TIPS Members (Permission and approval will be obtained before publishing)

7
7**Solicitation Deviation/Compliance**

Does the vendor agree with the General Conditions Standard Terms and Conditions or Item Specifications listed in this proposal invitation?

Yes

7
8**Solicitation Exceptions/Deviations Explanation**

If the bidder intends to deviate from the General Conditions Standard Terms and Conditions or Item Specifications listed in this proposal invitation, all such deviations must be listed on this attribute, with complete and detailed conditions and information included or attached.

TIPS will consider any deviations in its proposal award decisions, and TIPS reserves the right to accept or reject any bid based upon any deviations indicated below or in any attachments or inclusions.

In the absence of any deviation entry on this attribute, the proposer assures TIPS of their full compliance with the Standard Terms and Conditions, Item Specifications, and all other information contained in this Solicitation.

No response

7
9**Agreement Deviation/Compliance**

Does the vendor agree with the language in the Vendor Agreement?

Yes

8
0**Agreement Exceptions/Deviations Explanation**

If the proposing Vendor desires to deviate from the Vendor Agreement language, all such deviations must be listed on this attribute, with complete and detailed conditions and information included. TIPS will consider any deviations in its proposal award decisions, and TIPS reserves the right to accept or reject any proposal based upon any deviations indicated below. In the absence of any deviation entry on this attribute, the proposer assures TIPS of their full compliance with the Vendor Agreement.

No response

8
1**Felony Conviction Notice**

Texas Education Code, Section 44.034, Notification of Criminal History, Subsection (a), states "a person or business entity that enters into a contract with a school district must give advance notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony." Subsection (b) states "a school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract." (c) This section does not apply to a publicly held corporation. The person completing this proposal certifies that they are authorized to provide the answer to this question.

Select A., B. or C.

A. My firm is a publicly held corporation; therefore, this reporting requirement is not applicable.

OR B. My firm is not owned nor operated by anyone who has been convicted of a felony, OR

C. My firm is owned or operated by the following individual(s) who has/have been convicted of a felony. (if you answer C below, you are required to provide information in the next attribute.

B. Firm not owned nor operated by felon; per above

8
2**If you answered C. My Firm is owned or operated by a felon to the previous question, you are REQUIRED TO ANSWER THE FOLLOWING QUESTIONS.**

If you answered C. My Firm is owned or operated by a felon to the previous question, you must provide the following information.

1. Name of Felon(s)

2. The named person's role in the firm, and

3. Details of Conviction(s).

No response

8
3**Long Term Cost Evaluation Criterion # 4.**

READ CAREFULLY and see in the RFP document under "Proposal Scoring and Evaluation".

Points will be assigned to this criterion based on your answer to this Attribute. Points are awarded if you agree not increase your catalog prices (as defined herein) more than X% annually over the previous year for years two and three and potentially year four, unless an exigent circumstance exists in the marketplace and the excess price increase which exceeds X% annually is supported by documentation provided by you and your suppliers and shared with TIPS, if requested. If you agree NOT to increase prices more than 5%, except when justified by supporting documentation, you are awarded 10 points; if 6% to 14%, except when justified by supporting documentation, you receive 1 to 9 points incrementally. Price increases 14% or greater, except when justified by supporting documentation, receive 0 points.

increases will be 5% or less annually per question

8
4**Required Confidentiality Claim Form**

Required Confidentiality Claim Form

This completed form is required by TIPS. By submitting a response to this solicitation you agree to download from the "Attachments" section, complete according to the instructions on the form, then uploading the completed form, with any confidential attachments, if applicable, to the "Response Attachments" section titled "Confidentiality Form" in order to provide to TIPS the completed form titled, "CONFIDENTIALITY CLAIM FORM". By completing this process, you provide us with the information we require to comply with the open record laws of the State of Texas as they may apply to your proposal submission. If you do not provide the form with your proposal, an award will not be made if your proposal is qualified for an award, until TIPS has an accurate, completed form from you.

Read the form carefully before completing and if you have any questions, email Rick Powell at TIPS at

rick.powell@tips-usa.com

85 Choice of Law clauses with TIPS Members

If the vendor is awarded a contract with TIPS under this solicitation, the vendor agrees to make any Choice of Law clauses in any contract or agreement entered into between the awarded vendor and with a TIPS member entity to read as follows: "Choice of law shall be the laws of the state where the customer resides" or words to that effect.

86 Venue of dispute resolution with a TIPS Member

In the event of litigation or use of any dispute resolution model when resolving disputes with a TIPS member entity as a result of a transaction between the vendor and TIPS or the TIPS member entity, the Venue for any litigation or other agreed upon model shall be in the state and county where the customer resides unless otherwise agreed by the parties at the time the dispute resolution model is decided by the parties.

87 Automatic renewal of contracts or agreements with TIPS or a TIPS member entity

This clause **DOES NOT** prohibit multiyear contracts or agreements with TIPS member entities. Because TIPS and TIPS members are governmental entities subject to laws that control appropriations of funds during their fiscal years for contracts and agreements to provide goods and services, does the Vendor agree to limit any automatic renewal clauses of a contract or agreement executed as a result of this TIPS solicitation award to not longer than "month to month" and at the TIPS contracted rate.

88 Indemnity Limitation with TIPS Members

Texas and other states restrict by law or state Constitution the ability of a governmental entity to indemnify others. TIPS requires that any contract entered into between a vendor and TIPS or a TIPS Member as a result of an award under this Solicitation limit the requirement that the Customer indemnify the Vendor by either eliminating any such indemnity requirement clauses in any agreements, contracts or other binding documents **OR** by prefacing all indemnity clauses required of TIPS or the TIPS Member entity with the following: "To the extent permitted by the laws or the Constitution of the state where the customer resides, ".

Agreement is a required condition to award of a contract resulting from this Solicitation.

89 Arbitration Clauses

Except for certain circumstances, TIPS forbids a mandatory arbitration clause in any contract or agreement entered into between the awarded vendor with TIPS or a TIPS member entity. Does the vendor agree to exclude any arbitration requirement in any contracts or agreement entered into between TIPS or a TIPS member entity through an awarded contract with TIPS?

90 Required Vendor Sales Reporting

By responding to this Solicitation, you agree to report to TIPS all sales made under any awarded Agreement with TIPS. Vendor is required to report all sales under the TIPS contract to TIPS. If the TIPS Member entity requesting a price from the awarded Vendor requests the TIPS contract, Vendor must include the TIPS Contract number on any communications with the TIPS Member entity. If awarded, you will be provided access to the Vendor Portal. To report sales, login to the TIPS Vendor Portal and click on the PO's and Payments tab. Pages 3-7 of the [Vendor Portal User Guide](#) will walk you through the process of reporting sales to TIPS. Please refer to the TIPS [Accounting FAQ's](#) for more information about reporting sales and if you have further questions, contact the Accounting Team at accounting@tips-usa.com. The Vendor or vendor assigned dealers are responsible for keeping record of all sales that go through the TIPS Agreement and submitting same to TIPS.

REFERENCES

Please provide three (3) references, preferably from school districts or other governmental entities who have used your the last three years. Additional references may be required. DO NOT INCLUDE TIPS EMPLOYEES AS A REFERENCE.

You may provide more than three (3) references.

Entity Name	Contact Person	VALID EMAIL IS REQUIRED	Phone	Extension
Florida Atlantinc University	Judy Stanwyck	stanwyck@fau.edu	561-297-2608	
The University of Mississippi	Lorre Barrett	lbarrett@olemiss.edu	662-915-6767	
MTSU	Terri Carlton	terri.carlton@mtsu.edu	615-898-5345	898-5382
MTSU	Dianna Dennis	diana.dennis@mtsu.edu	615-898-5345	494-7660

Please provide a list of resellers the proposing company desires to be authorized to sell their products and services under the TIPS Agreement, if awarded.

Authorized Reselling Company Name	Full Address	City	State	Zip	Main Phone	Ext.1	Contact	Contact Ph	Ext	Contact Email	Website	Fax
(JCS) JIMENEZ CONTRACT SERVICES, LTD	1246 SILBER ROAD	HOUSTON	TX	77055	713-681-6407					AccountsPayable@j-c-s.com		713-681-8810
360 OFFICE SOLUTIONS	FKA REPORTER BIG SKY OFF	BILLINGS	MT	59107	406-248-7881					jeremyt@360-os.com		406-585-0091
A to Z FACILITY SOLUTIONS	100 BROADVIEW CT.	COLUMBIA	MO	65201	573-424-6789					as@atozfacilitiesolutions.com		
AC DESK	249 Elm Pl #2	MINEOLA	NY	11501	516-741-7979		Denise Ingerman			dringerman@acdeskonline.com		516-741-9391
ADVANTAGE OFFICE SOLUTIONS	65 LEGGETT DRIVE	VILLA RICA	GA	30180	770-830-6868					jan@usadvantage.net		770-830-7072
AFD CONTRACT FURNITURE INC.	810 SEVENTH AVENUE	NEW YORK	NY	10019	212-721-7100		Dionne Glen			dglen@afd-inc.com		
AFFINITY OFFICE FURNITURE	9430 N. HWY V V	COLUMBIA	MO	65202	573-442-9433					gene@affinityofficefurniture.com		573-449-0422
ALFRED WILLIAMS & CO	716 DIVISION STREET	NASHVILLE	TN	37203	615-244-0081		EMAIL INVOICES			dalcara@alfredwilliams.com		615-259-8181
ALFRED WILLIAMS & CO- NASHVILLE	716 DIVISION STREET	NASHVILLE	TN	37203	615-244-0081					CTITUS@ALFREDWILLIAMS.COM		615-259-8181
ALFRED WILLIAMS & COMPANY - RALEIGH	1853 CAPITAL BLVD.	RALEIGH	NC	27604-218	919-832-9570					lcaraz@alfredwilliams.com		919-832-7626
ALFRED WILLIAMS AND CO.- CHARLOTTE	505 SOUTH CEDAR STREET	CHARLOTTE	NC	28202	704-338-9373					WWW.ALFREDWILLIAMS.COM		704-332-5526
ALIANZA	74 N. BROADWAY 2ND FLOOR	NEW YORK	NY	10960	845-675-7337		Marcelo Reggiardo			mreggiardo@alianzacorp.com		845-675-7341
ALL MAKES - OMAHA	2558 FARNAM STREET	OMAHA	NE	68131-362	402-341-2413					dorism@allmakes.com		402-977-3013
ALLIED CORPORATE FURNITURE	3606 E HIGHLAND DRIVE	JONESBORO	AR	72401	(870) 931-9000					bill.little@alliedcorporatefurniture.com		870-932-6133
AMC TRANSFER	3580 OCEANSIDE RD UNIT 6	OCEANSIDE	NY	11572	516-599-0633		Nicole Diaks			ndiaks@amctransfer.org		
AMERICAN BUSINESS INTERIORS	AKA PERERS ENTERPRISES.	MELBOURNE	FL	32901	321-723-5003					joannew@abinteriors.com		321-984-4221
AMERICAN INTERIORS	302 S. BYRNE ROAD	TOLEDO	OH	43615	419-535-1808		Spring Johnson			sjohnson@amininteriors.com		419-535-1899
AMERICAN OFFICE - MD	309 NORTH CALVERT STREET	BALTIMORE	MD	21202	410.539.7529					apetrica@americanoffice.com		410.837.4952
AOI CORPORATION	8801 SOUTH 137TH CIRCLE	OMAHA	NE	68138	402-896-5520					dreese@aioicorp.com; customercare@aioicorp.com		402-896-9445
APG OFFICE FURNISHINGS	12075 NORTHWEST BLVD	CINCINNATI	OH	45246	513-621-3721					etaylor@apgof.com		513-346-2660
APG OFFICE FURNISHINGS - OH	12075 NORTHWEST BLVD	CINNINATI	OH	45246	513-621-9111					AP@APGOF.COM		513-621-3721
APPLIED ERGONOMICS	AKA JKM DESIGNS, INC.	LINCOLNWOOD	IL	60713	847-679-5148					MEBERVEIN@APPLIEDERGONOMICS.COM		
ARENSON OFFICE	115 BROADWAY	NEW YORK	NY	10010	212-991-4136		Rosmary Farrel			rfarrell@aof.com		
ARMSTRONG OFFICE CONCEPTS	1500 NORTH INTERSTATE 35E	CARROLLTON	TX	75006	469-568-6648					theresas@armstrongofficeconcepts.com		469-568-6650
ASSOCIATES PURCHASING	AKA FELTON BUCKLEY FINAN	LOS ANGELES	CA	90014	310-286-1800					bbattle@associatespurchasing.com		310-286-1511
AUBURN UNIVERSITY	FACILITIES DIVISION	AUBURN UNIVERSITY	AL	36849	334-844-7771							334-844-4306
AXIOS OFFICE SOLUTIONS INC.	9960 W. 191ST ST. STE N	MOKENA	IA	60448	708-479-6655					DFRAZIER@AXIOSOFFICE.COM		
B-AG CONTRACT	aka BEAUX-ARTS INSTALLATI	TAMPA	FL	33634	813-880-8686					dmorter@bagcontract.com		913-889-8757
BAKER STREET OFFICE FURNISHINGS CORP	PO BOX 10042	FORT WAYNE	IN	46850	260-424-8112					kelli@bakerstreetof.com		260-424-7630
BANK BUILDING CORPORATION	15450 SOUTH OUTER FORTY	CHESTERFIELD	MO	63017	636.898.8100					DSchoen@newground.com		636.898.8111
BAREFIELD & COMPANY	251 W SOUTH STREET	Jackson	MS	39203	(601) 354-4960					BBrown@barefield-co.co		
BARTH ASSOCIATES	2701 TARPLEY PLACE NW	KENNESAW	GA	30152	770-427-6019					COGAN01@AOL.COM		770-499-7699
BAYNE FURNITURE MFG	415 HARRIS CREEK TRAIL, SV	CLEVELAND	TN	37311	423-478-2672							
BEE CAVE CONTRACT, LLC	DBA OFFICE FURNITURE NOW	AUSTIN	TX	78745	512-448-3769		TIFFANY A/P			tiffany@officefurniturenow.com		512-444-2606
BELL YORKTOWN	333 ADAMS ST	BEDFORD HILLS	NY	10507	914-242-7474		Jeremy Mills			jeremy.mills@bellofficefurniture.com		
BENHAR OFFICE INTERIORS	148 W 37TH ST	NEW YORK	NY	10018	646-884-5263		Juliana Rath			j Rath@benharoffice.com		
BFI-LI	253-16 NORTHERN BLVD	LITTLE NECK	NY	11362	908-355-3400		Sharon Portnoy			sportnoy@bffurniture.com		
BGW ARCHITECTS II PC	2909 WASHINGTON BLVD	OGDEN	UT	84401	801-621-4781							801-622-8142
BIL OFFICE FURNITURE	6165 METROPOLITAN AVE	FLUSHING	NY	11379	718-417-0500		Stan Potash			stanley@bilofficefurniture.com		
BKM OFFICEWORKS	9201 SPECTRUM CENTER BLV	SAN DIEGO	CA	92123	858-569-4700							858-277-8931
BLUEPOINTE LLC	% RAY VAUGHN	OOLTEWAH	TN	37363	423-648-7018		PRE PAY			JudyVaughn@blue-pointe.com		423-648-7020
BURGESS AND COMPANY	2401 2ND AVE NORTH	BIRMINGHAM	AL	35203	205-870-7853					customerservice@burgessinteriors.com		205-731-2113

CERTIFICATION BY CORPORATE OFFERER

COMPLETE ONLY IF OFFERER IS A CORPORATION,

THE FOLLOWING CERTIFICATE SHOULD BE EXECUTED AND INCLUDED AS PART OF PROPOSAL FORM/PROPOSAL FORM.

OFFERER: Trearc Brands Inc dba eko - the craft of seating

(Name of Corporation)

I, Duff Jones, **certify that I am the Secretary of the Corporation**
 I, Name of Corporate Secretary)

named as **OFFERER** herein above; that

Dustin Jones

(Name of person who completed proposal document)

who signed the foregoing proposal on behalf of the corporation offerer is the authorized person that is acting as

co-owner and director business development

(Title/Position of person signing proposal/offer document within the corporation)

of the said Corporation; that said proposal/offer was duly signed for and in behalf of said corporation by authority of its governing body, and is within the scope of its corporate powers.

CORPORATE SEAL if available


SIGNATURE

04/10/20

DATE _____

Required Confidential Information Status Form

CONFIDENTIAL INFORMATION SUBMITTED IN RESPONSE TO COMPETITIVE PROCUREMENT REQUESTS OF EDUCATION SERVICE CENTER REGION 8 AND TIPS (ESC8) IS GOVERNED BY TEXAS GOVERNMENT CODE, CHAPTER 552

If you consider any portion of your proposal to be confidential information and not subject to public disclosure pursuant to Chapter 552 Texas Gov't Code or other law s , **you must attach a copy of all claimed confidential materials within your proposal and put this COMPLETED form as a cover sheet to said materials then scan, name "CONFIDENTIAL" and upload with your proposal submission.** (You must include all the confidential information in the submitted proposal. The copy uploaded is to indicate which material in your proposal, if any, you deem confidential in the event the receives a Public Information Request. ESC8 and TIPS will follow procedures of controlling statute s regarding any claim of confidentiality and shall not be liable for any release of information required by law. Upon your claim and your defense to the Office of Texas Attorney General is required to make the final determination whether the information submitted by you and held by ESC8 and TIPS is confidential and exempt from public disclosure.

Trearc Brands Inc dba eko - The Craft of Seating

Name of company

Dustin Jones

Printed Name and Title of authorized company officer declaring below the confidential status of material

145 Rymer Road

Cleveland

TN

37323

866.814.8356

Address

City

State

ZIP

Phone

ALL VENDORS MUST COMPLETE THE ABOVE SECTION.

I DO CLAIM parts of my proposal to be confidential and DO NOT desire to expressly waive a claim of confidentiality of all information contained within our response to the solicitation. The attached contains material from our proposal that I classify and deem confidential under Texas Gov't Code Sec. 552 or other law s) and I invoke my statutory rights to confidential treatment of the enclosed materials.


ATTACHED ARE COPIES OF _____ PAGES OF CLAIMED CONFIDENTIAL MATERIAL FROM OUR PROPOSAL THAT WE DEEM TO BE NOT PUBLIC INFORMATION AND WILL DEFEND THAT CLAIM TO THE TEXAS ATTORNEY GENERAL IF REQUESTED WHEN A PUBLIC INFORMATION REQUEST IS MADE FOR OUR PROPOSAL.

Signature _____ Date 04/10/20

OR -----

I DO NOT CLAIM any of my proposal to be confidential, complete the section below.

Express Waiver: I desire to expressly waive any claim of confidentiality as to any and all information contained within our response to the competitive procurement process (e.g. RFP, CSP, Bid, RFQ, etc.) by completing the following and submitting this sheet with our response to Education Service Center Region 8 and TIPS.

Signature  _____ Date 04/10/20

TIPS VENDOR AGREEMENT

Between Leland International (DBA Leland Furniture) and
(Company Name)

THE INTERLOCAL PURCHASING SYSTEM (TIPS),
a Department of Texas Education Service Center Region 8 for
TIPS RFP 210305 Furniture, Furnishings, and Services

General Information

The Vendor Agreement ("Agreement") made and entered into by and between The Interlocal Purchasing System (hereinafter "TIPS") a government cooperative purchasing program authorized by the Region 8 Education Service Center, having its principal place of business at 4845 US Hwy 271 North, Pittsburg, Texas 75686 and the TIPS Vendor. This Agreement consists of the provisions set forth below, including provisions of all attachments referenced herein. In the event of a conflict between the provisions set forth below and those contained in any attachment, the provisions set forth shall control unless otherwise agreed by the parties in writing and by signature and date on the attachment.

A Purchase Order ("PO"), Agreement or Contract is the TIPS Member's approval providing the authority to proceed with the negotiated delivery order under the Agreement. Special terms and conditions as agreed between the Vendor and TIPS Member should be added as addendums to the Purchase Order, Agreement or Contract. Items such as certificate of insurance, bonding requirements, small or disadvantaged business goals are some, but not all, of the possible addendums.

Terms and Conditions

Freight

All quotes to Members shall provide a line item for cost for freight or shipping regardless if there is a charge or not. If no charge for freight or shipping, indicate by stating "No Charge", "\$0", "included in price" or other similar indication. Otherwise, all shipping, freight or delivery charges shall be passed through to the TIPS Member at cost with no markup and said charges shall be agreed by the TIPS Member unless alternative shipping terms are agreed by TIPS as a result of the proposal award.

Warranty Conditions

All new supplies equipment and services shall include manufacturer's minimum standard warranty unless otherwise agreed to in writing. Vendor shall be legally permitted to sell all products offered for sale to TIPS Members if the offering is included in the Request for Proposal ("RFP") category. All goods proposed and sold shall be new unless clearly stated in writing.

Customer Support

The Vendor shall provide timely and accurate customer support for orders to TIPS Members as agreed by the Parties. Vendors shall respond to such requests within a commercially reasonable time after receipt of the request. If support and/or training is a line item sold or packaged with a sale, support shall be as agreed with the TIPS Member.

Agreements

Agreements for purchase will normally be put into effect by means of a purchase order(s) executed by authorized agents of the TIPS Member participating government entities, but other means of placing an order may be used at the Member's discretion.

Tax exempt status

Most TIPS Members are tax exempt and the related laws and/or regulations of the controlling jurisdiction(s) of the TIPS Member shall apply.

Assignments of Agreements

No assignment of this Agreement may be made without the prior notification of TIPS. Written approval of TIPS shall not be unreasonably withheld. Payment for delivered goods and services can only be made to the awarded Vendor, Vendor designated reseller or vendor assigned company.

Disclosures

- Vendor and TIPS affirm that he/she, or any authorized employees or agents, has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with this Agreement.
- Vendor shall attach, in writing, a complete description of any and all relationships that might be considered a conflict of interest in doing business with the TIPS program.
- The Vendor affirms that, to the best of his/her knowledge, the offer has been arrived at independently, and is submitted without collusion with anyone to obtain information or gain any favoritism that would in any way limit competition or give an unfair advantage over other vendors in the award of this Agreement.

Term of Agreement and Renewals

The Agreement with TIPS is for approximately five (5) years with an option for renewal for an additional one (1) consecutive year. If TIPS offers the renewal extension year, the Vendor will be notified by email to the primary contact of the awarded Vendor and shall be deemed accepted by the Vendor unless the awarded Vendor notifies TIPS of its objection to the additional term. TIPS may or may not exercise the available extension(s) provided in the original solicitation beyond the base five-year term. Whether or not to offer the extension is at the sole discretion of TIPS.

"Start Date" for Term Calculation Purposes Only: Regardless of actual award/effective date of Contract, for Agreement "term" calculation purposes only, the Agreement "start date" is the last day of the month that Award Notifications are anticipated as published in the Solicitation

Example: *If the anticipated award date published in the Solicitation is May 22, 2020 but extended negotiations delay award until June 27, 2020. The end date of the resulting initial "five-year" term Agreement, (which is subject to an extension(s)) will still be May 31, 2025.*

"Termination Date": The scheduled Agreement "termination date" shall be the last day of the month of the month of the Original Solicitation's Anticipated Award Date plus five years.

Example: *If the original term is approximately five years, and the solicitation provides an anticipated award date of May 22, 2020, the expiration date of the original five-year term shall be May 31, 2025.*

Extensions: Any extensions of the original term shall begin on the next day after the day the original term expires.

Example Following the Previous Example: *If TIPS offers a one-year extension, the expiration of the extended term shall be May 31, 2026.*

TIPS may offer to extend Vendor Agreements to the fullest extent the original Solicitation permits.

Automatic Renewal Clauses Incorporated in Awarded Vendor Agreements with TIPS Members Resulting from the Solicitation and with the Vendor Named in this Agreement.

No Agreement for goods or services with a TIPS Member by the awarded vendor named in this Agreement that results from the solicitation award named in this Agreement, may incorporate an automatic renewal clause that exceeds month to month terms with which the TIPS Member must comply. All renewal terms incorporated in an Agreement by the vendor with the TIPS Member shall only be valid and enforceable when the vendor receives written confirmation by purchase order, executed Agreement or other written instruction issued by the TIPS Member for any renewal period. The purpose of this clause is to avoid a TIPS Member inadvertently renewing an Agreement during a period in which the governing body of the TIPS Member has not properly appropriated and budgeted the funds to satisfy the Agreement renewal. This term is not negotiable and any Agreement between a TIPS Member and a TIPS awarded vendor with an automatic renewal clause that conflicts with these terms is rendered void and unenforceable.

Shipments

The Vendor shall ship, deliver or provide ordered products or services within a commercially reasonable time after the receipt of the order from the TIPS Member. If a delay in said delivery is anticipated, the Vendor shall notify TIPS Member as to why delivery is delayed and shall provide an estimated time for completion of the order. TIPS or the requesting entity may cancel the order if estimated delivery time is not acceptable or not as agreed by the parties.

Invoices

Each invoice or pay request shall include the TIPS Member's purchase order number or other identifying designation as provided in the order by the TIPS Member. If applicable, the shipment tracking number or pertinent information for verification of TIPS Member receipt shall be made available upon request.

Payments

The TIPS Member will make payments directly to the Vendor, the Vendor Assigned Dealer or as agreed by the Vendor and the TIPS Member after receiving invoice and in compliance with applicable payment statute(s), whichever is the greater time or as otherwise provided by an agreement of the parties.

Pricing

Price increases will be honored according to the terms of the solicitation. All pricing submitted to TIPS shall include the participation fee, as provided in the solicitation, to be remitted to TIPS by the Vendor. Vendor will not show adding the fee to the invoice presented to TIPS Member customer.

Participation Fees and Reporting of Sales to TIPS by Vendor

The Participation Fee that was published as part of the Solicitation and the fee published is the legally effective fee, along with any fee conditions stated in the Solicitation. Collection of the fees by TIPS is required under Texas Government Code §791.011 Et seq. Fees are due on all TIPS purchases reported by either Vendor or Member. Fees are due to TIPS upon payment by the Member to the Vendor, Reseller or Vendor Assigned

Dealer. Vendor, Reseller or Vendor Assigned Dealer agrees that the participation fee is due to TIPS for all Agreement sales immediately upon receipt of payment including partial payment, from the Member Entity and must be paid to TIPS at least on a monthly basis, specifically within 31 calendar days of receipt of payment, if not more frequently, or as otherwise agreed by TIPS in writing and signed by an authorized signatory of TIPS. Thus, when an awarded Vendor, Reseller or Vendor Assigned Dealer receives any amount of payment, even partial payment, for a TIPS sale, the legally effective fee for that amount is immediately due to TIPS from the Vendor and fees due to TIPS should be paid at least on a monthly basis, specifically within 31 calendar days of receipt of payment, if not more frequently.

Reporting of Sales to TIPS by Vendor

Vendor is required to report all sales under the TIPS contract to TIPS. When a public entity initiates a purchase with a TIPS Awarded Vendor, if the Member inquires verbally or in writing whether the Vendor holds a TIPS Contract, it is the duty of the Vendor to verify whether or not the Member is seeking a TIPS purchase. Once verified, the Vendor must include the TIPS Contract number on any communications and related sales documents exchanged with the TIPS Member entity. To report sales, the Vendor must login to the TIPS Vendor Portal online at https://www.tips-usa.com/vendors_form.cfm and click on the PO's and Payments tab. Pages 3-7 of the [Vendor Portal User Guide](#) will walk you through the process of reporting sales to TIPS. Please refer to the TIPS [Accounting FAQ's](#) for more information about reporting sales and if you have further questions, contact the Accounting Team at accounting@tips-usa.com. The Vendor or vendor assigned dealers are responsible for keeping record of all sales that go through the TIPS Agreement and submitting same to TIPS. Failure to render the participation fee to TIPS shall constitute a breach of this agreement with our parent governmental entity, Texas Education Service Center Region 8, as established by the Texas legislature and shall be grounds for termination of this agreement and any other agreement held with TIPS and possible legal action. Any overpayment of participation fees to TIPS by a Vendor will be refunded to the Vendor within ninety (90) days of receipt of notification if TIPS receives written notification of the overpayment not later than the expiration of six (6) months from the date of overpayment and TIPS determines that the amount was not legally due to TIPS pursuant to this agreement and applicable law. It is the Vendor's responsibility to identify which sales are TIPS Agreement sales and pay the correct participation fee due for TIPS Agreement sales. Any notification of overpayment received by TIPS after the expiration of six (6) months from the date of overpayment will be non-refundable. Region 8 ESC and TIPS reserve the right to extend the six (6) month deadline to notify if approved by the Region 8 ESC Board of Directors. TIPS reserves all rights under the law to collect the fees due. Please contact TIPS at tips@tips-usa.com or call (866) 839-8477 if you have questions about paying fees.

Indemnity

The Vendor agrees to indemnify and hold harmless and defend TIPS, TIPS Member(s), officers and employees from and against all claims and suits by third parties for damages, injuries to persons (including death), property damages, losses, and expenses including court costs and reasonable attorney's fees, arising out of, or resulting from, Vendor's performance under this Agreement, including all such causes of action based upon common, constitutional, or statutory law, or based in whole or in part, upon allegations of negligent or intentional acts on the part of the Vendor, its officers, employees, agents, subcontractors, licensees, or invitees. Parties found liable shall pay their proportionate share of damages as agreed by the parties or as ordered by a court of competent jurisdiction over the case. **NO LIMITATION OF LIABILITY FOR DAMAGES FOR PERSONAL INJURY OR PROPERTY DAMAGE ARE PERMITTED OR AGREED BY TIPS/ESC REGION 8.** Per Texas Education Code §44.032(f), and pursuant to its requirements only, reasonable Attorney's fees are recoverable by the prevailing party in any dispute resulting in litigation.

State of Texas Franchise Tax

By signature hereon, the Vendor hereby certifies that he/she is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171, Tax Code.

Miscellaneous

The Vendor acknowledges and agrees that continued participation in TIPS is subject to TIPS sole discretion and that any Vendor may be removed from the participation in the Program at any time with or without cause. Nothing in the Agreement or in any other communication between TIPS and the Vendor may be construed as a guarantee that TIPS or TIPS Members will submit any orders at any time. TIPS reserves the right to request additional proposals for items or services already on Agreement at any time.

Purchase Order Pricing/Product Deviation

If a deviation of pricing/product on a Purchase Order or contract modification occurs between the Vendor and the TIPS Member, TIPS must be notified within five (5) business days of receipt of change order.

Termination for Convenience of TIPS Agreement Only

TIPS reserves the right to terminate this agreement for cause or no cause for convenience with a thirty (30) days prior written notice. Termination for convenience is conditionally required under Federal Regulations 2 CFR part 200 if the customer is using federal funds for the procurement. All purchase orders presented to the Vendor, but not fulfilled by the Vendor, by a TIPS Member prior to the actual termination of this agreement shall be honored at the option of the TIPS Member. The awarded Vendor may terminate the agreement with ninety (90) days prior written notice to TIPS 4845 US Hwy North, Pittsburg, Texas 75686. The vendor will be paid for goods and services delivered prior to the termination provided that the goods and services were delivered in accordance with the terms and conditions of the terminated agreement. This termination clause does not affect the sales agreements executed by the Vendor and the TIPS Member customer pursuant to this agreement. TIPS Members may negotiate a termination for convenience clause that meets the needs of the transaction based on applicable factors, such as funding sources or other needs.

TIPS Member Purchasing Procedures

Usually, purchase orders or their equal are issued by participating TIPS Member to the awarded vendor and should indicate on the order that the purchase is per the applicable TIPS Agreement Number. Orders are typically emailed to TIPS at tipspo@tips-usa.com.

- Awarded Vendor delivers goods/services directly to the participating member.
- Awarded Vendor invoices the participating TIPS Member directly.
- Awarded Vendor receives payment directly from the participating member.
- Fees are due to TIPS upon payment by the Member to the Vendor. Vendor agrees to pay the participation fee to TIPS for all Agreement sales upon receipt of payment including partial payment, from the Member Entity or as otherwise agreed by TIPS in writing and signed by an authorized signatory of TIPS.

Licenses

Awarded Vendor shall maintain, in current status, all federal, state and local licenses, bonds and permits required for the operation of the business conducted by awarded Vendor. Awarded Vendor shall remain reasonably fully informed of and in compliance with all ordinances and regulations pertaining to the lawful provision of goods or services under the Agreement. TIPS and TIPS Members reserves the right to stop work and/or cancel an order or terminate this or any other sales Agreement of any awarded Vendor whose license(s) required for performance under this Agreement have expired, lapsed, are suspended or terminated subject to a 30-day cure period unless prohibited by applicable statute or regulation.

Novation

If awarded Vendor sells or transfers all assets, rights or the entire portion of the assets or rights required to perform this Agreement, a successor in interest must guarantee to perform all obligations under this Agreement. A simple change of name agreement will not change the Agreement obligations of awarded vendor. TIPS will consider Contract Assignments on a case by case basis. TIPS must be notified within five (5) business days of the transfer of assets or rights.

Site Requirements (*only when applicable to service or job*)

Cleanup: When performing work on site at a TIPS Member's property, awarded Vendor shall clean up and remove all debris and rubbish resulting from their work as required or directed by TIPS Member or as agreed by the parties. Upon completion of work, the premises shall be left in good repair and an orderly, neat, clean and unobstructed condition.

Preparation: Awarded Vendor shall not begin a project for which TIPS Member has not prepared the site, unless awarded Vendor does the preparation work at no cost, or until TIPS Member includes the cost of site preparation in a purchase order. Site preparation includes, but is not limited to: moving furniture, installing wiring for networks or power, and similar pre-installation requirements.

Registered sex offender restrictions: For work to be performed at schools, awarded Vendor agrees that no employee of a subcontractor who has been adjudicated to be a registered sex offender will perform work at any time when students are, or reasonably expected to be, present unless otherwise agreed by the TIPS Member. Awarded Vendor agrees that a violation of this condition shall be considered a material breach and may result in the cancellation of the purchase order at the TIPS Member's discretion. Awarded Vendor must identify any additional costs associated with compliance of this term. If no costs are specified, compliance with this term will be provided at no additional charge. **Safety measures:** Awarded Vendor shall take all reasonable precautions for the safety of employees on the worksite, and shall erect and properly maintain all necessary safeguards for protection of workers and the public. Awarded Vendor shall post warning signs against all hazards created by the operation and work in progress. Proper precautions shall be taken pursuant to state law and standard practices to protect workers, general public and existing structures from injury or damage.

Safety Measures

Awarded Vendor shall take all reasonable precautions for the safety of employees on the worksite, and shall erect and properly maintain all necessary safeguards for protection of workers and the public. Awarded vendor shall post warning signs against all hazards created by the operation and work in progress. Proper precautions shall be taken pursuant to state law and standard practices to protect workers, general public and existing structures from injury or damage.

Smoking

Persons working under Agreement shall adhere to the TIPS Member's or local smoking statutes, codes or policies.

Marketing

Awarded Vendor agrees to allow TIPS to use their name and logo within TIPS website, marketing materials and advertisement subject to any reasonable restrictions provided to TIPS in the Proposal to the Solicitation. The Vendor may submit an acceptable use directive for Vendor's names and logos with which TIPS agrees to comply. Any use of TIPS name and logo or any form of publicity, inclusive of press release, regarding this Agreement by awarded vendor must have prior approval from TIPS which will not be unreasonably withheld. Request may be made by email to TIPS@TIPS-USA.COM.

Supplemental Agreements

The TIPS Member entity participating in the TIPS Agreement and awarded Vendor may enter into a separate Supplemental Agreement or contract to further define the level of service requirements over and above the minimum defined in this Agreement such as but not limited to, invoice requirements, ordering requirements, specialized delivery, etc. Any Supplemental Agreement or contract developed as a result of this Agreement is exclusively between the TIPS Member entity customer and the Vendor. TIPS, its agents, TIPS Members and employees not a party to the Supplemental Agreement with the TIPS Member customer, shall not be made party to any claim for breach of such agreement unless named and agreed by the Party in question in writing in the agreement. If a Vendor submitting a Proposal requires TIPS and/or TIPS Member to sign an additional agreement, those agreements shall comply with the award made by TIPS to the Vendor. Supplemental Vendor's Agreement documents may not become part of TIPS' Agreement with Vendor unless and until an authorized representative of TIPS reviews and approves it. TIPS review and approval may be at any time during the life of this Vendor Agreement. TIPS permits TIPS Members to negotiate additional terms and conditions with the Vendor for the provision of goods or services under the Vendor's TIPS Agreement so long as they do not materially conflict with this Agreement.

Survival Clause

All applicable sales, leases, Supplemental Agreements, contracts, software license agreements, warranties or service agreements that were entered into between Vendor and TIPS or the TIPS Member Customer under the terms and conditions of this Agreement shall survive the expiration or termination of this Agreement. All Orders, Purchase Orders issued or contracts executed by TIPS or a TIPS Member and accepted by the Vendor prior to the expiration or termination of this agreement, shall survive expiration or termination of the Agreement, subject to previously agreed terms and conditions agreed by the parties or as otherwise specified herein relating to termination of this agreement.

Legal obligations

It is the responding Vendor's responsibility to be aware of and comply with all local, state and federal laws governing the sale of products/services identified in the applicable Solicitation that resulted in this Vendor Agreement and any awarded Agreement thereof. Applicable laws and regulations must be followed even if not specifically identified herein.

Audit rights

Due to transparency statutes and public accountability requirements of TIPS and TIPS Members', the awarded Vendor shall, at their sole expense, maintain appropriate due diligence of all purchases made by TIPS Member that utilizes this Agreement. TIPS and Region 8 ESC each reserve the right to audit the accounting of TIPS related purchases for a period of three (3) years from the time such purchases are made. This audit right shall survive termination of this Agreement for a period of one (1) year from the effective date of termination. In order to ensure and confirm compliance with this agreement, TIPS shall have authority to conduct audits of Awarded Vendor's pricing or TIPS transaction documentation with TIPS Members with 30 days' notice unless the audit is ordered by a Court Order or by a Government Agency with authority to do so without notice. Notwithstanding the foregoing, in the event that TIPS is made aware of any pricing being offered to eligible entities that is materially inconsistent with the pricing under this agreement, TIPS shall have the ability to conduct the audit internally or may engage a third- party auditing firm to investigate any possible non- compliant conduct or may terminate the Agreement according to the terms of this Agreement. In the event of an audit, the requested materials shall be reasonably provided in the time, format and at the location acceptable to Region 8 ESC or TIPS. TIPS agrees not to perform a random audit the TIPS transaction documentation more than once per calendar year, but reserves the right to audit

for just cause or as required by any governmental agency or court with regulatory authority over TIPS or the TIPS Member.

Force Majeure

If by reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement then such party shall give notice and full particulars of Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch.

Choice of Law

The Agreement between the Vendor and TIPS/ESC Region 8 and any addenda or other additions resulting from this procurement process, however described, shall be governed by, construed and enforced in accordance with the laws of the State of Texas, regardless of any conflict of laws principles.

Venue, Jurisdiction and Service of Process

Any Proceeding arising out of or relating to this procurement process or any contract issued by TIPS resulting from or any contemplated transaction shall be brought in a court of competent jurisdiction in Camp County, Texas and each of the parties irrevocably submits to the exclusive jurisdiction of said court in any such proceeding, waives any objection it may now or hereafter have to venue or to convenience of forum, agrees that all claims in respect of the Proceeding shall be heard and determined only in any such court, and agrees not to bring any proceeding arising out of or relating to this procurement process or any contract resulting from or any contemplated transaction in any other court. The parties agree that either or both of them may file a copy of this paragraph with any court as written evidence of the knowing, voluntary and freely bargained for agreement between the parties irrevocably to waive any objections to venue or to convenience of forum. Process in any Proceeding referred to in the first sentence of this Section may be served on any party anywhere in the world. Venue for any dispute resolution process, other than litigation, between TIPS and the Vendor shall be located in Camp or Titus County, Texas.

Project Delivery Order Procedures

The TIPS Member having approved and signed an interlocal agreement, or other TIPS Membership document, may make a request of the awarded Vendor under this Agreement when the TIPS Member desires goods or services awarded to the Vendor. Notification may occur via phone, the web, courier, email, fax, or in person. Upon notification of a pending request, the awarded Vendor shall acknowledge the TIPS Member's request as soon as possible, but must make contact with the TIPS Member within two working days.

Status of TIPS Members as Related to This Agreement

TIPS Members stand in the place of TIPS as related to this agreement and have the same access to the proposal information and all related documents. TIPS Members have all the same rights under the awarded Agreement as TIPS.

Vendor's Resellers as Related to This Agreement

Vendor's Named Resellers ("Resellers") under this Agreement shall comply with all terms and conditions of this agreement and all addenda or incorporated documents. All actions related to sales by Authorized Vendor's Resellers under this Agreement are the responsibility of the awarded Vendor. If Resellers fail to

report sales to TIPS under your Agreement, the awarded Vendor is responsible for their contractual failures and shall be billed for the fees. The awarded Vendor may then recover the fees from their named reseller.

Support Requirements

If there is a dispute between the awarded Vendor and TIPS Member, TIPS or its representatives may, at TIPS sole discretion, assist in conflict resolution if requested by either party. TIPS, or its representatives, reserves the right to inspect any project and audit the awarded Vendor's TIPS project files, documentation and correspondence related to the requesting TIPS Member's order. If there are confidentiality requirements by either party, TIPS shall comply to the extent permitted by law.

Incorporation of Solicitation

The TIPS Solicitation which resulted in this Vendor Agreement, whether a Request for Proposals, the Request for Competitive Sealed Proposals or Request for Qualifications solicitation, or other, the Vendor's response to same and all associated documents and forms made part of the solicitation process, including any addenda, are hereby incorporated by reference into this Agreement as if copied verbatim.

SECTION HEADERS OR TITLES

THE SECTION HEADERS OR TITLES WITHIN THIS DOCUMENT ARE MERELY GUIDES FOR CONVENIENCE AND ARE NOT FOR CLASSIFICATION OR LIMITING OF THE RESPONSIBILITIES OF THE PARTIES TO THIS DOCUMENT.

STATUTORY REQUIREMENTS

Texas governmental entities are prohibited from doing business with companies that fail to certify to this condition as required by Texas Government Code Sec. 2270.

By executing this agreement, you certify that you are authorized to bind the undersigned Vendor and that your company (1) does not boycott Israel; and (2) will not boycott Israel during the term of the Agreement.

You certify that your company is not listed on and does not and will not do business with companies that are on the Texas Comptroller of Public Accounts list of Designated Foreign Terrorists Organizations per Texas Gov't Code 2270.0153 found at <https://comptroller.texas.gov/purchasing/docs/foreign-terrorist.pdf>

You certify that if the certified statements above become untrue at any time during the life of this Agreement that the Vendor will notify TIPS within three (3) business day of the change by a letter on Vendor's letterhead from and signed by an authorized representative of the Vendor stating the non-compliance decision and the TIPS Agreement number and description at:

Attention: General Counsel
ESC Region 8/The Interlocal Purchasing System (TIPS)
4845 Highway 271 North
Pittsburg, TX, 75686
And by an email sent to bids@tips-usa.com

Insurance Requirements

The undersigned Vendor agrees to maintain the below minimum insurance requirements for TIPS Contract Holders:

General Liability	\$1,000,000 each Occurrence/ Aggregate
Automobile Liability	\$300,000 Includes owned, hired & non-owned
Workers' Compensation	Statutory limits for the jurisdiction in which the Vendor performs under this Agreement.
Umbrella Liability	\$1,000,000

When the Vendor or its subcontractors are liable for any damages or claims, the Vendor's policy, when the Vendor is responsible for the claim, must be primary over any other valid and collectible insurance carried by the Member. Any immunity available to TIPS or TIPS Members shall not be used as a defense by the contractor's insurance policy. The coverages and limits are to be considered minimum requirements and in no way limit the liability of the Vendor(s). Insurance shall be written by a carrier with an A-; VII or better rating in accordance with current A.M. Best Key Rating Guide. Only deductibles applicable to property damage are acceptable, unless proof of retention funds to cover said deductibles is provided. "Claims made" policies will not be accepted. Vendor's required minimum coverage shall not be suspended, voided, cancelled, non-renewed or reduced in coverage or in limits unless replaced by a policy that provides the minimum required coverage except after thirty (30) days prior written notice by certified mail, return receipt requested has been given to TIPS or the TIPS Member if a project or pending delivery of an order is ongoing. Upon request, certified copies of all insurance policies shall be furnished to the TIPS or the TIPS Member.

Special Terms and Conditions

- **Orders:** All Vendor orders received from TIPS Members must be emailed to TIPS at tipspo@tips-usa.com. Should a TIPS Member send an order directly to the Vendor, it is the Vendor's responsibility to forward a copy of the order to TIPS at the email above within 3 business days and confirm its receipt with TIPS.
- **Vendor Encouraging Members to bypass TIPS agreement:** Encouraging TIPS Members to purchase directly from the Vendor or through another agreement, when the Member has requested using the TIPS cooperative Agreement or price, and thereby bypassing the TIPS Agreement is a violation of the terms and conditions of this Agreement and will result in removal of the Vendor from the TIPS Program.
- **Order Confirmation:** All TIPS Member Agreement orders are approved daily by TIPS and sent to the Vendor. The Vendor should confirm receipt of orders to the TIPS Member (customer) within 3 business days.
- **Vendor custom website for TIPS:** If Vendor is hosting a custom TIPS website, updated pricing when effective. TIPS shall be notified when prices change in accordance with the award.
- **Back Ordered Products:** If product is not expected to ship within the time provided to the TIPS Member by the Vendor, the Member is to be notified within 3 business days and appropriate action taken based on customer request.

The TIPS Vendor Agreement Signature Page is inserted here.

TIPS Vendor Agreement Signature Form

RFP 210305 Furniture, Furnishings, and Services

Company Name Leland International, Inc. DBA Leland Furniture

Address 5695 Eagle Dr SE

City Grand Rapids State MI Zip 49512

Phone 616-975-9260 Fax 616-975-9280

Email of Authorized Representative schandonnet@lelandfurniture.com

Name of Authorized Representative Stephanie Chandonnet

Title Sales Support Rep/Contract Administrator

Signature of Authorized Representative Stephanie Chandonnet

Date 03/30/2021

TIPS Authorized Representative Name David Fitts

Title Executive Director

TIPS Authorized Representative Signature David Wayne Fitts

Approved by ESC Region 8 David Wayne Fitts

Date 5/26/2021

NOTICE TO MEMBERS REGARDING ATTRIBUTE RESPONSES

TIPS VENDORS RESPOND TO ATTRIBUTE QUESTIONS AS PART OF TIPS COMPETITIVE SOLICITATION PROCESS. THE VENDOR'S RESPONSES TO ATTRIBUTE QUESTIONS ARE INCLUDED HEREIN AS "SUPPLIER RESPONSE." PLEASE BE ADVISED THAT DEVIATIONS, IF ANY, IN VENDOR'S RESPONSE TO ATTRIBUTE QUESTIONS MAY NOT REFLECT VENDOR'S FINAL ATTRIBUTE RESPONSE, WHICH IS SUBJECT TO NEGOTIATIONS PRIOR TO AWARD. PLEASE CONTACT THE TIPS OFFICE AT 866-839-8477 WITH QUESTIONS OR CONCERNS REGARDING VENDOR ATTRIBUTE RESPONSE DEVIATIONS. PLEASE KEEP IN MIND THAT TIPS DOES NOT PROVIDE LEGAL COUNSEL TO MEMBERS. TIPS RECOMMENDS THAT YOU CONSULT YOUR LEGAL COUNSEL WHEN EXECUTING CONTRACTS WITH OR MAKING PURCHASES FROM TIPS VENDORS.



210305

Leland Furniture Supplier Response

Event Information

Number: 210305
Title: Furniture, Furnishings, and Services
Type: Request for Proposal
Issue Date: 3/4/2021
Deadline: 4/16/2021 03:00 PM (CT)
Notes:

IF YOU ALREADY HOLD TIPS CONTRACT 200301 FURNITURE, FURNISHINGS AND SERVICES ("200301"), YOU DO NOT NEED TO RESPOND TO THIS SOLICITATION UNLESS YOU WISH TO REPLACE 200301 AT THIS TIME. IF YOU HOLD 200301, CHOOSE TO RESPOND HEREIN, AND ARE AWARDED ON THIS CONTRACT, YOUR 200301 WILL BE TERMINATED AND REPLACED BY THIS CONTRACT.

Contact Information

Address: Region 8 Education Service Center
4845 US Highway 271 North
Pittsburg, TX 75686
Phone: +1 (866) 839-8477
Email: bids@tips-usa.com

Leland Furniture Information

Address: 5695 Eagle Drive SE
Grand Rapids, MI 49512
Phone: (616) 975-9260

By submitting your response, you certify that you are authorized to represent and bind your company.

Stephanie Chandonnet
Signature

schandonnet@lelandfurniture.com
Email

Submitted at 3/30/2021 9:18:38 AM

Requested Attachments

Vendor Agreement

08_210305 Vendor Agreement.pdf

The vendor must download the Vendor Agreement from the attachment tab, fill in the requested information and upload the completed agreement.
DO NOT UPLOAD encrypted or password protected files.

Agreement Signature Form

09_210305 Agreement Signature Form.pdf

If you have not taken exception or deviation to the agreement language in the solicitation attributes, download the AGREEMENT SIGNATURE FORM from the "ATTACHMENTS" tab. This PDF document is a fillable form. Download the document to your computer, fill in the requested company information, print the file, SIGN the form, SCAN the completed and signed AGREEMENT SIGNATURE FORM, and upload here.

If you have taken exception to any of the agreement language and noted the exception in the deviations section of the attributes for the agreement, complete the AGREEMENT SIGNATURE FORM, but DO NOT SIGN until those deviations have been negotiated and resolved with TIPS management. Upload the unsigned form here, because this is a required document.

Pricing Form 1

04_210305 Pricing Form 1.xlsx

The vendor must download the PRICING SPREADSHEET SHEET from the attachment tab, fill in the requested information and upload the completed spreadsheet.
DO NOT UPLOAD encrypted or password protected files.

Pricing Form 2

06_210305 Pricing Form 2.xlsx

The vendor must download the PRICING SPREADSHEET SHEET from the attachment tab, fill in the requested information and upload the completed spreadsheet.
DO NOT UPLOAD encrypted or password protected files.

Reference Form

10_Reference Form.xls

The vendor must download the References spreadsheet from the attachment tab, fill in the requested information and upload the completed spreadsheet. DO NOT UPLOAD encrypted or password protected files.

Proposed Goods and Services

Proposed Goods and Services.pdf

Please upload one or more documents or sheets describing your offerings, line cards, catalogs, links to offerings OR list links to your offerings that illustrate the catalog of proposed lines of goods and or services you carry and offer under this proposal. It does not have to be exhaustive but should, at a minimum tell us what you are offering. It could be as simple as a sheet with your link to your online catalog of goods and services.

D/M/WBE Certification OPTIONAL

No response

D/M/WBE Certification documentation may be scanned and uploaded if you desire to claim your status as one of the identified enterprises. (Disadvantaged Business Enterprise, Minority Business Enterprise and/or Woman Business Enterprise) If vendor has more than one certification scan into one document. (PDF Format ONLY)
DO NOT UPLOAD encrypted or password protected files.

Warranty information (if applicable) must be scanned and uploaded. (PDF Format ONLY)
DO NOT UPLOAD encrypted or password protected files.

Supplementary

No response

Supplementary information may be scanned and uploaded. (Company information, brochures, catalogs, etc.) (PDF Format ONLY)
DO NOT UPLOAD encrypted or password protected files.

All Other Certificates

SCS Certification.pdf

All Other Certificates (if applicable) must be scanned and uploaded. If vendor has more than one other certification scan into one document. (PDF Format ONLY)
DO NOT UPLOAD encrypted or password protected files.

Logo and Other Company Marks

Logo Files.zip

If you desire, please upload your company logo to be added to your individual profile page on the TIPS website. If any particular specifications are required for use of your company logo, please upload that information under the Supplementary section or another non-required section under the "Response Attachment" tab. Preferred Logo Format: 300 x 225 px - .png, .eps, .jpeg preferred

Conflict of Interest Form CIQ- ONLY REQUIRED IF A CONFLICT EXISTS PER THE INSTRUCTIONS

No response

ONLY REQUIRED IF A CONFLICT EXISTS PER THE INSTRUCTIONS
Conflict of Interest Form for Vendors that are required to submit the form. The Conflict of Interest Form is included in the Base documents or can be found at <https://www.tips-usa.com/assets/documents/docs/CIQ.pdf>.

Certification of Corporate Offerer Form- COMPLETE ONLY IF OFFERER IS A CORPORATION

13_CERTIFICATION OF CORPORATE OFFERER FORM.pdf

COMPLETE AND UPLOAD FORM IN ATTACHMENTS SECTION ONLY IF OFFERER IS A CORPORATION

Disclosure of Lobbying Activities Standard Form LLL

No response

ONLY IF you answered "I HAVE Lobbied per above" to attribute #66, please download and complete and upload the Standard Form-LLL, "disclosure Form to Report Lobbying," in the Response attachments section.

Confidentiality Claim Form

11_210305 CONFIDENTIALITY CLAIM FORM.pdf

REQUIRED CONFIDENTIALITY FORM. Complete the form according to your company requirements, make any desired attachments and upload to the appropriate section under "Response Attachments" THIS FORM DETERMINES HOW ESC8/TIPS RESPONDS TO LEGAL PUBLIC INFORMATION REQUESTS.

Current W-9 Tax Form

210120_Leland_W9_Fully_Executed.pdf

You are required by TIPS to upload a current W-9 Internal Revenue Service (IRS) Tax Form for your entity. This form will be utilized by TIPS to properly identify your entity. Additionally, if not designated "Confidential" in your proposal response, this W-9 may be accessed by TIPS Members for the purpose of making TIPS purchases from you in the event that you are awarded. If you wish to designate your required W-9 confidential, please do so according to the terms of the Confidentiality Claim Form which is an attachment to this solicitation.

Bid Attributes

1	<div>Yes - No</div> <div>Disadvantaged/Minority/Women Business Enterprise - D/M/WBE (Required by some participating governmental entities) Vendor certifies that their firm is a D/M/WBE? Vendor must upload proof of certification to the "Response Attachments" D/M/WBE CERTIFICATES section.</div> <div><div>NO</div></div>
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2 Yes - No

Historically Underutilized Business - HUB (Required by some participating governmental entities) Vendor certifies that their firm is a HUB as defined by the State of Texas at <https://comptroller.texas.gov/purchasing/vendor/hub/> or in a HUBZone as defined by the US Small Business Administration at <https://www.sba.gov/offices/headquarters/ohp>

Proof of one or both may be submitted. Vendor must upload proof of certification to the "Response Attachments" HUB CERTIFICATES section.

3 Yes - No

The Vendor can provide services and/or products to all 50 US States?

4 States Served:

If answer is NO to question #3, please list which states can be served. (Example: AR, OK, TX)

5 Company and/or Product Description:

This information will appear on the TIPS website in the company profile section, if awarded a TIPS contract. (Limit 750 characters.)

At Leland, we design furniture for good living. Inspired by our home state of Michigan, everything we need surrounds us—the company we keep, the nature outside our door, and the satisfaction of crafting by hand. The furniture we sit, work, and lounge on should feel as natural as the air we breathe, and organic in the space it inhabits. In color, form, and spirit, the wonders of Michigan show up in our designs. Our approach is rooted in a defining Mid-Century Modern principle—that design should belong to its people and their surroundings. The spirit of Leland comes from the people who share our values: quality, authenticity, humanity. We find simple joys in the process of making and believe each person's story should be celebrated.

6 Primary Contact Name

Primary Contact Name

7 Primary Contact Title

Primary Contact Title

8 Primary Contact Email

Primary Contact Email

9 Primary Contact Phone

Enter 10 digit phone number. (No dashes or extensions)

Example: 8668398477

10 Primary Contact Fax

Enter 10 digit phone number. (No dashes or extensions)

Example: 8668398477

1 1	Primary Contact Mobile Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 <input type="text" value="6169013577"/>
1 2	Secondary Contact Name Secondary Contact Name <input type="text" value="Nigel Scott-Williams"/>
1 3	Secondary Contact Title Secondary Contact Title <input type="text" value="Business Development Officer"/>
1 4	Secondary Contact Email Secondary Contact Email <input type="text" value="nscott-williams@lelandfurniture.com"/>
1 5	Secondary Contact Phone Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 <input type="text" value="9145840506"/>
1 6	Secondary Contact Fax Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 <input type="text" value="6169759280"/>
1 7	Secondary Contact Mobile Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 <input type="text" value="9145840506"/>
1 8	Admin Fee Contact Name Admin Fee Contact Name. This person is responsible for paying the admin fee to TIPS. <input type="text" value="Amber Thompson"/>
1 9	Admin Fee Contact Email Admin Fee Contact Email <input type="text" value="ap@lelandfurniture.com"/>
2 0	Admin Fee Contact Phone Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 <input type="text" value="6169759260"/>
2 1	Purchase Order Contact Name Purchase Order Contact Name. This person is responsible for receiving Purchase Orders from TIPS. <input type="text" value="Customer Service"/>

2 2	Purchase Order Contact Email Purchase Order Contact Email <input type="text" value="hello@lelandfurniture.com"/>
2 3	Purchase Order Contact Phone Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 <input type="text" value="6169759260"/>
2 4	Company Website Company Website (Format - www.company.com) <input type="text" value="www.lelandfurniture.com"/>
2 5	Federal ID Number Federal ID Number also known as the Employer Identification Number (EIN). Numeric only. (Format: 123456789) <input type="text" value=""/>
2 6	Primary Address Primary Address <input type="text" value="5695 Eagle Dr SE"/>
2 7	Primary Address City Primary Address City <input type="text" value="Grand Rapids"/>
2 8	Primary Address State Primary Address State (2 Digit Abbreviation) <input type="text" value="MI"/>
2 9	Primary Address Zip Primary Address Zip <input type="text" value="49512"/>

30

Search Words:

Please list search words to be posted in the TIPS database about your company that TIPS website users might search. Words may be product names, manufacturers, or other words associated with the category of award. **YOU MAY NOT LIST NON-CATEGORY ITEMS.** (Limit 500 words) (Format: product, paper, construction, manufacturer name, etc.)

Leland, Leland International, Leland Furniture, Furniture, Seating, Tables, Stacking chair, Polypropylene Chair, plastic chair, ganging Chair, side chair, barstool, counter stool, multi-purpose chair, wood veneer chair, dining chair, cafe chair, wood chair, multi-purpose, stacking conference chairs, ganging conference chairs, Arm chair, armchair, cantilever chair, guest chair, stacking stool, stacking modular seating, collaborative stool, polypropylene stool, stacking upholstered chair, plywood stacking chair, barstool, bar stool, counter stool, plywood chair, stacking wood chair, oak chair, wood seating, healthcare chair, stacking wheeled chair, mid-century modern, residential furniture, stacking plastic chair, lounge chair, lobby seating, modular lounge, library lounge seating, school library seating, swivel lounge chair, public benching, wood bench, pew, architectural furniture, airport seating, modular bench, modular ottomans, mobile table, tablet table, beamed seating, auditorium seating, powered beam seating, occasional seating, office accent table, hospitality seating, hospitality tables, glass-top table, wood table, low table, free-form table, lounge table, conference table, modular table, reconfigurable table, meeting table, training table, banquet table, ganging table, dining table, table-desk, work table, gathering table, home-office table, bar table, cafe table, breakout table

31

Do you want TIPS Members to be able to spend Federal grant funds with you if awarded? Is it your intent to be able to sell to our members regardless of the fund source, whether it be local, state or federal?

Most of our members receive Federal Government grants and they make up a significant portion of their budgets. The Members need to know if your company is willing to sell to them when they spend federal budget funds on their purchase. There are attributes that follow that include provisions from the federal regulations in 2 CFR part 200. Your answers will determine if your award will be designated as Federal or Education Department General Administrative Regulations (EDGAR) compliant.

Do you want TIPS Members to be able to spend Federal grant funds with you if awarded and is it your intent to be able to sell to TIPS Members regardless of the fund source, whether it be local, state or federal?

32

Yes - No

Certification of Residency (Required by the State of Texas) The vendor's ultimate parent company or majority owner:

(A) has its principal place of business in Texas;

OR

(B) employs at least 500 persons in Texas?

This question is required as a data gathering function for information to our members making purchases with awarded vendors. It does not affect scoring with TIPS.

33

Company Residence (City)

Vendor's principal place of business is in the city?

3
4**Company Residence (State)**

Vendor's principal place of business is in the state of?

3
5**Discount Offered - CAUTION READ CAREFULLY BECAUSE VENDORS FREQUENTLY MAKE MISTAKES ON THIS ATTRIBUTE QUESTION**

Remember this is a MINIMUM discount percentage. So, be sure that the discount percentage inserted here can be applied to ANY OFFERING OF GOODS OR SERVICES THROUGHOUT THE LIFE OF THE CONTRACT

CAUTION: BE CERTAIN YOU CAN HONOR THIS MINIMUM DISCOUNT PERCENTAGE ON ANY OFFERED SERVICE OR GOOD NOW OR DURING THE LIFE OF THE CONTRACT.

What is the MINIMUM percentage discount off of any item or service you offer to TIPS Members that is in your regular catalog (as defined in the solicitation specifications document), website, store or shelf pricing or when adding new goods or services to your offerings during the life of the contract? The resulting price of any goods or services Catalog list prices after this discount is applied is a ceiling on your pricing and not a floor because, in order to be more competitive in the individual circumstance, you may offer a larger discount depending on the items or services purchased and the quantity at time of sale.

Must answer with a number between 0% and 100%.

3
6**Yes - No**

For the duration of the Contract, Vendor agrees to provide catalog pricing, as defined in the solicitation and below, to TIPS upon request for any goods and services offered on the Vendor's TIPS Contract.

"Catalog" means the available list of tangible personal property or services, in the most current listing, regardless of date, during the life of the contract, that takes the form of a catalog, price list, schedule, shelf price or other form that:

- A. is regularly maintained by the manufacturer or Vendor of an item; and
- B. is either published or otherwise available for inspection by a customer during the purchase process;
- C. to which the minimum discount proposed by the proposing Vendor may be applied.

3
7**TIPS Administration Fee**

By submitting a proposal, I agree that all pricing submitted to TIPS shall include the Administration Fee, as designated in the solicitation or as otherwise agreed in writing which shall be remitted to TIPS by the Vendor, or the vendor's named resellers, and as agreed to in the Vendor Agreement. I agree that the fee shall not and will not be added by the Vendor as a separate line item on a TIPS member invoice, quote, proposal or any other written communications with the TIPS member.

3
8**Yes - No**

Vendor agrees to remit to TIPS the required administration fee or, if resellers are named, Vendor agrees to guarantee the fee remittance by or for the reseller named by the vendor?

TIPS/ESC Region 8 is required by Texas Government Code § 791 to be compensated for its work and thus, failure to agree shall render your response void and it will not be considered.

3
9**Yes - No**

Do you offer additional discounts to TIPS members for large order quantities or large scope of work?

40 Years experience in category of goods or services

Company years experience in this category of goods or services? This is an evaluation criterion worth a maximum of 10 points. See RFP for more information.

29

41 Resellers:

Does the vendor have resellers that it will name under this contract? Resellers are defined as other companies that sell your products under an agreement with you, the awarded vendor of TIPS.

EXAMPLE: BIGmart is a reseller of ACME brand televisions. If ACME were a TIPS awarded vendor, then ACME would list BIGmart as a reseller.

(If applicable, Vendor should add all Authorized Resellers within the TIPS Vendor Portal upon award).

Yes

42 Pricing discount percentage are guaranteed for?

Does the vendor agrees to honor the proposed pricing discount percentage off regular catalog (as defined in the RFP document), website, store or shelf pricing for the term of the award?

YES

43 Right of Refusal

Does the proposing vendor wish to reserve the right not to perform under the awarded agreement with a TIPS member at vendor's discretion?

Yes

44 NON-COLLUSIVE BIDDING CERTIFICATE

By submission of this bid or proposal, the Bidder certifies that:

- 1) This bid or proposal has been independently arrived at without collusion with any other Bidder or with any Competitor;
- 2) This bid or proposal has not been knowingly disclosed and will not be knowingly disclosed, prior to the opening of bids, or proposals for this project, to any other Bidder, Competitor or potential competitor:
- 3) No attempt has been or will be made to induce any other person, partnership or corporation to submit or not to submit a bid or proposal;
- 4) The person signing this bid or proposal certifies that he has fully informed himself regarding the accuracy of the statements contained in this certification, and under the penalties being applicable to the Bidder as well as to the person signing in its behalf.

Not a negotiable term. Failure to agree will render your proposal non-responsive and it will not be considered.

4
5**CONFLICT OF INTEREST QUESTIONNAIRE - FORM CIQ - Do you have any CONFLICT OF INTEREST TO REPORT OR DISCLOSE under this statutory requirement?**

Do you have any CONFLICT OF INTEREST TO REPORT OR DISCLOSE under this statutory requirement? YES or NO

If you have a conflict of interest as described in this form or the Local Government Code Chapter 176, cited therein- you are required to complete and file with TIPS.

The Form CIQ is one of the attachments to this solicitation.

There is an optional upload for this form provided if you have a conflict and must file the form

4
6**Filing of Form CIQ**

If yes (above), have you filed a form CIQ by uploading the form to this RFP as directed above?

4
7**Regulatory Standing**

I certify to TIPS for the proposal attached that my company is in good standing with all governmental agencies Federal or state that regulate any part of our business operations. If not, please explain in the next attribute question.

4
8**Regulatory Standing**

Regulatory Standing explanation of no answer on previous question.

4
9**Antitrust Certification Statements (Tex. Government Code § 2155.005)**

By submission of this bid or proposal, the Bidder certifies that:

I affirm under penalty of perjury of the laws of the State of Texas that:

(1) I am duly authorized to execute this contract on my own behalf or on behalf of the company, corporation, firm, partnership or individual (Company) listed below;

(2) In connection with this bid, neither I nor any representative of the Company has violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15;

(3) In connection with this bid, neither I nor any representative of the Company has violated any federal antitrust law;

(4) Neither I nor any representative of the Company has directly or indirectly communicated any of the contents of this bid to a competitor of the Company or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Company.

Suspension or Debarment Instructions

Instructions for Certification:

1. By answering yes to the next Attribute question below, the vendor and prospective lower tier participant is providing the certification set out herein in accordance with these instructions.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and / or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participants," "person," "primary covered transaction," "principal," "proposal" and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and / or debarment.

5
1**Suspension or Debarment Certification**

By answering yes, you certify that no federal suspension or debarment is in place, which would preclude receiving a federally funded contract as described above.

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

By answering yes, you certify that no federal suspension or debarment is in place, which would preclude receiving a federally funded contract as described above.

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2**Non-Discrimination Statement and Certification**

In accordance with Federal civil rights law, all U.S. Departments, including the U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at [How to File a Program Discrimination Complaint](#) and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov.

(Title VI of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Title 7 CFR Parts 15, 15a, and 15b; the Americans with Disabilities Act; and FNS Instruction 113-1, Civil Rights Compliance and Enforcement – Nutrition Programs and Activities)

All U.S. Departments, including the USDA are equal opportunity provider, employer, and lender.

Not a negotiable term. Failure to agree by answering YES will render your proposal non-responsive and it will not be considered. I certify that in the performance of a contract with TIPS or its members, that our company will conform to the foregoing anti-discrimination statement and comply with the cited and all other applicable laws and regulations.

5 3 2 CFR PART 200 Contract Provisions Explanation

Required Federal contract provisions of Federal Regulations for Contracts for contracts with ESC Region 8 and TIPS Members:

The following provisions are required to be in place and agreed if the procurement is funded in any part with federal funds.

The ESC Region 8 and TIPS Members are the subgrantee or Subrecipient by definition. Most of the provisions are located in 2 CFR PART 200 - Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards at 2 CFR PART 200. Others are included within 2 CFR part 200 et al.

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

5 4 2 CFR PART 200 Contracts

Contracts for more than the simplified acquisition threshold currently set at \$250,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

Notice: Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members reserves all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party.

Does vendor agree?

5 5 2 CFR PART 200 Termination

Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members reserves the right to terminate any agreement in excess of \$10,000 resulting from this procurement process for cause after giving the vendor an appropriate opportunity and up to 30 days, to cure the causal breach of terms and conditions. ESC Region 8 and TIPS Members reserves the right to terminate any agreement in excess of \$10,000 resulting from this procurement process for convenience with 30 days notice in writing to the awarded vendor. The vendor would be compensated for work performed and goods procured as of the termination date if for convenience of the ESC Region 8 and TIPS Members. Any award under this procurement process is not exclusive and the ESC Region 8 and TIPS reserves the right to purchase goods and services from other vendors when it is in the best interest of the ESC Region 8 and TIPS.

Does vendor agree?

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6**2 CFR PART 200 Clean Air Act**

Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$250,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

Pursuant to the Clean Air Act, et al above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members requires that the proposer certify that during the term of an award by the ESC Region 8 and TIPS Members resulting from this procurement process the vendor agrees to comply with all of the above regulations, including all of the terms listed and referenced therein.

Does vendor agree?

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7**2 CFR PART 200 Byrd Anti-Lobbying Amendment**

Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members requires the proposer certify that during the term and during the life of any contract with ESC Region 8 and TIPS Members resulting from this procurement process the vendor certifies to the terms included or referenced herein.

Does vendor agree?

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8**2 CFR PART 200 Federal Rule**

Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$250,000)

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members requires the proposer certify that in performance of the contracts, subcontracts, and subgrants of amounts in excess of \$250,000, the vendor will be in compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).

Does vendor certify that it is in compliance with the Clean Air Act?

5 2 CFR PART 200 Procurement of Recovered Materials

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Does vendor certify that it is in compliance with the Solid Waste Disposal Act as described above?

6 2 CFR PART 200 Rights to Inventions

If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

Pursuant to the above, when the foregoing applies to ESC Region 8 and TIPS Members, Vendor certifies that during the term of an award resulting from this procurement process, Vendor agrees to comply with all applicable requirements as referenced in the Federal rule above.

Does vendor agree?

6 2 CFR PART 200 Domestic Preferences for Procurements

As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award. For purposes of 2 CFR Part 200.322, “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. Moreover, for purposes of 2 CFR Part 200.322, “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum, plastics and polymer-based products such as polyvinyl chloride pipe, aggregates such as concrete, glass, including optical fiber, and lumber.

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, Vendor certifies that to the greatest extent practicable Vendor will provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).

Does vendor agree?

6 2 2 CFR PART 200 Ban on Foreign Telecommunications

Federal grant funds may not be used to purchase equipment, services, or systems that use "covered telecommunications" equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. "Covered telecommunications" means purchases from Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities), and video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, Vendor certifies that Vendor will not purchase equipment, services, or systems that use "covered telecommunications", as defined by 2 CFR §200.216 equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

Does vendor agree?

6 3 Certification Regarding Lobbying

Applicable to Grants, Subgrants, Cooperative Agreements, and Contracts Exceeding \$100,000 in Federal Funds

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

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

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

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all covered subawards exceeding \$100,000 in Federal funds at all appropriate tiers and that all subrecipients shall certify and disclose accordingly.

6 4 If you answered "I HAVE lobbied" to the above Attribute Question

If you answered "I HAVE lobbied" to the above Attribute question, you must download the Lobbying Report "Standard From LLL, disclosure Form to Report Lobbying" which includes instruction on completing the form, complete and submit it in the Response Attachments section as a report of the lobbying activities you performed or paid others to perform.

**6
5 Subcontracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms.**

Do you ever anticipate the possibility of subcontracting any of your work under this award if you are successful?

IF NO, DO NOT ANSWER THE NEXT ATTRIBUTE QUESTION. . IF YES, and ONLY IF YES, you must answer the next question YES if you want a TIPS Member to be authorized to spend Federal Grant Funds for Procurement.

**6
6 ONLY IF YES TO THE PREVIOUS QUESTION OR if you ever do subcontract any part of your performance under the TIPS Agreement, do you agree to comply with the following federal requirements?**

ONLY IF YES TO THE PREVIOUS QUESTION OR if you ever do subcontract any part of your performance under the TIPS Agreement,

do you agree to comply with the following federal requirements?

Federal Regulation 2 CFR §200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms. (a)The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

(1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

(4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

(5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce ; and

(6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs(1) through (5) of this section.

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Indemnification

The ESC Region 8 and TIPS is a Texas Political Subdivision and a local governmental entity; therefore, is prohibited from indemnifying third parties pursuant to the Texas Constitution (Article 3, Section 52) except as specifically provided by law or as ordered by a court of competent jurisdiction. A provision in a contract to indemnify or hold a party harmless is a promise to pay for any expenses the indemnified party incurs, if a specified event occurs, such as breaching the terms of the contract or negligently performing duties under the contract. Article III, Section 49 of the Texas Constitution states that "no debt shall be created by or on behalf of the State ... " The Attorney General has counseled that a contractually imposed obligation of indemnity creates a "debt" in the constitutional sense. Tex. Att'y Gen. Op. No. MW-475 (1982). Contract clauses which require the System or institutions to indemnify must be deleted or qualified with "to the extent permitted by the Constitution and Laws of the State of Texas." Liquidated damages, attorney's fees, waiver of vendor's liability, and waiver of statutes of limitations clauses should also be deleted or qualified with "to the extent permitted by the Constitution and laws of State of Texas."

Not a negotiable term. Failure to agree will render your proposal non-responsive and it will not be considered. Do you agree to these terms?

Yes

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Remedies

The parties shall be entitled to exercise any right or remedy available to it either at law or in equity, subject to the choice of law, venue and service of process clauses limitations agreed herein. Nothing in this agreement shall commit the TIPS to an arbitration resolution of any disagreement under any circumstances. Any Claim arising out of or related to the Contract, except for those specifically waived under the terms of the Contract, may, after denial of the Board of Directors, be subject to mediation at the request of either party. Any issues not resolved hereunder MAY be referred to non-binding mediation to be conducted by a mutually agreed upon mediator as a prerequisite to the filing of any lawsuit over such issue(s). The parties shall share the mediator's fee and any associated filing fee equally. Mediation shall be held in Camp or Titus County, Texas. Agreements reached in mediation shall be reduced to writing, and will be subject to the approval by the District's Board of Directors, signed by the Parties if approved by the Board of Directors, and, if signed, shall thereafter be enforceable as provided by the laws of the State of Texas.

Do you agree to these terms?

Yes, I Agree

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Remedies Explanation of No Answer

No response

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0**Choice of Law**

The agreement between the Vendor and TIPS/ESC Region 8 and any addenda or other additions resulting from this procurement process, however described, shall be governed by, construed and enforced in accordance with the laws of the State of Texas, regardless of any conflict of laws principles.
THIS DOES NOT APPLY to a vendor's agreement entered into with a TIPS Member, as the Member may be located outside Texas.

Do you agree to these terms?

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1**Venue, Jurisdiction and Service of Process**

Any proceeding, involving Region 8 ESC or TIPS, arising out of or relating to this procurement process or any contract issued by TIPS resulting from or any contemplated transaction shall be brought in a court of competent jurisdiction in Camp County, Texas and each of the parties irrevocably submits to the exclusive jurisdiction of said court in any such proceeding, waives any objection it may now or hereafter have to venue or to convenience of forum, agrees that all claims in respect of the Proceeding shall be heard and determined only in any such court, and agrees not to bring any proceeding arising out of or relating to this procurement process or any contract resulting from or any contemplated transaction in any other court. The parties agree that either or both of them may file a copy of this paragraph with any court as written evidence of the knowing, voluntary and freely bargained for agreement between the parties irrevocably to waive any objections to venue or to convenience of forum. Process in any Proceeding referred to in the first sentence of this Section may be served on any party anywhere in the world. Any dispute resolution process other than litigation shall have venue in Camp County or Titus County Texas.

Do you agree to these terms?

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2**Infringement(s)**

The successful vendor will be expected to indemnify and hold harmless the TIPS and its employees, officers, agents, representatives, contractors, assignees and designees from any and all third party claims and judgments involving infringement of patent, copyright, trade secrets, trade or service marks, and any other intellectual or intangible property rights attributed to or claims based on the Vendor's proposal or Vendor's performance of contracts awarded and approved.

Do you agree to these terms?

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3**Infringement(s) Explanation of No Answer**7
4**Contract Governance**

Any contract made or entered into by the TIPS is subject to and is to be governed by Section 271.151 et seq, Tex Loc Gov't Code. Otherwise, TIPS does not waive its governmental immunities from suit or liability except to the extent expressly waived by other applicable laws in clear and unambiguous language.

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Payment Terms and Funding Out Clause

Payment Terms:

TIPS or TIPS Members shall not be liable for interest or late payment fees on past-due balances at a rate higher than permitted by the laws or regulations of the jurisdiction of the TIPS Member.

Funding Out Clause:

Vendor agrees to abide by the laws and regulations, including Texas Local Government Code § 271.903, or any statutory or regulatory limitations of the jurisdiction of any TIPS Member which governs contracts entered into by the Vendor and TIPS or a TIPS Member that requires all contracts approved by TIPS or a TIPS Member are subject to the budgeting and appropriation of currently available funds by the entity or its governing body.

See statute(s) for specifics or consult your legal counsel.

Not a negotiable term. Failure to agree will render your proposal non-responsive and it will not be considered.

Do you agree to these terms?

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Insurance and Fingerprint Requirements Information

Insurance

If applicable and your staff will be on TIPS member premises for delivery, training or installation etc. and/or with an automobile, you must carry automobile insurance as required by law. You may be asked to provide proof of insurance.

Fingerprint

It is possible that a vendor may be subject to Chapter 22 of the Texas Education Code. The Texas Education Code, Chapter 22, Section 22.0834. Statutory language may be found at: <http://www.statutes.legis.state.tx.us/>

If the vendor has staff that meet both of these criterion:

- (1) will have continuing duties related to the contracted services; and
- (2) has or will have direct contact with students

Then you have "covered" employees for purposes of completing the attached form.

TIPS recommends all vendors consult their legal counsel for guidance in compliance with this law. If you have questions on how to comply, see below. If you have questions on compliance with this code section, contact the Texas Department of Public Safety Non-Criminal Justice Unit, Access and Dissemination Bureau, FAST-FACT at NCJU@txdps.state.tx.us and you should send an email identifying you as a contractor to a Texas Independent School District or ESC Region 8 and TIPS. Texas DPS phone number is (512) 424-2474.

See form in the next attribute to complete entitled:

Texas Education Code Chapter 22 Contractor Certification for Contractor Employees

Texas Education Code Chapter 22 Contractor Certification for Contractor Employees

Introduction: Texas Education Code Chapter 22 requires entities that contract with school districts to provide services to obtain criminal history record information regarding covered employees. Contractors must certify to the district that they have complied. Covered employees with disqualifying criminal histories are prohibited from serving at a school district.

Definitions: Covered employees: Employees of a contractor or subcontractor who have or will have continuing duties related to the service to be performed at the District and have or will have direct contact with students. The District will be the final arbiter of what constitutes direct contact with students. Disqualifying criminal history: Any conviction or other criminal history information designated by the District, or one of the following offenses, if at the time of the offense, the victim was under 18 or enrolled in a public school:

(a) a felony offense under Title 5, Texas Penal Code; (b) an offense for which a defendant is required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure; or (c) an equivalent offense under federal law or the laws of another state.

I certify that:

NONE (Section A) of the employees of Contractor and any subcontractors are covered employees, as defined above. If this box is checked, I further certify that Contractor has taken precautions or imposed conditions to ensure that the employees of Contractor and any subcontractor will not become covered employees. Contractor will maintain these precautions or conditions throughout the time the contracted services are provided.

OR

SOME (Section B) or all of the employees of Contractor and any subcontractor are covered employees. If this box is checked, I further certify that:

(1) Contractor has obtained all required criminal history record information regarding its covered employees. None of the covered employees has a disqualifying criminal history.

(2) If Contractor receives information that a covered employee subsequently has a reported criminal history, Contractor will immediately remove the covered employee from contract duties and notify the District in writing within 3 business days.

(3) Upon request, Contractor will provide the District with the name and any other requested information of covered employees so that the District may obtain criminal history record information on the covered employees.

(4) If the District objects to the assignment of a covered employee on the basis of the covered employee's criminal history record information, Contractor agrees to discontinue using that covered employee to provide services at the District.

Noncompliance or misrepresentation regarding this certification may be grounds for contract termination.

☐ None

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8**Texas Business and Commerce Code § 272 Requirements as of 9-1-2017**

SB 807 prohibits construction contracts to have provisions requiring the contract to be subject to the laws of another state, to be required to litigate the contract in another state, or to require arbitration in another state. A contract with such provisions is voidable. Under this new statute, a "construction contract" includes contracts, subcontracts, or agreements with (among others) architects, engineers, contractors, construction managers, equipment lessors, or materials suppliers. "Construction contracts" are for the design, construction, alteration, renovation, remodeling, or repair of any building or improvement to real property, or for furnishing materials or equipment for the project. The term also includes moving, demolition, or excavation. BY RESPONDING TO THIS SOLICITATION, AND WHEN APPLICABLE, THE PROPOSER AGREES TO COMPLY WITH THE TEXAS BUSINESS AND COMMERCE CODE § 272 WHEN EXECUTING CONTRACTS WITH TIPS MEMBERS THAT ARE TEXAS GOVERNMENT ENTITIES.

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9**Texas Government Code 2270 Verification Form**

Texas Government Code 2270 Verification Form

If (a) Vendor is not a sole proprietorship; (b) Vendor has ten (10) or more full-time employees; and (c) this Agreement has a value of \$100,000 or more, the following certification shall apply; otherwise, this certification is not required. Pursuant to Chapter 2270 of the Texas Government Code, the Vendor hereby certifies and verifies that neither the Vendor, nor any affiliate, subsidiary, or parent company of the Vendor, if any (the "Vendor Companies"), boycotts Israel, and the Vendor agrees that the Vendor and Vendor Companies will not boycott Israel during the term of this Agreement. For purposes of this Agreement, the term "boycott" shall mean and include refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

Our entity further certifies that it is is not listed on and we do not do business with companies that are on the Texas Comptroller of Public Accounts list of Designated Foreign Terrorists Organizations per Texas Gov't Code 2270.0153 found at <https://comptroller.texas.gov/purchasing/docs/foreign-terrorist.pdf>

I swear and affirm that the above is true and correct.

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0**Logos and other company marks**

Please upload your company logo to be added to your individual profile page on the TIPS website. If any particular specifications are required for use of your company logo, please upload that information under the "Logo and Other Company Marks" section under the "Response Attachment" tab. Preferred Logo Format: 300 x 225 px - .png, .eps, .jpeg preferred

Potential uses of company logo:

* Your Vendor Profile Page of TIPS website

* Potentially on TIPS website scroll bar for Top Performing Vendors

* TIPS Quarterly eNewsletter sent to TIPS Members

* Co-branding Flyers and or email blasts to our TIPS Members (Permission and approval will be obtained before publishing)

8
1**Solicitation Deviation/Compliance**

Does the vendor agree with the General Conditions Standard Terms and Conditions or Item Specifications listed in this proposal invitation?

8
2**Solicitation Exceptions/Deviations Explanation**

If the bidder intends to deviate from the General Conditions Standard Terms and Conditions or Item Specifications listed in this proposal invitation, all such deviations must be listed on this attribute, with complete and detailed conditions and information included or attached.

TIPS will consider any deviations in its proposal award decisions, and TIPS reserves the right to accept or reject any bid based upon any deviations indicated below or in any attachments or inclusions.

In the absence of any deviation entry on this attribute, the proposer assures TIPS of their full compliance with the Standard Terms and Conditions, Item Specifications, and all other information contained in this Solicitation.

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3**Agreement Deviation/Compliance**

Does the vendor agree with the language in the Vendor Agreement?

8
4**Agreement Exceptions/Deviations Explanation**

If the proposing Vendor desires to deviate from the Vendor Agreement language, all such deviations must be listed on this attribute, with complete and detailed conditions and information included. TIPS will consider any deviations in its proposal award decisions, and TIPS reserves the right to accept or reject any proposal based upon any deviations indicated below. In the absence of any deviation entry on this attribute, the proposer assures TIPS of their full compliance with the Vendor Agreement.

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5**Felony Conviction Notice**

Texas Education Code, Section 44.034, Notification of Criminal History, Subsection (a), states "a person or business entity that enters into a contract with a school district must give advance notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony." Subsection (b) states "a school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract." (c) This section does not apply to a publicly held corporation. The person completing this proposal certifies that they are authorized to provide the answer to this question.

Select A., B. or C.

A. My firm is a publicly held corporation; therefore, this reporting requirement is not applicable.

OR B. My firm is not owned nor operated by anyone who has been convicted of a felony, OR

C. My firm is owned or operated by the following individual(s) who has/have been convicted of a felony. (if you answer C below, you are required to provide information in the next attribute.

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6**If you answered C. My Firm is owned or operated by a felon to the previous question, you are REQUIRED TO ANSWER THE FOLLOWING QUESTIONS.**

If you answered C. My Firm is owned or operated by a felon to the previous question, you must provide the following information.

1. Name of Felon(s)
2. The named person's role in the firm, and
3. Details of Conviction(s).

8
7**Long Term Cost Evaluation Criterion # 4.**

READ CAREFULLY and see in the RFP document under "Proposal Scoring and Evaluation".

Points will be assigned to this criterion based on your answer to this Attribute. Points are awarded if you agree not increase your catalog prices (as defined herein) more than X% annually over the previous year for the life of the contract, unless an exigent circumstance exists in the marketplace and the excess price increase which exceeds X% annually is supported by documentation provided by you and your suppliers and shared with TIPS, if requested. If you agree NOT to increase prices more than 5%, except when justified by supporting documentation, you are awarded 10 points; if 6% to 14%, except when justified by supporting documentation, you receive 1 to 9 points incrementally. Price increases 14% or greater, except when justified by supporting documentation, receive 0 points.

8
8**Required Confidentiality Claim Form**

Required Confidentiality Claim Form

This completed form is required by TIPS. By submitting a response to this solicitation you agree to download from the "Attachments" section, complete according to the instructions on the form, then uploading the completed form, with any confidential attachments, if applicable, to the "Response Attachments" section titled "Confidentiality Form" in order to provide to TIPS the completed form titled, "CONFIDENTIALITY CLAIM FORM". By completing this process, you provide us with the information we require to comply with the open record laws of the State of Texas as they may apply to your proposal submission. If you do not provide the form with your proposal, an award will not be made if your proposal is qualified for an award, until TIPS has an accurate, completed form from you.

Read the form carefully before completing and if you have any questions, email Rick Powell at TIPS at

rick.powell@tips-usa.com

8
9**Choice of Law clauses with TIPS Members**

If the vendor is awarded a contract with TIPS under this solicitation, the vendor agrees to make any Choice of Law clauses in any contract or agreement entered into between the awarded vendor and with a TIPS member entity to read as follows: "Choice of law shall be the laws of the state where the customer resides" or words to that effect.

9
0**Venue of dispute resolution with a TIPS Member**

In the event of litigation or use of any dispute resolution model when resolving disputes with a TIPS member entity as a result of a transaction between the vendor and TIPS or the TIPS member entity, the Venue for any litigation or other agreed upon model shall be in the state and county where the customer resides unless otherwise agreed by the parties at the time the dispute resolution model is decided by the parties.

9
1**Automatic renewal of contracts or agreements with TIPS or a TIPS member entity**

This clause **DOES NOT** prohibit multiyear contracts or agreements with TIPS member entities. Because TIPS and TIPS members are governmental entities subject to laws that control appropriations of funds during their fiscal years for contracts and agreements to provide goods and services, does the Vendor agree to limit any automatic renewal clauses of a contract or agreement executed as a result of this TIPS solicitation award to not longer than "month to month" and at the TIPS contracted rate.

9
2**Indemnity Limitation with TIPS Members**

Texas and other states restrict by law or state Constitution the ability of a governmental entity to indemnify others. TIPS requires that any contract entered into between a vendor and TIPS or a TIPS Member as a result of an award under this Solicitation limit the requirement that the Customer indemnify the Vendor by either eliminating any such indemnity requirement clauses in any agreements, contracts or other binding documents **OR** by prefacing all indemnity clauses required of TIPS or the TIPS Member entity with the following: "To the extent permitted by the laws or the Constitution of the state where the customer resides, ".

Agreement is a required condition to award of a contract resulting from this Solicitation.

9
3**Arbitration Clauses**

Except for certain circumstances, TIPS forbids a mandatory arbitration clause in any contract or agreement entered into between the awarded vendor with TIPS or a TIPS member entity. Does the vendor agree to exclude any arbitration requirement in any contracts or agreement entered into between TIPS or a TIPS member entity through an awarded contract with TIPS?

9
4**Required Vendor Sales Reporting**

By responding to this Solicitation, you agree to report to TIPS all sales made under any awarded Agreement with TIPS. Vendor is required to report all sales under the TIPS contract to TIPS. If the TIPS Member entity requesting a price from the awarded Vendor requests the TIPS contract, Vendor must include the TIPS Contract number on any communications with the TIPS Member entity. If awarded, you will be provided access to the Vendor Portal. To report sales, login to the TIPS Vendor Portal and click on the PO's and Payments tab. Pages 3-7 of the Vendor Portal User Guide will walk you through the process of reporting sales to TIPS. Please refer to the TIPS Accounting FAQ's for more information about reporting sales and if you have further questions, contact the Accounting Team at accounting@tips-usa.com. The Vendor or vendor assigned dealers are responsible for keeping record of all sales that go through the TIPS Agreement and submitting same to TIPS.

9
5**Upload of Current W-9 Required**

Please note that you are required by TIPS to upload a current W-9 Internal Revenue Service (IRS) Tax Form for your entity. This form will be utilized by TIPS to properly identify your entity. Additionally, if not designated "Confidential" in your proposal response, this W-9 may be accessed by TIPS Members for the purpose of making TIPS purchases from you in the event that you are awarded. If you wish to designate your required W-9 confidential, please do so according to the terms of the Confidentiality Claim Form which is an attachment to this solicitation.

REFERENCES

Please provide three (3) references, preferably from school districts or other governmental entities who have used your services within the last three years. Additional references may be required. DO NOT INCLUDE TIPS EMPLOYEES AS A REFERENCE.

You may provide more than three (3) references.

Entity Name	Contact Person	VALID EMAIL IS REQUIRED	Phone
The Hewitt School	Lou Uliano, Director of Facilities	luliano@hewittschool.org	212-994-2616
Williams College	JoAnn Moran, Furniture Procurement Sp	jmoran3@williams.edu	413-597-4113
Elmer Homes Bobst Library at NYU	Shawn Jacobus, Assistant Director of Faci	shawn.jacobus@nyu.edu	212- 998-2448

CERTIFICATION BY CORPORATE OFFERER

**COMPLETE ONLY IF OFFERER IS A CORPORATION,
THE FOLLOWING CERTIFICATE SHOULD BE EXECUTED AND INCLUDED AS PART OF
PROPOSAL FORM/PROPOSAL FORM.**

OFFERER: Leland International Inc. DBA Leland Furniture
(Name of Corporation)

RYAN VANDERKAM certify that I am the Secretary of the Corporation
I, (Name of Corporate Secretary)

named as OFFERER herein above; that

Stephanie Chandonnet

(Name of person who completed proposal document)

who signed the foregoing proposal on behalf of the corporation offerer is the authorized person that is acting as

Sales Support Rep/Contract Administrator

(Title/Position of person signing proposal/offer document within the corporation)

of the said Corporation; that said proposal/offer was duly signed for and in behalf of said corporation by authority of its governing body, and is within the scope of its corporate powers.

N/A
CORPORATE SEAL if available

[Signature]
SIGNATURE

3-25-21
DATE

Required Confidential Information Status Form

Leland International Inc. DBA Leland Furniture

Name of company

Stephanie Chandonnet, Contract Administrator

Printed Name and Title of authorized company officer declaring below the confidential status of material

5695 Eagle Dr SE

Grand Rapids

MI 49512

616-975-9260

Address

City

State

ZIP

Phone

ALL VENDORS MUST COMPLETE THE ABOVE SECTION

CONFIDENTIAL INFORMATION SUBMITTED IN RESPONSE TO COMPETITIVE PROCUREMENT REQUESTS OF EDUCATION SERVICE CENTER REGION 8 AND TIPS (ESC8) IS GOVERNED BY TEXAS GOVERNMENT CODE, CHAPTER 552

If you consider any portion of your proposal to be confidential information and not subject to public disclosure pursuant to Chapter 552 Texas Gov't Code or other law(s), you **must attach a copy of all claimed confidential materials within your proposal and put this COMPLETED form as a cover sheet to said materials then scan, name "CONFIDENTIAL" and upload with your proposal submission.** (You must include all the confidential information in the submitted proposal. The copy uploaded is to indicate which material in your proposal, if any, you deem confidential in the event the receives a Public Information Request.) ESC8 and TIPS will follow procedures of controlling statute(s) regarding any claim of confidentiality and shall not be liable for any release of information required by law. Upon your claim and your defense to the Office of Texas Attorney General is required to make the final determination whether the information submitted by you and held by ESC8 and TIPS is confidential and exempt from public disclosure.

ALL VENDORS MUST COMPLETE ONE OF THE TWO OPTIONS BELOW.**OPTION 1:**

I DO CLAIM parts of my proposal to be confidential and **DO NOT** desire to expressly waive a claim of confidentiality of all information contained within our response to the solicitation. The attached contains material from our proposal that I classify and deem confidential under Texas Gov't Code Sec. 552 or other law(s) and I invoke my statutory rights to confidential treatment of the enclosed materials.

IF CLAIMING PARTS OF YOUR PROPOSAL CONFIDENTIAL, YOU MUST ATTACH THE SHEETS TO THIS FORM AND LIST THE NUMBER OF TOTAL PAGES THAT ARE CONFIDENTIAL.

ATTACHED ARE COPIES OF _____ PAGES OF CLAIMED CONFIDENTIAL MATERIAL FROM OUR PROPOSAL THAT WE DEEM TO BE NOT PUBLIC INFORMATION AND WILL DEFEND THAT CLAIM TO THE TEXAS ATTORNEY GENERAL IF REQUESTED WHEN A PUBLIC INFORMATION REQUEST IS MADE FOR OUR PROPOSAL.

Signature _____ Date _____

OR**OPTION 2:**

I DO NOT CLAIM any of my proposal to be confidential, complete the section below.

Express Waiver: I desire to expressly waive any claim of confidentiality as to any and all information contained within our response to the competitive procurement process (e.g. RFP, CSP, Bid, RFQ, etc.) by completing the following and submitting this sheet with our response to Education Service Center Region 8 and TIPS.

Signature _____
Stephanie L
 Chandonnet:A01410C00000177CA5C539D000125F9

Digitally signed by Stephanie L
 Chandonnet:A01410C00000177CA5C539D000125F9
 Date: 2021.03.25 10:08:58 -04'00'

Date **03/25/2021**

SCS Global Services does hereby certify that an independent assessment has been conducted on behalf of:

Leland International Inc

5695 Eagle Dr SE, Grand Rapids, MI, United States

For the following product(s):

Seating:

Amadeus, Back Bench, Beach Stones, Brit Bench, Café Parfait, Crystal Chair, Ease, Ebb Bench, Eve, Hammock, Handy, M2 Chair, Manitou Chair, Marquette Chair, MASS *(Added: March 23, 2021)*, Omena, Parfait II, Patisserie, Pluto, Quarry, Quince Chair, Rapson Forty-Eight, Rapson Thirty-Nine Bench, Rapson Thirty-Nine Guest, Rapson Thirty-Nine Lounge, Slam, Slam Beam, Valeri, Zoon Chair, Zoon Stool

The product(s) meet(s) all of the necessary qualifications to be certified for the following claim(s):

Indoor Advantage™ Gold

Indoor Air Quality Certified to SCS-EC10.3-2014 v4.0

Conforms to the ANSI/BIFMA Furniture Emissions Standard (M7.1/X7.1-2011 R2016) and ANSI/BIFMA e.3 -2019 (Credits 7.6.1, 7.6.2, 7.6.3) for seating parameters.¹ Also, conforms to the CDPH/EHLB Standard Method (CA 01350) v1.2-2017 for seating¹ and school classroom parameters.^{1,2}

¹ Modeled as Office Seating

² Modeled as Pupil Seating

Registration # SCS-IAQ-06686

Valid from: January 28, 2021 to January 27, 2022



Stanley Mathuram, PE, Vice President

SCS Global Services

2000 Powell Street, Ste. 600, Emeryville, CA 94608 USA

SCS Global Services does hereby certify that an independent assessment has been conducted on behalf of:

Leland International Inc

5695 Eagle Dr SE, Grand Rapids, MI, United States

For the following product(s):

Tables:

Cambre Table, Crystal Table, Fast Table, Fixed Table, Fly Table, Hifi Table, Leah Table, M3 Table, Manitou Table, Marquette Table, Parfait Table, Quarry Tablet, Quince Table, Zoon Table

The product(s) meet(s) all of the necessary qualifications to be certified for the following claim(s):

Indoor Advantage™ Gold

Indoor Air Quality Certified to SCS-EC10.3-2014 v4.0

Conforms to the ANSI/BIFMA Furniture Emissions Standard (M7.1/X7.1-2011 R2016) and ANSI/BIFMA e.3 -2019 (Credits 7.6.2 and 7.6.3) for the private office workstation parameters.¹

¹ Modeled as Individual Furniture Components

Registration # SCS-IAQ-06687

Valid from: January 28, 2021 to January 27, 2022



A handwritten signature in black ink that reads "Stanley Mathuram".

Stanley Mathuram, PE, Vice President
SCS Global Services
2000 Powell Street, Ste. 600, Emeryville, CA 94608 USA

WARRANTY

All merchandise is manufactured in accordance with our high industrial and design standards and is warranted to be free from defects of material and workmanship for a period of (5) five years from the date of delivery or placement in storage. This warranty covers goods under normal use and is in service under conditions for which the merchandise is designed. Freshcoast considers normal use to be (5) five days per week (8) eight hours per day. Extended use (multiple shifts, 24 hour facilities, etc) will reduce this warranty to (2) two years. We offer no warranty on chair upholstery materials, plastic laminate table surfaces and operating components other than those expressed by the manufacturer of those components.

Our obligation during this warranty period is limited to repair or replacement at our option. This warranty becomes null and void on any goods repaired or altered by any person not so authorized by Freshcoast or any merchandise which has been subject to misuse, improper storage, including placing chairs seat down on tables, negligence, or accident. We make no other warranties either expressed or implied as to any matter whatsoever, including without limitation, the condition of the merchandise, its merchantability, or its fitness for any particular user or purpose.

All claims will be processed by the Customer Experience Department. All returns must be authorized in writing. Merchandise authorized for return and subsequent repair or replacement merchandise shall be removed from service. All shipping, packaging, and installation charges shall be at the expense of the customer. Since furniture is installed and used under a variety of conditions, users are required to make inspections every six months to look for damage or signs of structural fatigue incurred in daily handling, use, or abuse. Inspections must include, but are not limited to, the tightening of bolts and fasteners, and the lubrication of mechanisms. Failure to properly maintain Fresh Coast products will void this warranty.

Freshcoast will not be liable for loss of time, inconvenience, commercial loss, or incidental or consequential damages that may result from a warranty claim.

TIPS VENDOR AGREEMENT

Between _____ **and** _____
 (Company Name)

THE INTERLOCAL PURCHASING SYSTEM (TIPS),
a Department of Texas Education Service Center Region 8 for
TIPS RFP 210305 Furniture, Furnishings, and Services

General Information

The Vendor Agreement (“Agreement”) made and entered into by and between The Interlocal Purchasing System (hereinafter “TIPS”) a government cooperative purchasing program authorized by the Region 8 Education Service Center, having its principal place of business at 4845 US Hwy 271 North, Pittsburg, Texas 75686 and the TIPS Vendor. This Agreement consists of the provisions set forth below, including provisions of all attachments referenced herein. In the event of a conflict between the provisions set forth below and those contained in any attachment, the provisions set forth shall control unless otherwise agreed by the parties in writing and by signature and date on the attachment.

A Purchase Order ("PO"), Agreement or Contract is the TIPS Member's approval providing the authority to proceed with the negotiated delivery order under the Agreement. Special terms and conditions as agreed between the Vendor and TIPS Member should be added as addendums to the Purchase Order, Agreement or Contract. Items such as certificate of insurance, bonding requirements, small or disadvantaged business goals are some, but not all, of the possible addendums.

Terms and Conditions

Freight

All quotes to Members shall provide a line item for cost for freight or shipping regardless if there is a charge or not. If no charge for freight or shipping, indicate by stating "No Charge", "\$0", "included in price" or other similar indication. Otherwise, all shipping, freight or delivery charges shall be passed through to the TIPS Member at cost with no markup and said charges shall be agreed by the TIPS Member unless alternative shipping terms are agreed by TIPS as a result of the proposal award.

Warranty Conditions

All new supplies equipment and services shall include **manufacturer's minimum standard warranty** unless otherwise agreed to in writing. Vendor shall be legally permitted to sell all products offered for sale to TIPS Members if the offering is included in the Request for Proposal ("RFP") category. All goods proposed and sold shall be new unless clearly stated in writing.

Customer Support

The Vendor shall provide timely and accurate customer support for orders to TIPS Members as agreed by the Parties. Vendors shall respond to such requests within a commercially reasonable time after receipt of the request. If support and/or training is a line item sold or packaged with a sale, support shall be as agreed with the TIPS Member.

Agreements

Agreements for purchase will normally be put into effect by means of a purchase order(s) executed by authorized agents of the TIPS Member participating government entities, but other means of placing an order may be used at the Member's discretion.

Tax exempt status

Most TIPS Members are tax exempt and the related laws and/or regulations of the controlling jurisdiction(s) of the TIPS Member shall apply.

Assignments of Agreements

No assignment of this Agreement may be made without the prior notification of TIPS. Written approval of TIPS shall not be unreasonably withheld. Payment for delivered goods and services can only be made to the awarded Vendor, Vendor designated reseller or vendor assigned company.

Disclosures

- Vendor and TIPS affirm that he/she, or any authorized employees or agents, has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with this Agreement.
- Vendor shall attach, in writing, a complete description of any and all relationships that might be considered a conflict of interest in doing business with the TIPS program.
- The Vendor affirms that, to the best of his/her knowledge, the offer has been arrived at independently, and is submitted without collusion with anyone to obtain information or gain any favoritism that would in any way limit competition or give an unfair advantage over other vendors in the award of this Agreement.

Term of Agreement and Renewals

The Agreement with TIPS is for approximately five (5) years with an option for renewal for an additional one (1) consecutive year. If TIPS offers the renewal extension year, the Vendor will be notified by email to the primary contact of the awarded Vendor and shall be deemed accepted by the Vendor unless the awarded Vendor notifies TIPS of its objection to the additional term. TIPS may or may not exercise the available extension(s) provided in the original solicitation beyond the base five-year term. Whether or not to offer the extension is at the sole discretion of TIPS.

"Start Date" for Term Calculation Purposes Only: Regardless of actual award/effective date of Contract, for Agreement "term" calculation purposes only, the Agreement "start date" is the last day of the month that Award Notifications are anticipated as published in the Solicitation

Example: *If the anticipated award date published in the Solicitation is May 22, 2020 but extended negotiations delay award until June 27, 2020. The end date of the resulting initial "five-year" term Agreement, (which is subject to an extension(s)) will still be May 31, 2025.*

"Termination Date": The scheduled Agreement "termination date" shall be the last day of the month of the month of the Original Solicitation's Anticipated Award Date plus five years.

Example: *If the original term is approximately five years, and the solicitation provides an anticipated award date of May 22, 2020, the expiration date of the original five-year term shall be May 31, 2025.*

Extensions: Any extensions of the original term shall begin on the next day after the day the original term expires.

Example Following the Previous Example: *If TIPS offers a one-year extension, the expiration of the extended term shall be May 31, 2026.*

TIPS may offer to extend Vendor Agreements to the fullest extent the original Solicitation permits.

Automatic Renewal Clauses Incorporated in Awarded Vendor Agreements with TIPS Members Resulting from the Solicitation and with the Vendor Named in this Agreement.

No Agreement for goods or services with a TIPS Member by the awarded vendor named in this Agreement that results from the solicitation award named in this Agreement, may incorporate an automatic renewal clause that exceeds month to month terms with which the TIPS Member must comply. All renewal terms incorporated in an Agreement by the vendor with the TIPS Member shall only be valid and enforceable when the vendor receives written confirmation by purchase order, executed Agreement or other written instruction issued by the TIPS Member for any renewal period. The purpose of this clause is to avoid a TIPS Member inadvertently renewing an Agreement during a period in which the governing body of the TIPS Member has not properly appropriated and budgeted the funds to satisfy the Agreement renewal. This term is not negotiable and any Agreement between a TIPS Member and a TIPS awarded vendor with an automatic renewal clause that conflicts with these terms is rendered void and unenforceable.

Shipments

The Vendor shall ship, deliver or provide ordered products or services within a commercially reasonable time after the receipt of the order from the TIPS Member. If a delay in said delivery is anticipated, the Vendor shall notify TIPS Member as to why delivery is delayed and shall provide an estimated time for completion of the order. TIPS or the requesting entity may cancel the order if estimated delivery time is not acceptable or not as agreed by the parties.

Invoices

Each invoice or pay request shall include the TIPS Member's purchase order number or other identifying designation as provided in the order by the TIPS Member. If applicable, the shipment tracking number or pertinent information for verification of TIPS Member receipt shall be made available upon request.

Payments

The TIPS Member will make payments directly to the Vendor, the Vendor Assigned Dealer or as agreed by the Vendor and the TIPS Member after receiving invoice and in compliance with applicable payment statute(s), whichever is the greater time or as otherwise provided by an agreement of the parties.

Pricing

Price increases will be honored according to the terms of the solicitation. All pricing submitted to TIPS shall include the participation fee, as provided in the solicitation, to be remitted to TIPS by the Vendor. Vendor will not show adding the fee to the invoice presented to TIPS Member customer.

Participation Fees and Reporting of Sales to TIPS by Vendor

The Participation Fee that was published as part of the Solicitation and the fee published is the legally effective fee, along with any fee conditions stated in the Solicitation. Collection of the fees by TIPS is required under Texas Government Code §791.011 Et seq. Fees are due on all TIPS purchases reported by either Vendor or Member. Fees are due to TIPS upon payment by the Member to the Vendor, Reseller or Vendor Assigned

Dealer. Vendor, Reseller or Vendor Assigned Dealer agrees that the participation fee is due to TIPS for all Agreement sales immediately upon receipt of payment including partial payment, from the Member Entity and must be paid to TIPS at least on a monthly basis, specifically within 31 calendar days of receipt of payment, if not more frequently, or as otherwise agreed by TIPS in writing and signed by an authorized signatory of TIPS. Thus, when an awarded Vendor, Reseller or Vendor Assigned Dealer receives any amount of payment, even partial payment, for a TIPS sale, the legally effective fee for that amount is immediately due to TIPS from the Vendor and fees due to TIPS should be paid at least on a monthly basis, specifically within 31 calendar days of receipt of payment, if not more frequently.

Reporting of Sales to TIPS by Vendor

Vendor is required to report all sales under the TIPS contract to TIPS. When a public entity initiates a purchase with a TIPS Awarded Vendor, if the Member inquires verbally or in writing whether the Vendor holds a TIPS Contract, it is the duty of the Vendor to verify whether or not the Member is seeking a TIPS purchase. Once verified, the Vendor must include the TIPS Contract number on any communications and related sales documents exchanged with the TIPS Member entity. To report sales, the Vendor must login to the TIPS Vendor Portal online at https://www.tips-usa.com/vendors_form.cfm and click on the PO's and Payments tab. Pages 3-7 of the [Vendor Portal User Guide](#) will walk you through the process of reporting sales to TIPS. Please refer to the TIPS [Accounting FAQ's](#) for more information about reporting sales and if you have further questions, contact the Accounting Team at accounting@tips-usa.com. The Vendor or vendor assigned dealers are responsible for keeping record of all sales that go through the TIPS Agreement and submitting same to TIPS. Failure to render the participation fee to TIPS shall constitute a breach of this agreement with our parent governmental entity, Texas Education Service Center Region 8, as established by the Texas legislature and shall be grounds for termination of this agreement and any other agreement held with TIPS and possible legal action. Any overpayment of participation fees to TIPS by a Vendor will be refunded to the Vendor within ninety (90) days of receipt of notification if TIPS receives written notification of the overpayment not later than the expiration of six (6) months from the date of overpayment and TIPS determines that the amount was not legally due to TIPS pursuant to this agreement and applicable law. It is the Vendor's responsibility to identify which sales are TIPS Agreement sales and pay the correct participation fee due for TIPS Agreement sales. Any notification of overpayment received by TIPS after the expiration of six (6) months from the date of overpayment will be non-refundable. Region 8 ESC and TIPS reserve the right to extend the six (6) month deadline to notify if approved by the Region 8 ESC Board of Directors. TIPS reserves all rights under the law to collect the fees due. Please contact TIPS at tips@tips-usa.com or call (866) 839-8477 if you have questions about paying fees.

Indemnity

The Vendor agrees to indemnify and hold harmless and defend TIPS, TIPS Member(s), officers and employees from and against all claims and suits by third parties for damages, injuries to persons (including death), property damages, losses, and expenses including court costs and reasonable attorney's fees, arising out of, or resulting from, Vendor's performance under this Agreement, including all such causes of action based upon common, constitutional, or statutory law, or based in whole or in part, upon allegations of negligent or intentional acts on the part of the Vendor, its officers, employees, agents, subcontractors, licensees, or invitees. Parties found liable shall pay their proportionate share of damages as agreed by the parties or as ordered by a court of competent jurisdiction over the case. **NO LIMITATION OF LIABILITY FOR DAMAGES FOR PERSONAL INJURY OR PROPERTY DAMAGE ARE PERMITTED OR AGREED BY TIPS/ESC REGION 8.** Per Texas Education Code §44.032(f), and pursuant to its requirements only, reasonable Attorney's fees are recoverable by the prevailing party in any dispute resulting in litigation.

State of Texas Franchise Tax

By signature hereon, the Vendor hereby certifies that he/she is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171, Tax Code.

Miscellaneous

The Vendor acknowledges and agrees that continued participation in TIPS is subject to TIPS sole discretion and that any Vendor may be removed from the participation in the Program at any time with or without cause. Nothing in the Agreement or in any other communication between TIPS and the Vendor may be construed as a guarantee that TIPS or TIPS Members will submit any orders at any time. TIPS reserves the right to request additional proposals for items or services already on Agreement at any time.

Purchase Order Pricing/Product Deviation

If a deviation of pricing/product on a Purchase Order or contract modification occurs between the Vendor and the TIPS Member, TIPS must be notified within five (5) business days of receipt of change order.

Termination for Convenience of TIPS Agreement Only

TIPS reserves the right to terminate this agreement for cause or no cause for convenience with a thirty (30) days prior written notice. Termination for convenience is conditionally required under Federal Regulations 2 CFR part 200 if the customer is using federal funds for the procurement. All purchase orders presented to the Vendor, but not fulfilled by the Vendor, by a TIPS Member prior to the actual termination of this agreement shall be honored at the option of the TIPS Member. The awarded Vendor may terminate the agreement with ninety (90) days prior written notice to TIPS 4845 US Hwy North, Pittsburg, Texas 75686. The vendor will be paid for goods and services delivered prior to the termination provided that the goods and services were delivered in accordance with the terms and conditions of the terminated agreement. This termination clause does not affect the sales agreements executed by the Vendor and the TIPS Member customer pursuant to this agreement. TIPS Members may negotiate a termination for convenience clause that meets the needs of the transaction based on applicable factors, such as funding sources or other needs.

TIPS Member Purchasing Procedures

Usually, purchase orders or their equal are issued by participating TIPS Member to the awarded vendor and should indicate on the order that the purchase is per the applicable TIPS Agreement Number. Orders are typically emailed to TIPS at tipspo@tips-usa.com.

- Awarded Vendor delivers goods/services directly to the participating member.
- Awarded Vendor invoices the participating TIPS Member directly.
- Awarded Vendor receives payment directly from the participating member.
- Fees are due to TIPS upon payment by the Member to the Vendor. Vendor agrees to pay the participation fee to TIPS for all Agreement sales upon receipt of payment including partial payment, from the Member Entity or as otherwise agreed by TIPS in writing and signed by an authorized signatory of TIPS.

Licenses

Awarded Vendor shall maintain, in current status, all federal, state and local licenses, bonds and permits required for the operation of the business conducted by awarded Vendor. Awarded Vendor shall remain reasonably fully informed of and in compliance with all ordinances and regulations pertaining to the lawful provision of goods or services under the Agreement. TIPS and TIPS Members reserves the right to stop work and/or cancel an order or terminate this or any other sales Agreement of any awarded Vendor whose license(s) required for performance under this Agreement have expired, lapsed, are suspended or terminated subject to a 30-day cure period unless prohibited by applicable statute or regulation.

Novation

If awarded Vendor sells or transfers all assets, rights or the entire portion of the assets or rights required to perform this Agreement, a successor in interest must guarantee to perform all obligations under this Agreement. A simple change of name agreement will not change the Agreement obligations of awarded vendor. TIPS will consider Contract Assignments on a case by case basis. TIPS must be notified within five (5) business days of the transfer of assets or rights.

Site Requirements (*only when applicable to service or job*)

Cleanup: When performing work on site at a TIPS Member's property, awarded Vendor shall clean up and remove all debris and rubbish resulting from their work as required or directed by TIPS Member or as agreed by the parties. Upon completion of work, the premises shall be left in good repair and an orderly, neat, clean and unobstructed condition.

Preparation: Awarded Vendor shall not begin a project for which TIPS Member has not prepared the site, unless awarded Vendor does the preparation work at no cost, or until TIPS Member includes the cost of site preparation in a purchase order. Site preparation includes, but is not limited to: moving furniture, installing wiring for networks or power, and similar pre-installation requirements.

Registered sex offender restrictions: For work to be performed at schools, awarded Vendor agrees that no employee of a subcontractor who has been adjudicated to be a registered sex offender will perform work at any time when students are, or reasonably expected to be, present unless otherwise agreed by the TIPS Member. Awarded Vendor agrees that a violation of this condition shall be considered a material breach and may result in the cancellation of the purchase order at the TIPS Member's discretion. Awarded Vendor must identify any additional costs associated with compliance of this term. If no costs are specified, compliance with this term will be provided at no additional charge. **Safety measures:** Awarded Vendor shall take all reasonable precautions for the safety of employees on the worksite, and shall erect and properly maintain all necessary safeguards for protection of workers and the public. Awarded Vendor shall post warning signs against all hazards created by the operation and work in progress. Proper precautions shall be taken pursuant to state law and standard practices to protect workers, general public and existing structures from injury or damage.

Safety Measures

Awarded Vendor shall take all reasonable precautions for the safety of employees on the worksite, and shall erect and properly maintain all necessary safeguards for protection of workers and the public. Awarded vendor shall post warning signs against all hazards created by the operation and work in progress. Proper precautions shall be taken pursuant to state law and standard practices to protect workers, general public and existing structures from injury or damage.

Smoking

Persons working under Agreement shall adhere to the TIPS Member's or local smoking statutes, codes or policies.

Marketing

Awarded Vendor agrees to allow TIPS to use their name and logo within TIPS website, marketing materials and advertisement subject to any reasonable restrictions provided to TIPS in the Proposal to the Solicitation. The Vendor may submit an acceptable use directive for Vendor's names and logos with which TIPS agrees to comply. Any use of TIPS name and logo or any form of publicity, inclusive of press release, regarding this Agreement by awarded vendor must have prior approval from TIPS which will not be unreasonably withheld. Request may be made by email to TIPS@TIPS-USA.COM.

Supplemental Agreements

The TIPS Member entity participating in the TIPS Agreement and awarded Vendor may enter into a separate Supplemental Agreement or contract to further define the level of service requirements over and above the minimum defined in this Agreement such as but not limited to, invoice requirements, ordering requirements, specialized delivery, etc. Any Supplemental Agreement or contract developed as a result of this Agreement is exclusively between the TIPS Member entity customer and the Vendor. TIPS, its agents, TIPS Members and employees not a party to the Supplemental Agreement with the TIPS Member customer, shall not be made party to any claim for breach of such agreement unless named and agreed by the Party in question in writing in the agreement. If a Vendor submitting a Proposal requires TIPS and/or TIPS Member to sign an additional agreement, those agreements shall comply with the award made by TIPS to the Vendor. Supplemental Vendor's Agreement documents may not become part of TIPS' Agreement with Vendor unless and until an authorized representative of TIPS reviews and approves it. TIPS review and approval may be at any time during the life of this Vendor Agreement. TIPS permits TIPS Members to negotiate additional terms and conditions with the Vendor for the provision of goods or services under the Vendor's TIPS Agreement so long as they do not materially conflict with this Agreement.

Survival Clause

All applicable sales, leases, Supplemental Agreements, contracts, software license agreements, warranties or service agreements that were entered into between Vendor and TIPS or the TIPS Member Customer under the terms and conditions of this Agreement shall survive the expiration or termination of this Agreement. All Orders, Purchase Orders issued or contracts executed by TIPS or a TIPS Member and accepted by the Vendor prior to the expiration or termination of this agreement, shall survive expiration or termination of the Agreement, subject to previously agreed terms and conditions agreed by the parties or as otherwise specified herein relating to termination of this agreement.

Legal obligations

It is the responding Vendor's responsibility to be aware of and comply with all local, state and federal laws governing the sale of products/services identified in the applicable Solicitation that resulted in this Vendor Agreement and any awarded Agreement thereof. Applicable laws and regulations must be followed even if not specifically identified herein.

Audit rights

Due to transparency statutes and public accountability requirements of TIPS and TIPS Members', the awarded Vendor shall, at their sole expense, maintain appropriate due diligence of all purchases made by TIPS Member that utilizes this Agreement. TIPS and Region 8 ESC each reserve the right to audit the accounting of TIPS related purchases for a period of three (3) years from the time such purchases are made. This audit right shall survive termination of this Agreement for a period of one (1) year from the effective date of termination. In order to ensure and confirm compliance with this agreement, TIPS shall have authority to conduct audits of Awarded Vendor's pricing or TIPS transaction documentation with TIPS Members with 30 days' notice unless the audit is ordered by a Court Order or by a Government Agency with authority to do so without notice. Notwithstanding the foregoing, in the event that TIPS is made aware of any pricing being offered to eligible entities that is materially inconsistent with the pricing under this agreement, TIPS shall have the ability to conduct the audit internally or may engage a third- party auditing firm to investigate any possible non- compliant conduct or may terminate the Agreement according to the terms of this Agreement. In the event of an audit, the requested materials shall be reasonably provided in the time, format and at the location acceptable to Region 8 ESC or TIPS. TIPS agrees not to perform a random audit the TIPS transaction documentation more than once per calendar year, but reserves the right to audit

for just cause or as required by any governmental agency or court with regulatory authority over TIPS or the TIPS Member.

Force Majeure

If by reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement then such party shall give notice and full particulars of Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch.

Choice of Law

The Agreement between the Vendor and TIPS/ESC Region 8 and any addenda or other additions resulting from this procurement process, however described, shall be governed by, construed and enforced in accordance with the laws of the State of Texas, regardless of any conflict of laws principles.

Venue, Jurisdiction and Service of Process

Any Proceeding arising out of or relating to this procurement process or any contract issued by TIPS resulting from or any contemplated transaction shall be brought in a court of competent jurisdiction in Camp County, Texas and each of the parties irrevocably submits to the exclusive jurisdiction of said court in any such proceeding, waives any objection it may now or hereafter have to venue or to convenience of forum, agrees that all claims in respect of the Proceeding shall be heard and determined only in any such court, and agrees not to bring any proceeding arising out of or relating to this procurement process or any contract resulting from or any contemplated transaction in any other court. The parties agree that either or both of them may file a copy of this paragraph with any court as written evidence of the knowing, voluntary and freely bargained for agreement between the parties irrevocably to waive any objections to venue or to convenience of forum. Process in any Proceeding referred to in the first sentence of this Section may be served on any party anywhere in the world. Venue for any dispute resolution process, other than litigation, between TIPS and the Vendor shall be located in Camp or Titus County, Texas.

Project Delivery Order Procedures

The TIPS Member having approved and signed an interlocal agreement, or other TIPS Membership document, may make a request of the awarded Vendor under this Agreement when the TIPS Member desires goods or services awarded to the Vendor. Notification may occur via phone, the web, courier, email, fax, or in person. Upon notification of a pending request, the awarded Vendor shall acknowledge the TIPS Member's request as soon as possible, but must make contact with the TIPS Member within two working days.

Status of TIPS Members as Related to This Agreement

TIPS Members stand in the place of TIPS as related to this agreement and have the same access to the proposal information and all related documents. TIPS Members have all the same rights under the awarded Agreement as TIPS.

Vendor's Resellers as Related to This Agreement

Vendor's Named Resellers ("Resellers") under this Agreement shall comply with all terms and conditions of this agreement and all addenda or incorporated documents. All actions related to sales by Authorized Vendor's Resellers under this Agreement are the responsibility of the awarded Vendor. If Resellers fail to

report sales to TIPS under your Agreement, the awarded Vendor is responsible for their contractual failures and shall be billed for the fees. The awarded Vendor may then recover the fees from their named reseller.

Support Requirements

If there is a dispute between the awarded Vendor and TIPS Member, TIPS or its representatives may, at TIPS sole discretion, assist in conflict resolution if requested by either party. TIPS, or its representatives, reserves the right to inspect any project and audit the awarded Vendor's TIPS project files, documentation and correspondence related to the requesting TIPS Member's order. If there are confidentiality requirements by either party, TIPS shall comply to the extent permitted by law.

Incorporation of Solicitation

The TIPS Solicitation which resulted in this Vendor Agreement, whether a Request for Proposals, the Request for Competitive Sealed Proposals or Request for Qualifications solicitation, or other, the Vendor's response to same and all associated documents and forms made part of the solicitation process, including any addenda, are hereby incorporated by reference into this Agreement as if copied verbatim.

SECTION HEADERS OR TITLES

THE SECTION HEADERS OR TITLES WITHIN THIS DOCUMENT ARE MERELY GUIDES FOR CONVENIENCE AND ARE NOT FOR CLASSIFICATION OR LIMITING OF THE RESPONSIBILITIES OF THE PARTIES TO THIS DOCUMENT.

STATUTORY REQUIREMENTS

Texas governmental entities are prohibited from doing business with companies that fail to certify to this condition as required by Texas Government Code Sec. 2270.

By executing this agreement, you certify that you are authorized to bind the undersigned Vendor and that your company (1) does not boycott Israel; and (2) will not boycott Israel during the term of the Agreement.

You certify that your company is not listed on and does not and will not do business with companies that are on the Texas Comptroller of Public Accounts list of Designated Foreign Terrorists Organizations per Texas Gov't Code 2270.0153 found at <https://comptroller.texas.gov/purchasing/docs/foreign-terrorist.pdf>

You certify that if the certified statements above become untrue at any time during the life of this Agreement that the Vendor will notify TIPS within three (3) business day of the change by a letter on Vendor's letterhead from and signed by an authorized representative of the Vendor stating the non-compliance decision and the TIPS Agreement number and description at:

Attention: General Counsel
ESC Region 8/The Interlocal Purchasing System (TIPS)
4845 Highway 271 North
Pittsburg, TX, 75686
And by an email sent to bids@tips-usa.com

Insurance Requirements

The undersigned Vendor agrees to maintain the below minimum insurance requirements for TIPS Contract Holders:

General Liability	\$1,000,000 each Occurrence/ Aggregate
Automobile Liability	\$300,000 Includes owned, hired & non-owned
Workers' Compensation	Statutory limits for the jurisdiction in which the Vendor performs under this Agreement.
Umbrella Liability	\$1,000,000

When the Vendor or its subcontractors are liable for any damages or claims, the Vendor's policy, when the Vendor is responsible for the claim, must be primary over any other valid and collectible insurance carried by the Member. Any immunity available to TIPS or TIPS Members shall not be used as a defense by the contractor's insurance policy. The coverages and limits are to be considered minimum requirements and in no way limit the liability of the Vendor(s). Insurance shall be written by a carrier with an A-; VII or better rating in accordance with current A.M. Best Key Rating Guide. Only deductibles applicable to property damage are acceptable, unless proof of retention funds to cover said deductibles is provided. "Claims made" policies will not be accepted. Vendor's required minimum coverage shall not be suspended, voided, cancelled, non-renewed or reduced in coverage or in limits unless replaced by a policy that provides the minimum required coverage except after thirty (30) days prior written notice by certified mail, return receipt requested has been given to TIPS or the TIPS Member if a project or pending delivery of an order is ongoing. Upon request, certified copies of all insurance policies shall be furnished to the TIPS or the TIPS Member.

Special Terms and Conditions

- **Orders:** All Vendor orders received from TIPS Members must be emailed to TIPS at tipspo@tips-usa.com. Should a TIPS Member send an order directly to the Vendor, it is the Vendor's responsibility to forward a copy of the order to TIPS at the email above within 3 business days and confirm its receipt with TIPS.
- **Vendor Encouraging Members to bypass TIPS agreement:** Encouraging TIPS Members to purchase directly from the Vendor or through another agreement, when the Member has requested using the TIPS cooperative Agreement or price, and thereby bypassing the TIPS Agreement is a violation of the terms and conditions of this Agreement and will result in removal of the Vendor from the TIPS Program.
- **Order Confirmation:** All TIPS Member Agreement orders are approved daily by TIPS and sent to the Vendor. The Vendor should confirm receipt of orders to the TIPS Member (customer) within 3 business days.
- **Vendor custom website for TIPS:** If Vendor is hosting a custom TIPS website, updated pricing when effective. TIPS shall be notified when prices change in accordance with the award.
- **Back Ordered Products:** If product is not expected to ship within the time provided to the TIPS Member by the Vendor, the Member is to be notified within 3 business days and appropriate action taken based on customer request.

The TIPS Vendor Agreement Signature Page is inserted here.

TIPS Vendor Agreement Signature Form

RFP 210305 Furniture, Furnishings, and Services

Company Name HOWE US Inc
Address 401 Hall St. SW - Suite 458
City Grand Rapids State MI Zip 49503
Phone (616) 419-2226 Fax _____
Email of Authorized Representative csus@howe.com
Name of Authorized Representative Debbie King
Title Sales Manager - North America
Signature of Authorized Representative Debbie King
Date 3/26/2021
TIPS Authorized Representative Name David Fitts
Title Executive Director
TIPS Authorized Representative Signature David Wayne Fitts
Approved by ESC Region 8 David Wayne Fitts
Date 5/26/2021

NOTICE TO MEMBERS REGARDING ATTRIBUTE RESPONSES

TIPS VENDORS RESPOND TO ATTRIBUTE QUESTIONS AS PART OF TIPS COMPETITIVE SOLICITATION PROCESS. THE VENDOR'S RESPONSES TO ATTRIBUTE QUESTIONS ARE INCLUDED HEREIN AS "SUPPLIER RESPONSE." PLEASE BE ADVISED THAT DEVIATIONS, IF ANY, IN VENDOR'S RESPONSE TO ATTRIBUTE QUESTIONS MAY NOT REFLECT VENDOR'S FINAL ATTRIBUTE RESPONSE, WHICH IS SUBJECT TO NEGOTIATIONS PRIOR TO AWARD. PLEASE CONTACT THE TIPS OFFICE AT 866-839-8477 WITH QUESTIONS OR CONCERNS REGARDING VENDOR ATTRIBUTE RESPONSE DEVIATIONS. PLEASE KEEP IN MIND THAT TIPS DOES NOT PROVIDE LEGAL COUNSEL TO MEMBERS. TIPS RECOMMENDS THAT YOU CONSULT YOUR LEGAL COUNSEL WHEN EXECUTING CONTRACTS WITH OR MAKING PURCHASES FROM TIPS VENDORS.



210305 HOWE US Inc Supplier Response

Event Information

Number: 210305
Title: Furniture, Furnishings, and Services
Type: Request for Proposal
Issue Date: 3/4/2021
Deadline: 4/16/2021 03:00 PM (CT)
Notes:

IF YOU ALREADY HOLD TIPS CONTRACT 200301 FURNITURE, FURNISHINGS AND SERVICES ("200301"), YOU DO NOT NEED TO RESPOND TO THIS SOLICITATION UNLESS YOU WISH TO REPLACE 200301 AT THIS TIME. IF YOU HOLD 200301, CHOOSE TO RESPOND HEREIN, AND ARE AWARDED ON THIS CONTRACT, YOUR 200301 WILL BE TERMINATED AND REPLACED BY THIS CONTRACT.

Contact Information

Address: Region 8 Education Service Center
4845 US Highway 271 North
Pittsburg, TX 75686
Phone: +1 (866) 839-8477
Email: bids@tips-usa.com

HOWE US Inc Information

Contact: Debbie King
Address: 401 Hall St. SW
Suite 458
Grand Rapids, MI 49503
Phone: (616) 419-2226
Email: csus@howe.com

By submitting your response, you certify that you are authorized to represent and bind your company.

Deborah King

Signature

Submitted at 3/30/2021 2:43:28 PM

dek@howe.com

Email

Supplier Note

HOWE US Discount -45% to End-user plus freight from Grand Rapids MI.

Requested Attachments

Vendor Agreement

210305 Vendor Agreement.pdf

The vendor must download the Vendor Agreement from the attachment tab, fill in the requested information and upload the completed agreement.

DO NOT UPLOAD encrypted or password protected files.

Agreement Signature Form

210305 Agreement Signature Form.pdf

If you have not taken exception or deviation to the agreement language in the solicitation attributes, download the AGREEMENT SIGNATURE FORM from the "ATTACHMENTS" tab. This PDF document is a fillable form. Download the document to your computer, fill in the requested company information, print the file, SIGN the form, SCAN the completed and signed AGREEMENT SIGNATURE FORM, and upload here.

If you have taken exception to any of the agreement language and noted the exception in the deviations section of the attributes for the agreement, complete the AGREEMENT SIGNATURE FORM, but DO NOT SIGN until those deviations have been negotiated and resolved with TIPS management. Upload the unsigned form here, because this is a required document.

Pricing Form 1

Copy of 210305 Pricing Form 1.xlsx

The vendor must download the PRICING SPREADSHEET SHEET from the attachment tab, fill in the requested information and upload the completed spreadsheet.

DO NOT UPLOAD encrypted or password protected files.

Pricing Form 2

Copy of 210305 Pricing Form 2.xlsx

The vendor must download the PRICING SPREADSHEET SHEET from the attachment tab, fill in the requested information and upload the completed spreadsheet.

DO NOT UPLOAD encrypted or password protected files.

Reference Form

Copy of Reference Form.xls

The vendor must download the References spreadsheet from the attachment tab, fill in the requested information and upload the completed spreadsheet. DO NOT UPLOAD encrypted or password protected files.

Proposed Goods and Services

HOWE US proposed goods and services links for TIPS Bid 210305.pdf

Please upload one or more documents or sheets describing your offerings, line cards, catalogs, links to offerings OR list links to your offerings that illustrate the catalog of proposed lines of goods and or services you carry and offer under this proposal. It does not have to be exhaustive but should, at a minimum tell us what you are offering. It could be as simple as a sheet with your link to your online catalog of goods and services.

D/M/WBE Certification OPTIONAL

No response

D/M/WBE Certification documentation may be scanned and uploaded if you desire to claim your status as one of the identified enterprises. (Disadvantaged Business Enterprise, Minority Business Enterprise and/or Woman Business Enterprise) If vendor has more than one certification scan into one document. (PDF Format ONLY)
DO NOT UPLOAD encrypted or password protected files.

Warranty

HOWE conditions of sale.pdf

Warranty information (if applicable) must be scanned and uploaded. (PDF Format ONLY)
DO NOT UPLOAD encrypted or password protected files.

Supplementary

HOWE one page price sheet 2021.pdf

Supplementary information may be scanned and uploaded. (Company information, brochures, catalogs, etc.) (PDF Format ONLY)
DO NOT UPLOAD encrypted or password protected files.

All Other Certificates

HOWE Link to Certificates for TIPS Bid 210305.pdf

All Other Certificates (if applicable) must be scanned and uploaded. If vendor has more than one other certification scan into one document. (PDF Format ONLY)
DO NOT UPLOAD encrypted or password protected files.

Logo and Other Company Marks

howe_logo_red2.jpg

If you desire, please upload your company logo to be added to your individual profile page on the TIPS website. If any particular specifications are required for use of your company logo, please upload that information under the Supplementary section or another non-required section under the "Response Attachment" tab. Preferred Logo Format: 300 x 225 px - .png, .eps, .jpeg preferred

Conflict of Interest Form CIQ- ONLY REQUIRED IF A CONFLICT EXISTS PER THE INSTRUCTIONS

No response

ONLY REQUIRED IF A CONFLICT EXISTS PER THE INSTRUCTIONS
Conflict of Interest Form for Vendors that are required to submit the form. The Conflict of Interest Form is included in the Base documents or can be found at <https://www.tips-usa.com/assets/documents/docs/CIQ.pdf>.

Certification of Corporate Offerer Form- COMPLETE ONLY IF OFFERER IS A CORPORATION

CERTIFICATION OF CORPORATE OFFERER FORM.pdf

COMPLETE AND UPLOAD FORM IN ATTACHMENTS SECTION ONLY IF OFFERER IS A CORPORATION

Disclosure of Lobbying Activities Standard Form LLL

No response

ONLY IF you answered "I HAVE Lobbied per above" to attribute #66, please download and complete and upload the Standard Form-LLL, "disclosure Form to Report Lobbying," in the Response attachments section.

Confidentiality Claim Form

210305 CONFIDENTIALITY CLAIM FORM.pdf

REQUIRED CONFIDENTIALITY FORM. Complete the form according to your company requirements, make any desired attachments and upload to the appropriate section under "Response Attachments" THIS FORM DETERMINES HOW ESC8/TIPS RESPONDS TO LEGAL PUBLIC INFORMATION REQUESTS.

Current W-9 Tax Form

HOWE US W-9.pdf

You are required by TIPS to upload a current W-9 Internal Revenue Service (IRS) Tax Form for your entity. This form will be utilized by TIPS to properly identify your entity. Additionally, if not designated "Confidential" in your proposal response, this W-9 may be accessed by TIPS Members for the purpose of making TIPS purchases from you in the event that you are awarded. If you wish to designate your required W-9 confidential, please do so according to the terms of the Confidentiality Claim Form which is an attachment to this solicitation.

Bid Attributes

1 Yes - No

Disadvantaged/Minority/Women Business Enterprise - D/M/WBE (Required by some participating governmental entities) Vendor certifies that their firm is a D/M/WBE? Vendor must upload proof of certification to the "Response Attachments" D/M/WBE CERTIFICATES section.

NO

2 Yes - No

Historically Underutilized Business - HUB (Required by some participating governmental entities) Vendor certifies that their firm is a HUB as defined by the State of Texas at <https://comptroller.texas.gov/purchasing/vendor/hub/> or in a HUBZone as defined by the US Small Business Administration at <https://www.sba.gov/offices/headquarters/ohp>

Proof of one or both may be submitted. Vendor must upload proof of certification to the "Response Attachments" HUB CERTIFICATES section.

No

3 Yes - No

The Vendor can provide services and/or products to all 50 US States?

Yes

4 States Served:

If answer is NO to question #3, please list which states can be served. (Example: AR, OK, TX)

No response

5 Company and/or Product Description:

This information will appear on the TIPS website in the company profile section, if awarded a TIPS contract. (Limit 750 characters.)

HOWE - Specializing in Moving Design. All chairs and tables offer impeccable functionality. They fold, stack and roll - optimizing the spaces in which we work, think, study and communicate.

6 Primary Contact Name

Primary Contact Name

Debbie King

7 Primary Contact Title

Primary Contact Title

National Sales Manager

8 Primary Contact Email

Primary Contact Email

dek@howe.com

9 Primary Contact Phone

Enter 10 digit phone number. (No dashes or extensions)
Example: 8668398477

6167881334

10	Primary Contact Fax Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 <input type="text" value="No response"/>
11	Primary Contact Mobile Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 <input type="text" value="6167881334"/>
12	Secondary Contact Name Secondary Contact Name <input type="text" value="Ragen Peceny"/>
13	Secondary Contact Title Secondary Contact Title <input type="text" value="Customer Service Project Manager"/>
14	Secondary Contact Email Secondary Contact Email <input type="text" value="csus@howe.com"/>
15	Secondary Contact Phone Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 <input type="text" value="6164192226"/>
16	Secondary Contact Fax Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 <input type="text" value="No response"/>
17	Secondary Contact Mobile Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 <input type="text" value="6168567835"/>
18	Admin Fee Contact Name Admin Fee Contact Name. This person is responsible for paying the admin fee to TIPS. <input type="text" value="Brian Christiansen"/>
19	Admin Fee Contact Email Admin Fee Contact Email <input type="text" value="Financeus@howe.com"/>

20	Admin Fee Contact Phone Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 <input type="text" value="6164192226"/>
21	Purchase Order Contact Name Purchase Order Contact Name. This person is responsible for receiving Purchase Orders from TIPS. <input type="text" value="Ragen Peceny"/>
22	Purchase Order Contact Email Purchase Order Contact Email <input type="text" value="csus@howe.com"/>
23	Purchase Order Contact Phone Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 <input type="text" value="6164192226"/>
24	Company Website Company Website (Format - www.company.com) <input type="text" value="www.Howeus.com"/>
25	Federal ID Number Federal ID Number also known as the Employer Identification Number (EIN). Numeric only. (Format: 123456789) <input type="text" value=""/>
26	Primary Address Primary Address <input type="text" value="401 Hall St. SW, Sutie 458"/>
27	Primary Address City Primary Address City <input type="text" value="Grand Rapids"/>
28	Primary Address State Primary Address State (2 Digit Abbreviation) <input type="text" value="MI"/>
29	Primary Address Zip Primary Address Zip <input type="text" value="49503"/>

3
0**Search Words:**

Please list search words to be posted in the TIPS database about your company that TIPS website users might search. Words may be product names, manufacturers, or other words associated with the category of award. YOU MAY NOT LIST NON-CATEGORY ITEMS. (Limit 500 words) (Format: product, paper, construction, manufacturer name, etc.)

HOWE Contract Furniture, Flip top tables, Folding tables, Nesting Tables, Stacking chairs, Nesting chairs, Caster chairs, Cafe chairs and tables.

3
1**Do you want TIPS Members to be able to spend Federal grant funds with you if awarded? Is it your intent to be able to sell to our members regardless of the fund source, whether it be local, state or federal?**

Most of our members receive Federal Government grants and they make up a significant portion of their budgets. The Members need to know if your company is willing to sell to them when they spend federal budget funds on their purchase. There are attributes that follow that include provisions from the federal regulations in 2 CFR part 200. Your answers will determine if your award will be designated as Federal or Education Department General Administrative Regulations (EDGAR) compliant.

Do you want TIPS Members to be able to spend Federal grant funds with you if awarded and is it your intent to be able to sell to TIPS Members regardless of the fund source, whether it be local, state or federal?

3
2**Yes - No**

Certification of Residency (Required by the State of Texas) The vendor's ultimate parent company or majority owner:

(A) has its principal place of business in Texas;

OR

(B) employs at least 500 persons in Texas?

This question is required as a data gathering function for information to our members making purchases with awarded vendors. It does not affect scoring with TIPS.

3
3**Company Residence (City)**

Vendor's principal place of business is in the city of?

3
4**Company Residence (State)**

Vendor's principal place of business is in the state of?

3
5**Discount Offered - CAUTION READ CAREFULLY BECAUSE VENDORS FREQUENTLY MAKE MISTAKES ON THIS ATTRIBUTE QUESTION**

Remember this is a MINIMUM discount percentage. So, be sure that the discount percentage inserted here can be applied to ANY OFFERING OF GOODS OR SERVICES THROUGHOUT THE LIFE OF THE CONTRACT

CAUTION: BE CERTAIN YOU CAN HONOR THIS MINIMUM DISCOUNT PERCENTAGE ON ANY OFFERED SERVICE OR GOOD NOW OR DURING THE LIFE OF THE CONTRACT.

What is the MINIMUM percentage discount off of any item or service you offer to TIPS Members that is in your regular catalog (as defined in the solicitation specifications document), website, store or shelf pricing or when adding new goods or services to your offerings during the life of the contract? The resulting price of any goods or services Catalog list prices after this discount is applied is a ceiling on your pricing and not a floor because, in order to be more competitive in the individual circumstance, you may offer a larger discount depending on the items or services purchased and the quantity at time of sale.

Must answer with a number between 0% and 100%.

3
6**Yes - No**

For the duration of the Contract, Vendor agrees to provide catalog pricing, as defined in the solicitation and below, to TIPS upon request for any goods and services offered on the Vendor's TIPS Contract.

"Catalog" means the available list of tangible personal property or services, in the most current listing, regardless of date, during the life of the contract, that takes the form of a catalog, price list, schedule, shelf price or other form that:

- A. is regularly maintained by the manufacturer or Vendor of an item; and
- B. is either published or otherwise available for inspection by a customer during the purchase process;
- C. to which the minimum discount proposed by the proposing Vendor may be applied.

3
7**TIPS Administration Fee**

By submitting a proposal, I agree that all pricing submitted to TIPS shall include the Administration Fee, as designated in the solicitation or as otherwise agreed in writing which shall be remitted to TIPS by the Vendor, or the vendor's named resellers, and as agreed to in the Vendor Agreement. I agree that the fee shall not and will not be added by the Vendor as a separate line item on a TIPS member invoice, quote, proposal or any other written communications with the TIPS member.

3
8**Yes - No**

Vendor agrees to remit to TIPS the required administration fee or, if resellers are named, Vendor agrees to guarantee the fee remittance by or for the reseller named by the vendor?

TIPS/ESC Region 8 is required by Texas Government Code § 791 to be compensated for its work and thus, failure to agree shall render your response void and it will not be considered.

3
9**Yes - No**

Do you offer additional discounts to TIPS members for large order quantities or large scope of work?

40 Years experience in category of goods or services

Company years experience in this category of goods or services? This is an evaluation criterion worth a maximum of 10 points. See RFP for more information.

92

41 Resellers:

Does the vendor have resellers that it will name under this contract? Resellers are defined as other companies that sell your products under an agreement with you, the awarded vendor of TIPS.

EXAMPLE: BIGmart is a reseller of ACME brand televisions. If ACME were a TIPS awarded vendor, then ACME would list BIGmart as a reseller.

(If applicable, Vendor should add all Authorized Resellers within the TIPS Vendor Portal upon award).

No

42 Pricing discount percentage are guaranteed for?

Does the vendor agrees to honor the proposed pricing discount percentage off regular catalog (as defined in the RFP document), website, store or shelf pricing for the term of the award?

YES

43 Right of Refusal

Does the proposing vendor wish to reserve the right not to perform under the awarded agreement with a TIPS member at vendor's discretion?

No

44 NON-COLLUSIVE BIDDING CERTIFICATE

By submission of this bid or proposal, the Bidder certifies that:

- 1) This bid or proposal has been independently arrived at without collusion with any other Bidder or with any Competitor;
- 2) This bid or proposal has not been knowingly disclosed and will not be knowingly disclosed, prior to the opening of bids, or proposals for this project, to any other Bidder, Competitor or potential competitor:
- 3) No attempt has been or will be made to induce any other person, partnership or corporation to submit or not to submit a bid or proposal;
- 4) The person signing this bid or proposal certifies that he has fully informed himself regarding the accuracy of the statements contained in this certification, and under the penalties being applicable to the Bidder as well as to the person signing in its behalf.

Not a negotiable term. Failure to agree will render your proposal non-responsive and it will not be considered.

4
5**CONFLICT OF INTEREST QUESTIONNAIRE - FORM CIQ - Do you have any CONFLICT OF INTEREST TO REPORT OR DISCLOSE under this statutory requirement?**

Do you have any CONFLICT OF INTEREST TO REPORT OR DISCLOSE under this statutory requirement? YES or NO

If you have a conflict of interest as described in this form or the Local Government Code Chapter 176, cited therein- you are required to complete and file with TIPS.

The Form CIQ is one of the attachments to this solicitation.

There is an optional upload for this form provided if you have a conflict and must file the form

4
6**Filing of Form CIQ**

If yes (above), have you filed a form CIQ by uploading the form to this RFP as directed above?

4
7**Regulatory Standing**

I certify to TIPS for the proposal attached that my company is in good standing with all governmental agencies Federal or state that regulate any part of our business operations. If not, please explain in the next attribute question.

4
8**Regulatory Standing**

Regulatory Standing explanation of no answer on previous question.

4
9**Antitrust Certification Statements (Tex. Government Code § 2155.005)**

By submission of this bid or proposal, the Bidder certifies that:

I affirm under penalty of perjury of the laws of the State of Texas that:

(1) I am duly authorized to execute this contract on my own behalf or on behalf of the company, corporation, firm, partnership or individual (Company) listed below;

(2) In connection with this bid, neither I nor any representative of the Company has violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15;

(3) In connection with this bid, neither I nor any representative of the Company has violated any federal antitrust law;

(4) Neither I nor any representative of the Company has directly or indirectly communicated any of the contents of this bid to a competitor of the Company or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Company.

Suspension or Debarment Instructions

Instructions for Certification:

1. By answering yes to the next Attribute question below, the vendor and prospective lower tier participant is providing the certification set out herein in accordance with these instructions.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and / or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participants," "person," "primary covered transaction," "principal," "proposal" and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and / or debarment.

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1**Suspension or Debarment Certification**

By answering yes, you certify that no federal suspension or debarment is in place, which would preclude receiving a federally funded contract as described above.

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

By answering yes, you certify that no federal suspension or debarment is in place, which would preclude receiving a federally funded contract as described above.

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2**Non-Discrimination Statement and Certification**

In accordance with Federal civil rights law, all U.S. Departments, including the U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at [How to File a Program Discrimination Complaint](#) and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov.

(Title VI of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Title 7 CFR Parts 15, 15a, and 15b; the Americans with Disabilities Act; and FNS Instruction 113-1, Civil Rights Compliance and Enforcement – Nutrition Programs and Activities)

All U.S. Departments, including the USDA are equal opportunity provider, employer, and lender.

Not a negotiable term. Failure to agree by answering YES will render your proposal non-responsive and it will not be considered. I certify that in the performance of a contract with TIPS or its members, that our company will conform to the foregoing anti-discrimination statement and comply with the cited and all other applicable laws and regulations.

5 3 2 CFR PART 200 Contract Provisions Explanation

Required Federal contract provisions of Federal Regulations for Contracts for contracts with ESC Region 8 and TIPS Members:

The following provisions are required to be in place and agreed if the procurement is funded in any part with federal funds.

The ESC Region 8 and TIPS Members are the subgrantee or Subrecipient by definition. Most of the provisions are located in 2 CFR PART 200 - Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards at 2 CFR PART 200. Others are included within 2 CFR part 200 et al.

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

5 4 2 CFR PART 200 Contracts

Contracts for more than the simplified acquisition threshold currently set at \$250,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

Notice: Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members reserves all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party.

Does vendor agree?

5 5 2 CFR PART 200 Termination

Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members reserves the right to terminate any agreement in excess of \$10,000 resulting from this procurement process for cause after giving the vendor an appropriate opportunity and up to 30 days, to cure the causal breach of terms and conditions. ESC Region 8 and TIPS Members reserves the right to terminate any agreement in excess of \$10,000 resulting from this procurement process for convenience with 30 days notice in writing to the awarded vendor. The vendor would be compensated for work performed and goods procured as of the termination date if for convenience of the ESC Region 8 and TIPS Members. Any award under this procurement process is not exclusive and the ESC Region 8 and TIPS reserves the right to purchase goods and services from other vendors when it is in the best interest of the ESC Region 8 and TIPS.

Does vendor agree?

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6**2 CFR PART 200 Clean Air Act**

Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$250,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

Pursuant to the Clean Air Act, et al above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members requires that the proposer certify that during the term of an award by the ESC Region 8 and TIPS Members resulting from this procurement process the vendor agrees to comply with all of the above regulations, including all of the terms listed and referenced therein.

Does vendor agree?

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7**2 CFR PART 200 Byrd Anti-Lobbying Amendment**

Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members requires the proposer certify that during the term and during the life of any contract with ESC Region 8 and TIPS Members resulting from this procurement process the vendor certifies to the terms included or referenced herein.

Does vendor agree?

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8**2 CFR PART 200 Federal Rule**

Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$250,000)

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members requires the proposer certify that in performance of the contracts, subcontracts, and subgrants of amounts in excess of \$250,000, the vendor will be in compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).

Does vendor certify that it is in compliance with the Clean Air Act?

5 2 CFR PART 200 Procurement of Recovered Materials

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Does vendor certify that it is in compliance with the Solid Waste Disposal Act as described above?

Yes

6 2 CFR PART 200 Rights to Inventions

If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

Pursuant to the above, when the foregoing applies to ESC Region 8 and TIPS Members, Vendor certifies that during the term of an award resulting from this procurement process, Vendor agrees to comply with all applicable requirements as referenced in the Federal rule above.

Does vendor agree?

Yes

6 2 CFR PART 200 Domestic Preferences for Procurements

As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award. For purposes of 2 CFR Part 200.322, “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. Moreover, for purposes of 2 CFR Part 200.322, “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum, plastics and polymer-based products such as polyvinyl chloride pipe, aggregates such as concrete, class, including optical fiber, and lumber.

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, Vendor certifies that to the greatest extent practicable Vendor will provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).

Does vendor agree?

Yes

6 2 2 CFR PART 200 Ban on Foreign Telecommunications

Federal grant funds may not be used to purchase equipment, services, or systems that use "covered telecommunications" equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. "Covered telecommunications" means purchases from Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities), and video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, Vendor certifies that Vendor will not purchase equipment, services, or systems that use "covered telecommunications", as defined by 2 CFR §200.216 equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

Does vendor agree?

6 3 Certification Regarding Lobbying

Applicable to Grants, Subgrants, Cooperative Agreements, and Contracts Exceeding \$100,000 in Federal Funds

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

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

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

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all covered subawards exceeding \$100,000 in Federal funds at all appropriate tiers and that all subrecipients shall certify and disclose accordingly.

6 4 If you answered "I HAVE lobbied" to the above Attribute Question

If you answered "I HAVE lobbied" to the above Attribute question, you must download the Lobbying Report "Standard From LLL, disclosure Form to Report Lobbying" which includes instruction on completing the form, complete and submit it in the Response Attachments section as a report of the lobbying activities you performed or paid others to perform.

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5 Subcontracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms.**

Do you ever anticipate the possibility of subcontracting any of your work under this award if you are successful?

IF NO, DO NOT ANSWER THE NEXT ATTRIBUTE QUESTION. . IF YES, and ONLY IF YES, you must answer the next question YES if you want a TIPS Member to be authorized to spend Federal Grant Funds for Procurement.

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6 ONLY IF YES TO THE PREVIOUS QUESTION OR if you ever do subcontract any part of your performance under the TIPS Agreement, do you agree to comply with the following federal requirements?**

ONLY IF YES TO THE PREVIOUS QUESTION OR if you ever do subcontract any part of your performance under the TIPS Agreement,

do you agree to comply with the following federal requirements?

Federal Regulation 2 CFR §200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms. (a)The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

(1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

(4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

(5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce ; and

(6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs(1) through (5) of this section.

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Indemnification

The ESC Region 8 and TIPS is a Texas Political Subdivision and a local governmental entity; therefore, is prohibited from indemnifying third parties pursuant to the Texas Constitution (Article 3, Section 52) except as specifically provided by law or as ordered by a court of competent jurisdiction. A provision in a contract to indemnify or hold a party harmless is a promise to pay for any expenses the indemnified party incurs, if a specified event occurs, such as breaching the terms of the contract or negligently performing duties under the contract. Article III, Section 49 of the Texas Constitution states that "no debt shall be created by or on behalf of the State ... " The Attorney General has counseled that a contractually imposed obligation of indemnity creates a "debt" in the constitutional sense. Tex. Att'y Gen. Op. No. MW-475 (1982). Contract clauses which require the System or institutions to indemnify must be deleted or qualified with "to the extent permitted by the Constitution and Laws of the State of Texas." Liquidated damages, attorney's fees, waiver of vendor's liability, and waiver of statutes of limitations clauses should also be deleted or qualified with "to the extent permitted by the Constitution and laws of State of Texas."

Not a negotiable term. Failure to agree will render your proposal non-responsive and it will not be considered. Do you agree to these terms?

Yes

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Remedies

The parties shall be entitled to exercise any right or remedy available to it either at law or in equity, subject to the choice of law, venue and service of process clauses limitations agreed herein. Nothing in this agreement shall commit the TIPS to an arbitration resolution of any disagreement under any circumstances. Any Claim arising out of or related to the Contract, except for those specifically waived under the terms of the Contract, may, after denial of the Board of Directors, be subject to mediation at the request of either party. Any issues not resolved hereunder MAY be referred to non-binding mediation to be conducted by a mutually agreed upon mediator as a prerequisite to the filing of any lawsuit over such issue(s). The parties shall share the mediator's fee and any associated filing fee equally. Mediation shall be held in Camp or Titus County, Texas. Agreements reached in mediation shall be reduced to writing, and will be subject to the approval by the District's Board of Directors, signed by the Parties if approved by the Board of Directors, and, if signed, shall thereafter be enforceable as provided by the laws of the State of Texas.

Do you agree to these terms?

Yes, I Agree

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Remedies Explanation of No Answer

No response

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0**Choice of Law**

The agreement between the Vendor and TIPS/ESC Region 8 and any addenda or other additions resulting from this procurement process, however described, shall be governed by, construed and enforced in accordance with the laws of the State of Texas, regardless of any conflict of laws principles.
THIS DOES NOT APPLY to a vendor's agreement entered into with a TIPS Member, as the Member may be located outside Texas.

Do you agree to these terms?

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1**Venue, Jurisdiction and Service of Process**

Any proceeding, involving Region 8 ESC or TIPS, arising out of or relating to this procurement process or any contract issued by TIPS resulting from or any contemplated transaction shall be brought in a court of competent jurisdiction in Camp County, Texas and each of the parties irrevocably submits to the exclusive jurisdiction of said court in any such proceeding, waives any objection it may now or hereafter have to venue or to convenience of forum, agrees that all claims in respect of the Proceeding shall be heard and determined only in any such court, and agrees not to bring any proceeding arising out of or relating to this procurement process or any contract resulting from or any contemplated transaction in any other court. The parties agree that either or both of them may file a copy of this paragraph with any court as written evidence of the knowing, voluntary and freely bargained for agreement between the parties irrevocably to waive any objections to venue or to convenience of forum. Process in any Proceeding referred to in the first sentence of this Section may be served on any party anywhere in the world. Any dispute resolution process other than litigation shall have venue in Camp County or Titus County Texas.

Do you agree to these terms?

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2**Infringement(s)**

The successful vendor will be expected to indemnify and hold harmless the TIPS and its employees, officers, agents, representatives, contractors, assignees and designees from any and all third party claims and judgments involving infringement of patent, copyright, trade secrets, trade or service marks, and any other intellectual or intangible property rights attributed to or claims based on the Vendor's proposal or Vendor's performance of contracts awarded and approved.

Do you agree to these terms?

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3**Infringement(s) Explanation of No Answer**7
4**Contract Governance**

Any contract made or entered into by the TIPS is subject to and is to be governed by Section 271.151 et seq, Tex Loc Gov't Code. Otherwise, TIPS does not waive its governmental immunities from suit or liability except to the extent expressly waived by other applicable laws in clear and unambiguous language.

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Payment Terms and Funding Out Clause

Payment Terms:

TIPS or TIPS Members shall not be liable for interest or late payment fees on past-due balances at a rate higher than permitted by the laws or regulations of the jurisdiction of the TIPS Member.

Funding Out Clause:

Vendor agrees to abide by the laws and regulations, including Texas Local Government Code § 271.903, or any statutory or regulatory limitations of the jurisdiction of any TIPS Member which governs contracts entered into by the Vendor and TIPS or a TIPS Member that requires all contracts approved by TIPS or a TIPS Member are subject to the budgeting and appropriation of currently available funds by the entity or its governing body.

See statute(s) for specifics or consult your legal counsel.

Not a negotiable term. Failure to agree will render your proposal non-responsive and it will not be considered.

Do you agree to these terms?

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Insurance and Fingerprint Requirements Information

Insurance

If applicable and your staff will be on TIPS member premises for delivery, training or installation etc. and/or with an automobile, you must carry automobile insurance as required by law. You may be asked to provide proof of insurance.

Fingerprint

It is possible that a vendor may be subject to Chapter 22 of the Texas Education Code. The Texas Education Code, Chapter 22, Section 22.0834. Statutory language may be found at: <http://www.statutes.legis.state.tx.us/>

If the vendor has staff that meet both of these criterion:

- (1) will have continuing duties related to the contracted services; and
- (2) has or will have direct contact with students

Then you have "covered" employees for purposes of completing the attached form.

TIPS recommends all vendors consult their legal counsel for guidance in compliance with this law. If you have questions on how to comply, see below. If you have questions on compliance with this code section, contact the Texas Department of Public Safety Non-Criminal Justice Unit, Access and Dissemination Bureau, FAST-FACT at NCJU@txdps.state.tx.us and you should send an email identifying you as a contractor to a Texas Independent School District or ESC Region 8 and TIPS. Texas DPS phone number is (512) 424-2474.

See form in the next attribute to complete entitled:
Texas Education Code Chapter 22 Contractor Certification for Contractor Employees

Texas Education Code Chapter 22 Contractor Certification for Contractor Employees

Introduction: Texas Education Code Chapter 22 requires entities that contract with school districts to provide services to obtain criminal history record information regarding covered employees. Contractors must certify to the district that they have complied. Covered employees with disqualifying criminal histories are prohibited from serving at a school district.

Definitions: Covered employees: Employees of a contractor or subcontractor who have or will have continuing duties related to the service to be performed at the District and have or will have direct contact with students. The District will be the final arbiter of what constitutes direct contact with students. Disqualifying criminal history: Any conviction or other criminal history information designated by the District, or one of the following offenses, if at the time of the offense, the victim was under 18 or enrolled in a public school:

(a) a felony offense under Title 5, Texas Penal Code; (b) an offense for which a defendant is required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure; or (c) an equivalent offense under federal law or the laws of another state.

I certify that:

NONE (Section A) of the employees of Contractor and any subcontractors are covered employees, as defined above. If this box is checked, I further certify that Contractor has taken precautions or imposed conditions to ensure that the employees of Contractor and any subcontractor will not become covered employees. Contractor will maintain these precautions or conditions throughout the time the contracted services are provided.

OR

SOME (Section B) or all of the employees of Contractor and any subcontractor are covered employees. If this box is checked, I further certify that:

(1) Contractor has obtained all required criminal history record information regarding its covered employees. None of the covered employees has a disqualifying criminal history.

(2) If Contractor receives information that a covered employee subsequently has a reported criminal history, Contractor will immediately remove the covered employee from contract duties and notify the District in writing within 3 business days.

(3) Upon request, Contractor will provide the District with the name and any other requested information of covered employees so that the District may obtain criminal history record information on the covered employees.

(4) If the District objects to the assignment of a covered employee on the basis of the covered employee's criminal history record information, Contractor agrees to discontinue using that covered employee to provide services at the District.

Noncompliance or misrepresentation regarding this certification may be grounds for contract termination.

☐ None

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8**Texas Business and Commerce Code § 272 Requirements as of 9-1-2017**

SB 807 prohibits construction contracts to have provisions requiring the contract to be subject to the laws of another state, to be required to litigate the contract in another state, or to require arbitration in another state. A contract with such provisions is voidable. Under this new statute, a "construction contract" includes contracts, subcontracts, or agreements with (among others) architects, engineers, contractors, construction managers, equipment lessors, or materials suppliers. "Construction contracts" are for the design, construction, alteration, renovation, remodeling, or repair of any building or improvement to real property, or for furnishing materials or equipment for the project. The term also includes moving, demolition, or excavation. BY RESPONDING TO THIS SOLICITATION, AND WHEN APPLICABLE, THE PROPOSER AGREES TO COMPLY WITH THE TEXAS BUSINESS AND COMMERCE CODE § 272 WHEN EXECUTING CONTRACTS WITH TIPS MEMBERS THAT ARE TEXAS GOVERNMENT ENTITIES.

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9**Texas Government Code 2270 Verification Form**

Texas Government Code 2270 Verification Form

If (a) Vendor is not a sole proprietorship; (b) Vendor has ten (10) or more full-time employees; and (c) this Agreement has a value of \$100,000 or more, the following certification shall apply; otherwise, this certification is not required. Pursuant to Chapter 2270 of the Texas Government Code, the Vendor hereby certifies and verifies that neither the Vendor, nor any affiliate, subsidiary, or parent company of the Vendor, if any (the "Vendor Companies"), boycotts Israel, and the Vendor agrees that the Vendor and Vendor Companies will not boycott Israel during the term of this Agreement. For purposes of this Agreement, the term "boycott" shall mean and include refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

Our entity further certifies that it is is not listed on and we do not do business with companies that are on the Texas Comptroller of Public Accounts list of Designated Foreign Terrorists Organizations per Texas Gov't Code 2270.0153 found at <https://comptroller.texas.gov/purchasing/docs/foreign-terrorist.pdf>

I swear and affirm that the above is true and correct.

YES

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0**Logos and other company marks**

Please upload your company logo to be added to your individual profile page on the TIPS website. If any particular specifications are required for use of your company logo, please upload that information under the "Logo and Other Company Marks" section under the "Response Attachment" tab. Preferred Logo Format: 300 x 225 px - .png, .eps, .jpeg preferred

Potential uses of company logo:

* Your Vendor Profile Page of TIPS website

* Potentially on TIPS website scroll bar for Top Performing Vendors

* TIPS Quarterly eNewsletter sent to TIPS Members

* Co-branding Flyers and or email blasts to our TIPS Members (Permission and approval will be obtained before publishing)

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1**Solicitation Deviation/Compliance**

Does the vendor agree with the General Conditions Standard Terms and Conditions or Item Specifications listed in this proposal invitation?

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2**Solicitation Exceptions/Deviations Explanation**

If the bidder intends to deviate from the General Conditions Standard Terms and Conditions or Item Specifications listed in this proposal invitation, all such deviations must be listed on this attribute, with complete and detailed conditions and information included or attached.

TIPS will consider any deviations in its proposal award decisions, and TIPS reserves the right to accept or reject any bid based upon any deviations indicated below or in any attachments or inclusions.

In the absence of any deviation entry on this attribute, the proposer assures TIPS of their full compliance with the Standard Terms and Conditions, Item Specifications, and all other information contained in this Solicitation.

8
3**Agreement Deviation/Compliance**

Does the vendor agree with the language in the Vendor Agreement?

8
4**Agreement Exceptions/Deviations Explanation**

If the proposing Vendor desires to deviate from the Vendor Agreement language, all such deviations must be listed on this attribute, with complete and detailed conditions and information included. TIPS will consider any deviations in its proposal award decisions, and TIPS reserves the right to accept or reject any proposal based upon any deviations indicated below. In the absence of any deviation entry on this attribute, the proposer assures TIPS of their full compliance with the Vendor Agreement.

8
5**Felony Conviction Notice**

Texas Education Code, Section 44.034, Notification of Criminal History, Subsection (a), states "a person or business entity that enters into a contract with a school district must give advance notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony." Subsection (b) states "a school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract." (c) This section does not apply to a publicly held corporation. The person completing this proposal certifies that they are authorized to provide the answer to this question.

Select A., B. or C.

A. My firm is a publicly held corporation; therefore, this reporting requirement is not applicable.

OR B. My firm is not owned nor operated by anyone who has been convicted of a felony, OR

C. My firm is owned or operated by the following individual(s) who has/have been convicted of a felony. (if you answer C below, you are required to provide information in the next attribute.

8
6**If you answered C. My Firm is owned or operated by a felon to the previous question, you are REQUIRED TO ANSWER THE FOLLOWING QUESTIONS.**

If you answered C. My Firm is owned or operated by a felon to the previous question, you must provide the following information.

1. Name of Felon(s)
2. The named person's role in the firm, and
3. Details of Conviction(s).

8
7**Long Term Cost Evaluation Criterion # 4.**

READ CAREFULLY and see in the RFP document under "Proposal Scoring and Evaluation".

Points will be assigned to this criterion based on your answer to this Attribute. Points are awarded if you agree not increase your catalog prices (as defined herein) more than X% annually over the previous year for the life of the contract, unless an exigent circumstance exists in the marketplace and the excess price increase which exceeds X% annually is supported by documentation provided by you and your suppliers and shared with TIPS, if requested. If you agree NOT to increase prices more than 5%, except when justified by supporting documentation, you are awarded 10 points; if 6% to 14%, except when justified by supporting documentation, you receive 1 to 9 points incrementally. Price increases 14% or greater, except when justified by supporting documentation, receive 0 points.

8
8**Required Confidentiality Claim Form**

Required Confidentiality Claim Form

This completed form is required by TIPS. By submitting a response to this solicitation you agree to download from the "Attachments" section, complete according to the instructions on the form, then uploading the completed form, with any confidential attachments, if applicable, to the "Response Attachments" section titled "Confidentiality Form" in order to provide to TIPS the completed form titled, "CONFIDENTIALITY CLAIM FORM". By completing this process, you provide us with the information we require to comply with the open record laws of the State of Texas as they may apply to your proposal submission. If you do not provide the form with your proposal, an award will not be made if your proposal is qualified for an award, until TIPS has an accurate, completed form from you.

Read the form carefully before completing and if you have any questions, email Rick Powell at TIPS at

rick.powell@tips-usa.com

8
9**Choice of Law clauses with TIPS Members**

If the vendor is awarded a contract with TIPS under this solicitation, the vendor agrees to make any Choice of Law clauses in any contract or agreement entered into between the awarded vendor and with a TIPS member entity to read as follows: "Choice of law shall be the laws of the state where the customer resides" or words to that effect.

9
0**Venue of dispute resolution with a TIPS Member**

In the event of litigation or use of any dispute resolution model when resolving disputes with a TIPS member entity as a result of a transaction between the vendor and TIPS or the TIPS member entity, the Venue for any litigation or other agreed upon model shall be in the state and county where the customer resides unless otherwise agreed by the parties at the time the dispute resolution model is decided by the parties.

9
1**Automatic renewal of contracts or agreements with TIPS or a TIPS member entity**

This clause **DOES NOT** prohibit multiyear contracts or agreements with TIPS member entities. Because TIPS and TIPS members are governmental entities subject to laws that control appropriations of funds during their fiscal years for contracts and agreements to provide goods and services, does the Vendor agree to limit any automatic renewal clauses of a contract or agreement executed as a result of this TIPS solicitation award to not longer than "month to month" and at the TIPS contracted rate.

9
2**Indemnity Limitation with TIPS Members**

Texas and other states restrict by law or state Constitution the ability of a governmental entity to indemnify others. TIPS requires that any contract entered into between a vendor and TIPS or a TIPS Member as a result of an award under this Solicitation limit the requirement that the Customer indemnify the Vendor by either eliminating any such indemnity requirement clauses in any agreements, contracts or other binding documents **OR** by prefacing all indemnity clauses required of TIPS or the TIPS Member entity with the following: "To the extent permitted by the laws or the Constitution of the state where the customer resides, ".

Agreement is a required condition to award of a contract resulting from this Solicitation.

9
3**Arbitration Clauses**

Except for certain circumstances, TIPS forbids a mandatory arbitration clause in any contract or agreement entered into between the awarded vendor with TIPS or a TIPS member entity. Does the vendor agree to exclude any arbitration requirement in any contracts or agreement entered into between TIPS or a TIPS member entity through an awarded contract with TIPS?

9
4**Required Vendor Sales Reporting**

By responding to this Solicitation, you agree to report to TIPS all sales made under any awarded Agreement with TIPS. Vendor is required to report all sales under the TIPS contract to TIPS. If the TIPS Member entity requesting a price from the awarded Vendor requests the TIPS contract, Vendor must include the TIPS Contract number on any communications with the TIPS Member entity. If awarded, you will be provided access to the Vendor Portal. To report sales, login to the TIPS Vendor Portal and click on the PO's and Payments tab. Pages 3-7 of the [Vendor Portal User Guide](#) will walk you through the process of reporting sales to TIPS. Please refer to the [TIPS Accounting FAQ's](#) for more information about reporting sales and if you have further questions, contact the Accounting Team at accounting@tips-usa.com. The Vendor or vendor assigned dealers are responsible for keeping record of all sales that go through the TIPS Agreement and submitting same to TIPS.

9
5**Upload of Current W-9 Required**

Please note that you are required by TIPS to upload a current W-9 Internal Revenue Service (IRS) Tax Form for your entity. This form will be utilized by TIPS to properly identify your entity. Additionally, if not designated "Confidential" in your proposal response, this W-9 may be accessed by TIPS Members for the purpose of making TIPS purchases from you in the event that you are awarded. If you wish to designate your required W-9 confidential, please do so according to the terms of the Confidentiality Claim Form which is an attachment to this solicitation.

REFERENCES

Please provide three (3) references, preferably from school districts or other governmental entities who have used your services within the last three years. Additional references may be required. DO NOT INCLUDE TIPS EMPLOYEES AS A REFERENCE.

You may provide more than three (3) references.

Entity Name	Contact Person	VALID EMAIL IS REQUIRED	Phone
CROWLEY INDEPENDENT SCHOOL DISTRICT	Teri Odom	teri.odom@crowley.k12.tx.us	817-297-3018 Ext. 1078
EF INTERNATIONAL ACADEMY	Francesca Resenterra	francesca.resenterra@ef.com	020 7341 8570
EMORY UNIVERSITY	Ann Morris	ann.morris@emory.edu	404-727-1593

CERTIFICATION BY CORPORATE OFFERER

COMPLETE ONLY IF OFFERER IS A CORPORATION,

THE FOLLOWING CERTIFICATE SHOULD BE EXECUTED AND INCLUDED AS PART OF PROPOSAL FORM/PROPOSAL FORM.

OFFERER: HOWE US Inc

(Name of Corporation)

I, Name of Corporate Secretary) **certify that I am the Secretary of the Corporation**

named as **OFFERER** herein above; that

Debbie King

(Name of person who completed proposal document)

who signed the foregoing proposal on behalf of the corporation offerer is the authorized person that is acting as

US Sales Manager

(Title/Position of person signing proposal/offer document within the corporation)

of the said Corporation; that said proposal/offer was duly signed for and in behalf of said corporation by authority of its governing body, and is within the scope of its corporate powers.

CORPORATE SEAL if available

Debbie King

SIGNATURE

3/26/2021

DATE _____

Required Confidential Information Status Form

HOWE US Inc

Name of company

Debbie King - National Sales Manager North America

Printed Name and Title of authorized company officer declaring below the confidential status of material

401 Hall St. SW - Suite 458

Grand Rapids

MI 49503

(616) 419-2226

Address

City

State

ZIP

Phone

ALL VENDORS MUST COMPLETE THE ABOVE SECTION

CONFIDENTIAL INFORMATION SUBMITTED IN RESPONSE TO COMPETITIVE PROCUREMENT REQUESTS OF EDUCATION SERVICE CENTER REGION 8 AND TIPS (ESC8) IS GOVERNED BY TEXAS GOVERNMENT CODE, CHAPTER 552

If you consider any portion of your proposal to be confidential information and not subject to public disclosure pursuant to Chapter 552 Texas Gov't Code or other law(s), you **must attach a copy of all claimed confidential materials within your proposal and put this COMPLETED form as a cover sheet to said materials then scan, name "CONFIDENTIAL" and upload with your proposal submission.** (You must include all the confidential information in the submitted proposal. The copy uploaded is to indicate which material in your proposal, if any, you deem confidential in the event the receives a Public Information Request.) ESC8 and TIPS will follow procedures of controlling statute(s) regarding any claim of confidentiality and shall not be liable for any release of information required by law. Upon your claim and your defense to the Office of Texas Attorney General is required to make the final determination whether the information submitted by you and held by ESC8 and TIPS is confidential and exempt from public disclosure.

ALL VENDORS MUST COMPLETE ONE OF THE TWO OPTIONS BELOW.**OPTION 1:**

I DO CLAIM parts of my proposal to be confidential and **DO NOT** desire to expressly waive a claim of confidentiality of all information contained within our response to the solicitation. The attached contains material from our proposal that I classify and deem confidential under Texas Gov't Code Sec. 552 or other law(s) and I invoke my statutory rights to confidential treatment of the enclosed materials.

IF CLAIMING PARTS OF YOUR PROPOSAL CONFIDENTIAL, YOU MUST ATTACH THE SHEETS TO THIS FORM AND LIST THE NUMBER OF TOTAL PAGES THAT ARE CONFIDENTIAL.

ATTACHED ARE COPIES OF _____ PAGES OF CLAIMED CONFIDENTIAL MATERIAL FROM OUR PROPOSAL THAT WE DEEM TO BE NOT PUBLIC INFORMATION AND WILL DEFEND THAT CLAIM TO THE TEXAS ATTORNEY GENERAL IF REQUESTED WHEN A PUBLIC INFORMATION REQUEST IS MADE FOR OUR PROPOSAL.

Signature _____ Date 3/26/2021

OR**OPTION 2:**

I DO NOT CLAIM any of my proposal to be confidential, complete the section below.

Express Waiver: I desire to expressly waive any claim of confidentiality as to any and all information contained within our response to the competitive procurement process (e.g. RFP, CSP, Bid, RFQ, etc.) by completing the following and submitting this sheet with our response to Education Service Center Region 8 and TIPS.

Signature Debbie King Date 3/26/21

HOWE US Certificates for TIPS Contract 210305 – All products can be viewed on our website <https://www.howe.com/us>

Website link to all product Certificates:

<https://assetbank.howe.com/images/main/thumbnailview/fc=4%3A24>

HOWE

HOWE US Inc. • 401 Hall Street SW, Suite 458 • Grand Rapids,
MI 49503 • Tel: 616-419-2226 • csus@howe.com • USA • howe.com

BAL HARBOUR

- VILLAGE -

COUNCIL ITEM SUMMARY

Condensed Title:

A RESOLUTION OF THE VILLAGE COUNCIL DECLARING THE NAME OF THE NEW PARK AT 18 BAL BAY DRIVE AS BAL HARBOUR WATERFRONT PARK; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

Issue:

Should the Village approve of naming the property at 18 Bal Bay Drive, as Bal Harbour Waterfront Park?

The Bal Harbour Experience:

☒ Beautiful Environment ☐ Safety ☐ Modernized Public Facilities/Infrastructure
☒ Destination & Amenities ☒ Unique & Elegant ☐ Resiliency & Sustainable Community
☐ Other: _____

Item Summary / Recommendation:

As the Village approaches substantial completion of the park project at 18 Bal Bay Drive, and anticipates opening to the public shortly thereafter, it is important to brand the park with a name that is representative of the location and amenities. This name will be valuable in bringing recognition to both the local community, as well as the surrounding areas.

During the Village Council retreat in February 2023, discussion centered around branding both the park and the community center as one location, and utilizing a name that would create recognition. Locally, Bal Harbour Waterfront Park provides a brand as residents will drop Bal Harbour, and refer to the location as the "Waterfront Park". Regionally, the name also provides recognition to our community throughout South Florida, when the location is referenced as "Bal Harbour Waterfront Park".

THE ADMINISTRATION RECOMMENDS APPROVAL OF THIS RESOLUTION.

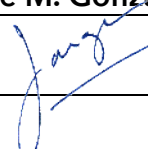
Advisory Board Recommendation:

N/A

Financial Information:

	Amount	Account	Account #
	N/A	N/A	N/A

Sign off:

Rec, Arts & Culture	Chief Financial Officer	Village Manager
Sylvia Flores	Claudia Dixon	Jorge M. Gonzalez
		

BAL HARBOUR

- V I L L A G E -

COUNCIL MEMORANDUM

TO: Honorable Mayor and Village Council

FROM: Jorge M. Gonzalez, Village Manager

DATE: April 18, 2023

SUBJECT: **A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; DECLARING THE NAME OF THE NEW PARK AT 18 BAL BAY DRIVE AS BAL HARBOUR WATERFRONT PARK; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.**

ADMINISTRATIVE RECOMMENDATION

I am recommending approval of this Resolution.

BACKGROUND

The new park, at 18 Bal Bay Drive, is currently under construction and anticipated to reach substantial completion soon. With that in mind, the Village Council discussed the naming of the park at the Village Council retreat in February. Important components were evaluated while discussing the process of naming a park.

ANALYSIS

The naming process for parks and community centers considers various criteria and factors, including:

- Geographical identification
- Historical or cultural significance
- Park features or amenities
- Memorialization (in honor or memory of a person or event)
- Branding

Parks/facilities are typically named following one of these criteria, and some may utilize multiple. Additional factors that should be considered when creating a name for a park are the following:

- Avoid using names of any living person, as their legacy may change and association with the person could negatively impact the perception of the facility and municipality.
- Avoid using names similar to those of existing parks in or around the area
- The translation of the name, into other languages (those typical of residents of the community or those that often visit), should carry the same meaning

When selecting a name for the new park at 18 Bal Bay Drive, it is important to select a name as unique as the facility, while also representative of Bal Harbour, including its natural and

built environment. The name should invoke excitement, curiosity, and warmth. It is also important that the name brings recognition to both the local community as well as the region. Including "Bal Harbour" in the name allows the Village to strengthen its brand recognition and aides in the overall brand strategy. When the center is recognized or referenced to by the media or partners, it will carry with it the Bal Harbour name therefore effectively enhancing our brand. Conversely, when referenced colloquially, *Bal Harbour* will be dropped from the name. Therefore, the rest of the park name should still have a brand identity representative of Bal Harbour and which can stand on its own. *Bal Harbour Park* for instance would simply become "the park," which carries no identity.

Some keywords that were considered as options and were eliminated for various reasons:

- Horizon(s) - this was considered as an option for the view from the park along with the potential opportunities that the facility brings to the community, expanding our horizons. However, the duality of the word can be construed as misleading, since the horizon is not visible from the park, due to buildings across the waterway.
- Sunset(s) - this was also considered for the perspective of the park facing west, and the sun setting in the west, but was also eliminated for concerns of being misleading, since the sunset is not visible due to buildings across the waterway.
- Legacy - this word alludes to the representation of the park as a gift to the residents of Bal Harbour for its 75th Anniversary. It also symbolizes the lasting impact this park will make on the community. However, there are many who would associate this word with negative connotations of death, and therefore, this was also eliminated.
- Waterfront - since the beginning of the project, that park has been referred to as the waterfront park. While evaluating this further, the word brings multiple facets to the name, including geographic identification, as the park is along the waterfront of the Intracoastal Waterway, as well as branding. The description of the waterfront is often associated with luxury and elegance, and therefore, connects these elevated descriptors with the unique and breathtaking design of the park.

THE BAL HARBOUR EXPERIENCE

It is important to select a name for the park that creates a brand for the park itself, while also enhancing the brand of the Village. This aligns with the pillars of the Bal Harbour Experience, emphasizing our beautiful environment, destination, and amenities.

CONCLUSION

Council is asked to consider that various factors were evaluated in selecting a name for the new park at 18 Bal Bay Drive, and that Bal Harbour Waterfront Park was found to be the selection that best fits the beauty of the location, while emphasizing the brand of the Village. I, therefore, recommend approval of this item.

RESOLUTION NO. 2023-____

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; DECLARING THE NAME OF THE NEW PARK AT 18 BAL BAY DRIVE AS BAL HARBOUR WATERFRONT PARK; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village of Bal Harbour owns the land at 16 Bal Bay Drive, 18 Bal Bay Drive, and 701 96 Street; and

WHEREAS, the Village approved a Unity of Title, combining the three parcels into one, with an address of 18 Bal Bay Drive; and

WHEREAS, the Village Council approved the design and construction of a new park at this location, to create a unique and elegant facility, in line with the Bal Harbour Experience, with passive and active amenities for the community to enjoy; and

WHEREAS, the Village Council desires to name the facility Bal Harbour Waterfront Park.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AS FOLLOWS:

Section 1. **Recitals Adopted.** That the above stated recitals are hereby adopted and confirmed.

Section 2. **Naming.** That the village-owned property located at 18 Bal Bay Drive is hereby designated and shall be hereafter known as Bal Harbour Waterfront Park.

Section 3. **Implementation.** That the Village Manager is hereby authorized to take all actions necessary to implement the purposes of this Resolution.

Section 4. **Effective Date.** That this Resolution shall take effect immediately upon the adoption hereof.

PASSED AND ADOPTED this 18th day of April, 2023.



Mayor Jeffrey P. Freimark

ATTEST:

Dwight S. Danie, Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Village Attorney
Weiss Serota Helfman Cole & Bierman P.L.

BAL HARBOUR

- V I L L A G E -

COUNCIL ITEM SUMMARY

Condensed Title:

AN ORDINANCE OF BAL HARBOUR VILLAGE, COMPREHENSIVELY UPDATING AND AMENDING SECTION 14-6 OF CHAPTER 14 "PROVISIONS OF DRAINAGE AND STORMWATER MANAGEMENT" OF THE VILLAGE'S CODE BY CREATING SECTION 14-6(A), TO BE ENTITLED "WATER QUALITY" AND CREATING SECTION 14-6(B) TO BE ENTITLED "SEDIMENT AND EROSION CONTROL," AND CREATING SECTION 14-6 (C) TO BE ENTITLED, "ADOPTION OF SECTION D4, WATER CONTROL, OF PART 2–PUBLIC WORKS MANUAL OF MIAMI-DADE COUNTY, FLORIDA".

Issue:

Should the Village Council approve the Ordinance updating and amending 14-6 of Chapter 14 of the Village Code as directed by the Florida Department of Environmental Protection (DEP)?

The Bal Harbour Experience:

- | | | |
|--|---|--|
| <input type="checkbox"/> Beautiful Environment | <input type="checkbox"/> Safety | <input type="checkbox"/> Modernized Public Facilities/Infrastructure |
| <input type="checkbox"/> Destination & Amenities | <input type="checkbox"/> Unique & Elegant | <input checked="" type="checkbox"/> Resiliency & Sustainable Community |
| <input type="checkbox"/> Other: _____ | | |

Item Summary / Recommendation:

During the February 21, 2023 Council meeting, there was a discussion item regarding stormwater management to maintain water quality. A consensus was reached by the Council to continue the process to develop the appropriate updates of our existing Code, using the Florida DEP-provided model. DEP later requested that the Village also include erosion control provisions in this Ordinance which establishes the Village's legal authority to require compliance with conditions in ordinances, permits, contracts, and orders regarding the stormwater system. On March 27, 2023, this Ordinance was reviewed during the Village Council meeting and was passed on first reading without amendment. Subsequently, the Ordinance was submitted to the Florida DEP. On March 29, 2023, the Village received notice from Jason D. Maron, MS4 Coordinator - NPDES Stormwater Program, Florida DEP which affirmed that the Village Ordinance, met the permit requirements.

THE ADMINISTRATION RECOMMENDS APPROVAL OF THIS ORDINANCE.


Advisory Board Recommendation:

N/A

Financial Information:

	Amount	Account	Account #
	X	X	X

Sign off:

Director Public Works & Beautification Department	Chief Financial Officer	Village Manager
John Oldenburg	Claudia Dixon	Jorge M. Gonzalez
		

BAL HARBOUR

- V I L L A G E -

COUNCIL MEMORANDUM

TO: Honorable Mayor and Village Council

FROM: Jorge M. Gonzalez, Village Manager 

DATE: April 18, 2023

SUBJECT: **AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, COMPREHENSIVELY UPDATING AND AMENDING SECTION 14-6 OF CHAPTER 14 "PROVISIONS OF DRAINAGE AND STORMWATER MANAGEMENT" OF THE VILLAGE'S CODE OF ORDINANCES BY CREATING SECTION 14-6(A), TO BE ENTITLED "WATER QUALITY," CREATING SECTION 14-6(B) TO BE ENTITLED "SEDIMENT AND EROSION CONTROL," AND CREATING SECTION 14-6(C) TO BE ENTITLED, "ADOPTION OF SECTION D4, WATER CONTROL, OF PART 2-PUBLIC WORKS MANUAL OF MIAMI-DADE COUNTY, FLORIDA"; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

ADMINISTRATIVE RECOMMENDATION

I am recommending approval of this Ordinance.

BACKGROUND

The Village, along with several other municipal co-permittees, is a party to the National Pollutant Discharge Elimination System (NPDES) Permit No. FLS000003 ("Phase I MS4 NPDES Permit"). We are also parties to an associated interlocal agreement that provides for identification and control of discharges from Municipal Storm Sewer Systems (MS4s). As a Permittee, the Village must periodically complete a Phase I MS4 permit reapplication review.

On November 3, 2022, the Village received correspondence from the Florida Department of Environmental Protection (DEP) informing the Village that, pursuant to Part III.A.7.a. of its Phase I MS4 NPDES Permit, the Village is required to strengthen its legal authority to conduct inspections and monitoring, and to control illicit discharges, illicit connections, illegal dumping, improper disposal and spills into the Village's stormwater system. The Village was also notified that our legal authority to require compliance with conditions in ordinances, permits, contracts, and orders regarding the stormwater system needs to be strengthened. Thereafter, the Village was further advised by the DEP that it also needed to address the issue of erosion and sediment control within the Village. Accordingly, the DEP is requiring the Village to develop and submit a draft ordinance or similar regulatory mechanism to comply.

To be clear, the Village is currently complying with all of its obligations pursuant to the Phase I MS4 NPDES Permit, but the notification from DEP requests that the legal authority for such efforts be strengthened by the codification of regulatory mechanisms in the Village's Code. Likewise, this is also the case for the erosion and sediment control component now requested by DEP. Towards that end, DEP has provided the Village with an extensively drafted "Model Illicit Discharge and Connection Stormwater Ordinance" and an "Erosion and Sediment Control Model Ordinance" (collectively, the "DEP Models") for use.

It should be noted that the Village was not alone in receiving these requests from DEP, and several other local municipalities were also asked to do the same. Some of these cities have even been placed under audit by the State and threatened with fines.

The Village Attorney has been working with staff from the Village's Public Works and Beautification, Building, and Police Departments, to review the Code of Ordinances, current Village practices and procedures, and prepare proposed revisions to the Village's Code to bring it into compliance with its permit obligations and the current demands of DEP. The Village has been in contact with DEP regarding our efforts and will continue to coordinate with them on this issue.

On February 21, 2023, the Village Council considered a discussion item on this issue, and agreed that the Village should proceed to comply with the DEP request and adopt an ordinance patterned after the DEP Models.

On March 27, 2023, this Ordinance was reviewed and discussed during the Village Council meeting and was passed on first reading without amendment, with the Council voting 5-0 to adopt the Ordinance. The Administration was directed to submit the proposed Ordinance to the Florida DEP to request review and affirmation that the Ordinance would meet the DEP provided model prior to its submittal for second reading.

Subsequently, the Ordinance was submitted to the Florida DEP. On March 29, 2023, the Village received notice from Jason D. Maron, MS4 Coordinator - NPDES Stormwater Program, Florida DEP which affirmed that the Village Ordinance, met the permit requirements.

The Proposed Ordinance is now presented for second reading.

ANALYSIS

The Village Attorney has prepared an Ordinance, patterned on the DEP models and reflecting the input of the Administration, for first reading. DEP staff has already informally reviewed a draft of this Ordinance and provided comments to the Administration.

This Ordinance is intended to provide for the health, safety and general welfare of the Village through the regulation of non-stormwater discharges to the storm drainage system. Additionally, it establishes methods for controlling the introduction of pollutants into the

MS4 and establishing erosion and sediment control mechanisms in order to comply with the requirements of the NPDES. This Ordinance also establishes the Village's legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance. The information below summarizes the major Ordinance provisions:

Section 14-6. Water Quality

Applicability

The provisions contained within the Ordinance apply to all water entering the storm drain system generated on any developed and undeveloped lands, unless explicitly exempted by an authorized enforcement agency.

Responsibility for Administration

The Village, as an authorized enforcement agency, shall administer, implement, and enforce the provisions of this section. The Village staff that will be primarily tasked with responsibility for enforcement include those from the Police, Building, and Public Works & Beautification Departments.

Discharge Prohibitions

a) Prohibition of Illegal Discharges.

No person shall discharge or cause to be discharged into the Village's storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water.

b) Exempt Discharges:

1. water line flushing or other potable water sources;
2. landscape irrigation or lawn watering;
3. diverted stream flows;
4. rising ground water;
5. ground water infiltration to storm drains;
6. uncontaminated pumped ground water;
7. foundation or footing drains (not including active groundwater dewatering systems);
8. crawl space pumps;
9. air conditioning condensation;
10. springs;
11. non-commercial washing of vehicles;
12. natural riparian habitat or wetland flows;
13. swimming pools (if dechlorinated - typically less than one PPM chlorine);
14. discharges or flows from fire-fighting activities;
15. uncontaminated roof drains;
16. any other water source not containing Pollutants.

c) Conditional exemptions:

1. Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.
2. Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.
3. Any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

Prohibition of Illicit Connections

- The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited;
- This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection; and
- A person is considered to be in violation of this section if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

Suspension of MS4 Access

- *Suspension Due to Illicit Discharges In Emergency Situations.*
The Village may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the State. If the violator fails to comply with a suspension order issued in an emergency, the Village may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the State, or to minimize danger to persons;
- *Suspension Due to the Detection of Illicit Discharge;*
- Any person discharging to the MS4 is subject to losing their access to the stormwater system if such termination would abate or reduce an illicit discharge.

Industrial or Construction Activity Discharges

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Village prior to the allowing of discharges to the MS4.

Monitoring Discharges

The Village is permitted to enter and inspect facilities and to monitor to determine compliance and it shall be granted ready access to all parts of the premises for the

purposes of inspection, sampling, examination and copying of records that must be kept pursuant to the NPDES permit.

Notification of Spills

In the event of a known or suspected release of materials which are resulting from or may result in illegal discharges or pollutants into stormwater, the storm drain system, or water of the U.S., the person responsible for the facility or construction operation shall take all necessary steps to ensure the discovery, containment and cleanup for such release. Additionally, the Village is required to be notified in person or by phone or facsimile no later than the next business day.

Enforcement

If a violation occurs, the Village Manager may initiate enforcement proceedings in accordance with Article IV of the Code.

a) Notice of Violation

Whenever the Village finds that a person has violated a prohibition or failed to meet a requirement of this section, the Village may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

1. The performance of monitoring, analyses, and reporting;
2. The elimination of illicit connections or discharges;
3. The requirement that the violating discharges, practices, or operations shall cease and desist;
4. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property; and
5. Payment of a fine to cover administrative and remediation costs; and
6. The implementation of source control or treatment Best Management Practices.

b) Appeal of Notice of Violation

Any person receiving a Notice of Violation may appeal the determination of the Village in accordance with Section 2-186 and 2-187 of the Code. The decision of the Village shall be final, and may be appealed to a court of competent jurisdiction as provided in Section 2-189 of the Code.

1. Assessment of Penalty for Non-Compliance

Upon determination of a violation of this section, the Village may assess against the violator a penalty of \$250.00 per day and a penalty of \$500 per day for a repeat violation. Higher penalties may be imposed for irreparable or irreversible violations in accordance with F.S. §162.09(2)(a);

2. Additional fines, charges and costs against the violator may be assessed in an amount determined by the Village Manager or designee, depending on the extent of environmental damage, required mitigation, the cost of remediation, and enforcement;
3. The violator shall bear all costs incurred for clean-up, enforcement action, and remediation.

In addition to the enforcement processes and penalties provided above, any condition caused or permitted to exist in violation of any of the provisions of this section is a threat to public health, safety and welfare, and is declared and deemed a nuisance, pursuant to §823.01, Florida Statutes, and any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and each day during which any such violation of any of the provisions of this section is committed, continued, or permitted, shall constitute a separate offense, punishable by a \$500.00 fine, pursuant to §775.083(1)(e), Florida Statutes. In addition to any other penalty authorized by this section, any person, partnership or corporation convicted of violating any of the provisions of this section shall be required to bear the expense of such restoration.

Abatement Following Failure to Correct

If a violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 15 calendar days of the decision of the authority upholding the Village's decision, then representatives of the Village shall enter upon the subject private property and are authorized to take measures necessary to abate the violation and/or restore the property.

Cost of Abatement

Within 30 calendar days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 20 calendar days. If the amount due is not paid within a timely manner as determined by the decision of the Village or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

14-6(b) Erosion and Sediment Control

This subsection of the Ordinance provides a local regulation to guide, regulate, and control the design, construction, use, and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land in the Village.

Permits

No person shall be granted a site development permit for land-disturbing activity without the approval of an Erosion and Sediment Control Plan (as further explained below) by the Village. Notwithstanding, no site development permit is required for any emergency activity that is immediately necessary for the protection of life, property or natural resources. Each permit application shall include a statement that any land clearing, construction, or development involving the movement of earth shall be in accordance with the Erosion and Sediment Control Plan and that a Certified Contractor shall be on site on all days when construction or grading activity takes place. Additionally, the applicant will be required to file with the Village a faithful performance bond, letter of credit, or other improvement security in an amount deemed sufficient by the Village to cover all costs of improvements, landscaping, maintenance, of improvements for such period as specified

by the Village, and engineering and inspection costs to cover the cost of failure or repair improvements installed on the site.

Review and Approval

The Village will review each application for a site development permit to determine its conformance with the provisions of this regulation. Within 30 calendar days after receiving an application, the Village will provide written notification of approval, approval subject to reasonable conditions, or disapproval.

Erosion and Sediment Control Plan

The Erosion and Sediment Control Plan will include:

1. A natural resource map;
2. A sequence of construction of the development site, including stripping and clearing, rough grading, construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation;
3. All erosion and sediment control measures necessary to meet the objectives of this local regulation throughout all phases of construction and after completion of development on the site;
4. Seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application, and kind and quantity of mulching for both temporary and permanent vegetative control measures; and
5. Provisions for maintenance of control facilities, including easements and estimates of the cost of maintenance.

Design Requirements

Grading, erosion control practices, sediment control practices, and waterway crossings shall meet the design criteria set forth by either the State or County manual, whichever is more restrictive.

1. Erosion control requirements shall include: soil stabilization, establishment of seeding or another vegetative erosion control method, if used, special techniques meeting the design criteria for steep slopes or in drainage ways, stabilization of soil stockpiles at the end of each workday, use of either a heavy mulch layer or other method to control erosion, techniques to prevent the blowing of dust or sediment from the site, as well as to divert upland runoff past disturbed slopes;
2. Sediment control requirements shall include: settling basins, sediment traps, or take and perimeter controls, as well as protection for adjacent properties by use of a vegetated buffer strip in combination with perimeter controls;
3. Waterway and watercourse protection requirements shall include: a temporary stream crossing if a wet watercourse will be crossed regularly during construction, stabilization of the watercourse channel before, during and after

- any in-channel work, and stabilization adequate to prevent erosion located at the outlets of all pipes and paved channels;
4. Construction site access requirements shall include: temporary access road provided at all sites, and all measures required by the Village to ensure that sediment is not tracked onto public streets or washed into storm drains.

Inspection

The Village will make regular inspections of all control measures per the Erosion and Sediment Control Plan submitted. Additionally, a permittee must notify the Village at least two business days before: the start of construction, installation of sediment and erosion measures, completion of site clearing, completion of final landscaping, and close of the construction permit.

Enforcement

a) Stop-Work Order; Revocation of Permit

In the event that any person holding a site development permit violates the terms of the permit or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the Village may suspend or revoke the site development permit.

b) Violation and Penalties

Assessment of Penalty for Non-Compliance.

The Village may assess against the violator a penalty of \$250.00 per day and a penalty of \$500 per day for a repeat violation. Higher penalties may be imposed for irreparable or irreversible violations in accordance with F.S. § 162.09(2)(a). Additional fines, charges and costs against the violator may be assessed depending on the extent of environmental damage, required mitigation, the cost of remediation, and enforcement. The violator shall bear all costs incurred for clean-up, enforcement action, and remediation.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this section is a threat to public health, safety and welfare, and is declared and deemed a nuisance, pursuant to §823.01, Florida Statutes. Accordingly, any person violating any of the provisions of this Section shall be deemed guilty of a misdemeanor punishable by a \$500.00 fine, pursuant to §775.083(1)(e), Florida Statutes. In addition to any other penalty authorized by this section, any person, partnership or corporation convicted of violating any of the provisions of this section shall be required to bear the expense of such restoration.

14-6(c) Adoption of section D4, Water Control, of Part 2–Public Works Manual of Miami-Dade County, Florida.

This provision already existed in this section of the Village's Code, but has been relocated within this Ordinance.

An initial draft of this Ordinance was sent to DEP for review on or about March 10, 2023. Based on DEP's review of that initial draft and the comments received, we anticipate that this Ordinance will be accepted by DEP and anticipate that it will bring the Village into compliance with the NPDES Permit, as requested by DEP.

THE BAL HARBOUR EXPERIENCE

This Ordinance addresses the Bal Harbour Experience by advancing the resilience and sustainability of the Village and is required in order to fully comply with State mandates.

CONCLUSION

The Village Attorney, working closely with the Administration, has prepared proposed revisions to Section 14-6 of the Village Code in order to (1) strengthen the legal authority of the Village to enforce its stormwater requirements, and (2) address erosion and sediment control measures, pursuant to the requirements of its Phase I MS4 NPDES Permit, to inspect, monitor, control illicit discharges, illicit connections, illegal dumping, improper disposal and spills into its stormwater system, and to strengthen its ability to require compliance with the law, permits, contractual obligation and orders relating to the same.

On March 27, 2023, this Ordinance was reviewed and discussed during the Village Council meeting and was passed on first reading without amendment, with the Council voting 5-0 to adopt the Ordinance. The Administration was directed to submit the proposed Ordinance to the Florida DEP to request review and affirmation that the Ordinance would meet the DEP provided model prior to its submittal for second reading.

Subsequently, the Ordinance was submitted to the Florida DEP. On March 29, 2023, the Village received notice from Jason D. Maron, MS4 Coordinator - NPDES Stormwater Program, Florida DEP which affirmed that the Village Ordinance, met the permit requirements.

Upon review by the Council, the Administration recommends the passage of this Ordinance on second reading.

ORDINANCE NO. 2023-_____

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, COMPREHENSIVELY UPDATING AND AMENDING SECTION 14-6 OF CHAPTER 14 "PROVISIONS OF DRAINAGE AND STORMWATER MANAGEMENT" OF THE VILLAGE'S CODE OF ORDINANCES BY CREATING SECTION 14-6(A), TO BE ENTITLED "WATER QUALITY," CREATING SECTION 14-6(B) TO BE ENTITLED "SEDIMENT AND EROSION CONTROL," AND CREATING SECTION 14-6(C) TO BE ENTITLED, "ADOPTION OF SECTION D4, WATER CONTROL, OF PART 2-PUBLIC WORKS MANUAL OF MIAMI-DADE COUNTY, FLORIDA"; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Bal Harbour Village (the "Village") is committed to environmental conscientiousness and is located along an interconnected system of waters that provide habitat for fish and wildlife, opportunities for recreation, and an enhanced quality of life; and

WHEREAS, the Village has determined that illicit discharges to the stormwater system result in the damage and loss of natural resources, including the degradation of water quality; and

WHEREAS, discharge of pollutants directly or via stormwater runoff into the surrounding waterways degrades water quality and poses a public health risk; and

WHEREAS, storm drains that overflow, or are not properly protected or maintained, can permit an accumulation of pollutants to enter the stormwater system and discharge into the Village's interconnected waterways; and

WHEREAS, as an operator of Municipal Separate Storm Sewer Systems ("MS4") and a co-permittee under the National Pollutant Discharge Elimination System ("NPDES") Permit No. FLS000003, the Village is required by the Florida Department of Environmental Protection to comply with certain requirements and in furtherance thereof has been provided model ordinance language for adoption in substantially the same form; and

WHEREAS, as an operator of MS4 and a co-permittee under the NPDES Permit No. FLS000003, the Village is required to prohibit illicit discharges, illicit connections, illegal

dumping, improper disposal and spills into the stormwater system, and is required to have the authority to enforce such prohibitions; and

WHEREAS, as an operator of MS4 and a co-permittee under the NPDES Permit No. FLS000003, the Village is required to provide for sediment and erosion control parameters; and

WHEREAS, the Village Council finds that this Ordinance is necessary for the preservation and improvement of the environment, and in the best interest of the public health, safety, and welfare of the Village's residents and visitors.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AS FOLLOWS:

Section 1. Recitals. That each of the above recitals are true and correct and incorporated herein by this reference.

Section 2. Amending Chapter 14 of the Village Code. That Chapter 14 of the code of ordinances of Bal Harbour Village, Florida, is hereby amended to read as set forth in Exhibit A, attached hereto and incorporated herein.

Section 3. Severability. That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Codification. That it is the intention of the Village Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Village's Code of Ordinances, and that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions, and that the word Ordinance shall be changed to Section or other appropriate word.

Section 5. Conflicts. That all ordinances or parts of ordinances, resolutions or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

Section 6. **Effective Date.** That this Ordinance shall become effective immediately upon adoption on second reading.

PASSED ON FIRST READING on the 27th day of March, 2023.

PASSED AND ADOPTED ON SECOND READING this 18th day of April, 2023.



Mayor Jeffrey P. Friemark

ATTEST:

Dwight S. Danie, Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Village Attorney
Weiss Serota Helfman Cole & Bierman P.L.

Exhibit A¹

Chapter 14- Planning and Development

Sec. 14-6. Provisions of drainage and stormwater management

The purpose of this section is to safeguard persons, protect property, and prevent damage to the environment, the Village's surface waters, and Biscayne Bay through water control and the regulation of non-stormwater discharges and pollutants into the Village's municipal separate storm sewer system, Biscayne Bay, and surface waters, as well as through erosion and sediment control, to the maximum extent practicable as required by federal and state law.

Sec. 14-6(a). Water Quality

(1) Purpose and Intent

The purpose of this section is to provide for the health, safety, and general welfare of the citizens of the Village through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This section establishes methods for controlling the introduction of pollutants into the municipal separate sewer storm system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process, and otherwise assure the protection of the water quality of the Village. The objectives of this section are:

- a. To regulate the contribution of pollutants to the MS4 by stormwater discharges by any user;
- b. To prohibit Illicit Connections and Discharges to the MS4;
- c. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this section.

(2) Definitions

For the purposes of this section, the following shall mean:

Authorized Enforcement Agency. Bal Harbour Village or any other agency having jurisdiction. All references herein to Village as the authorized enforcement agency shall be construed to also apply to any other agencies having jurisdiction.

Best Management Practices ("BMPs"). Measures, practices, prohibition of practices, schedules or activities, general good housekeeping practices, maintenance procedures, educational practices, and/or devices which are generally accepted within an industry as being effective, to reduce erosion from occurring on a disturbed site, preventing sedimentation from occurring

¹ Coding: ~~Strikethrough words~~ are deletions to the existing words. Underlined words are additions to the existing words. Changes between first and second reading are indicated with ~~double strikethrough~~ and double underline.

on an adjacent property or within a waterway, or preventing the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practice to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Clean Water Act. The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Construction Activity. Construction projects resulting in a land disturbance. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

Hazardous Materials. Any material, including any substance, waste or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illegal Discharge. Any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in subsection (7) of this section.

Illicit Connections. An illicit connection is defined as either of the following:

- a. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system, including, but not limited to, any conveyances that allow any non-storm water discharge, including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or
- b. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Industrial Activity. Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26(b)(14), which includes commercial car washes among other activity.

MS4 means the Municipal Separate Storm Sewer System, which is the conveyance or system of conveyances that is owned and operated by the Village, and is designed or used to collect or convey stormwater (e.g. storm drains, pipes, and/or ditches).

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit. Means a permit issued by EPA (or by a State under

authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the State, whether the permit is applicable on an individual, group, or general area-wide basis.

Non-Storm Water Discharge. Any discharge to the storm drain system that is not composed entirely of Stormwater (as defined below).

Operator. Any party that has:

- a. Operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications; and/or
- b. Day-to-day operational control of any activities that are necessary to ensure compliance with a Erosion and Sediment Control Plan (as defined in 14-6(b)) for the site or other permit conditions imposed by the Village.

Person. Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

Pollutant. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved, including adjacent sidewalks and parking strips.

Storm Drainage System. Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Stormwater. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Stormwater Pollution Prevention Plan. A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater,

Stormwater Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

Wastewater. Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

(3) Applicability

This section shall apply to all water entering the storm drain system generated on any developed and undeveloped lands, unless explicitly exempted by an authorized enforcement agency.

(4) Responsibility for Administration

The Village, as an authorized enforcement agency, shall administer, implement, and enforce the provisions of this section. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the Village Manager to persons or entities acting in the beneficial interest of or in the employ of the Village.

(5) Severability

The provisions of this section are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this section or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this section.

(6) Ultimate Responsibility

The standards set forth herein and promulgated pursuant to this section are minimum standards; therefore this section does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

(7) Discharge Prohibitions

- a. Prohibition of Illegal Discharges. No person shall discharge or cause to be discharged into the Village's storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows.
- b. Exempt Discharges. The following discharges are exempt from discharge prohibitions established by this section:
 1. water line flushing or other potable water sources;
 2. landscape irrigation or lawn watering;
 3. diverted stream flows;
 4. rising ground water;

5. ground water infiltration to storm drains;
6. uncontaminated pumped ground water;
7. foundation or footing drains (not including active groundwater dewatering systems);
8. crawl space pumps;
9. air conditioning condensation;
10. springs;
11. non-commercial washing of vehicles;
12. natural riparian habitat or wetland flows;
13. swimming pools (if dechlorinated - typically less than one PPM chlorine);
14. discharges or flows from fire-fighting activities;
15. uncontaminated roof drains;
16. any other water source not containing Pollutants.

c. Conditional exemptions. The following discharges are exempt if in compliance with the conditions specified below.

1. Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.
2. Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.
3. Any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

(8) Prohibition of Illicit Connections

- a. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
- b. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- c. A person is considered to be in violation of this section if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

(9) Suspension of MS4 Access

- a. Suspension Due to Illicit Discharges In Emergency Situations. The Village may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the State. If the violator fails to comply with a suspension order issued in an emergency, the Village may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the State, or to minimize danger to persons.
- b. Suspension Due to the Detection of Illicit Discharge. Any person discharging to the MS4 in violation of this section may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The Village will notify a violator of the proposed termination of its MS4 access. The violator may petition the Village for a reconsideration and hearing.
- c. Reinstatement without a Permit. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without prior approval of the Village.

(10) Industrial or Construction Activity Discharges

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Village prior to the allowing of discharges to the MS4.

(11) Monitoring of Discharges

- a. Applicability. This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.
- b. Access to Facilities
 - 1. The Village shall be permitted to enter and inspect facilities subject to regulation under this section as often as may be necessary to determine compliance with this section. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the Village.
 - 2. Operators shall allow the Village ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water.

and the performance of any additional duties as defined by state and federal law.

3. The Village shall have the right to set up on any permitted facility such devices as are necessary in its opinion to conduct monitoring and/or sampling of the facility's storm water discharge.
4. The Village has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
5. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Village and shall not be replaced. The costs of clearing such access shall be borne by the operator.
6. Unreasonable delays in allowing the Village access to a permitted facility is a violation of a storm water discharge permit and of this section. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the Village reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this section.
7. If the Village has been refused access to any part of the premises from which stormwater is discharged, and has reason to believe that a condition of nonconformity exists with respect to the particular place, dwelling, structure or premises which condition would constitute a violation of this section, then the Village may seek issuance of an inspection warrant from any court of competent jurisdiction.

(12) Requirement to Prevent, Control, And Reduce Stormwater Pollutants By the Use of Best Management Practices

The Village has adopted requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the State. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's

expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4. An illicit discharge that occurs despite compliance with BMPs is a violation of this Section, except if such discharge is permitted under Section 14-6(a)(7). Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan as necessary for compliance with requirements of the NPDES permit.

(13) Watercourse Protection

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

(14) Notification of Spills

Notwithstanding other requirements of law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system, or water of the U.S., said person shall take all necessary steps to ensure the discovery, containment, and cleanup for such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Village in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Village within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

(15) Enforcement

It shall be the responsibility of the Village Manager or designee, to determine if a violation of this section exists, as based on the findings required in this section and applicable law. The Village Manager may initiate enforcement proceedings in accordance with Article IV of the Code. The remedies listed in this section are not exclusive of any other remedies available under any applicable federal, state

or local law and it is within the discretion of the Village seek cumulative remedies.

- a. Notice of Violation. Whenever the Village finds that a person has violated a prohibition or failed to meet a requirement of this section, the Village may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:
 1. The performance of monitoring, analyses, and reporting;
 2. The elimination of illicit connections or discharges;
 3. The requirement that the violating discharges, practices, or operations shall cease and desist;
 4. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property; and
 5. Payment of a fine to cover administrative and remediation costs; and
 6. The implementation of source control or treatment BMPs.
- b. Deadline. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.
- c. Appeal of Notice of Violation. Any person receiving a Notice of Violation may appeal the determination of the Village in accordance with Section 2-186 and 2-187 of the Code. The notice of appeal must be received within 20 calendar days from the date of service of the Notice of Violation. The decision of the Village or their designee shall be final, and may be appealed to a court of competent jurisdiction as provided in Section 2-189 of the Code.
- d. Assessment of Penalty for Non-Compliance.
 1. Upon determination of a violation of this section, the Village may assess against the violator a penalty of \$250.00 per day and a penalty of \$500 per day for a repeat violation. Higher penalties may be imposed for irreparable or irreversible violations in accordance with F.S. § 162.09(2)(a).
 2. Additional fines, charges and costs against the violator may be assessed in an amount determined by the Village Manager or designee, depending on the extent of environmental damage, required mitigation, the cost of remediation, and enforcement.

3. The violator shall bear all costs incurred for clean-up, enforcement action, and remediation.
4. In addition to the enforcement processes and penalties provided above, any condition caused or permitted to exist in violation of any of the provisions of this section is a threat to public health, safety and welfare, and is declared and deemed a nuisance, pursuant to §823.01, Florida Statutes. Accordingly, any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and each day during which any such violation of any of the provisions of this section is committed, continued, or permitted, shall constitute a separate offense, punishable by a \$500.00 fine, pursuant to §775.083(1)(e), Florida Statutes. In addition to any other penalty authorized by this section, any person, partnership or corporation convicted of violating any of the provisions of this section shall be required to bear the expense of such restoration.

(16) Abatement Following Failure to Correct

- a. Abatement of the Violation. If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 15 calendar days of the decision of the authority upholding the Village's decision, then representatives of the Village shall enter upon the subject private property and are authorized to take measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the Village or designated contractor to enter upon the premises for the purposes set forth above.
- b. Cost of Abatement. Within 30 calendar days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 20 calendar days. If the amount due is not paid within a timely manner as determined by the decision of the Village or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this section shall become liable to the Village by reason of such violation. The liability shall be paid in not more than 12 equal payments. Interest at the rate of 8% per annum shall be assessed on the balance on the first day following the imposition of the lien. An assessment may be paid without interest at any time within 30 calendar days after the abatement has been completed and a resolution accepting the same has been adopted by the Village.

Sec. 14-6(b). Erosion and Sediment Control

(1) Purpose

- a. During the construction process, soil is highly vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Eroded soil also necessitates repair of sewers and ditches and dredging of lakes. In addition, clearing and grading during construction cause the loss of native vegetation necessary for terrestrial and aquatic habitat.
- b. As a result, the purpose of this local regulation is to safeguard persons, protect property and prevent damage to the environment in the Village. This Section will also promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land in the Village.
- c. Development shall also comply with Section 6-201 of the Village Code, as appropriate.

(2) Definitions

Certified Contractor means a person who has received training and is licensed by the state or local environmental agency to inspect and maintain erosion and sediment control practices.

Clearing means any activity that removes the vegetative surface cover.

Development or development activity means:

- a. The construction, installation, demolition, or removal of a structure, building or improvement;
- b. Clearing, scraping, grubbing, killing or otherwise removing vegetation from a site; and/or
- c. Adding, removing, exposing, excavating, leveling, grading, digging, furrowing, dumping, piling, dredging, or otherwise significantly disturbing soil, mud, sand, or rock of a site.

Draining Way means any channel that conveys surface runoff throughout the site.

Erosion means the detachment, transport, and deposition of particulate matter by the action of wind, water, or gravity.

Erosion Control means a measure that prevents erosion.

Erosion and Sediment Control Agency means the Village or any other agency having jurisdiction, and is referred to as the Village.

Erosion and Sediment Control Manual means the guidelines established in the Florida Stormwater Erosion and Sedimentation

Control Inspector's Manual, published by the Florida Department of Environmental Protection, or Part 2–Public Works Manual, of Miami-Dade County, Florida, whichever is more restrictive.

Erosion and Sediment Control Plan means a set of plans prepared by or under the direction of a licensed professional engineer indicating the specific measures and sequencing to be used to control sediment and erosion on a development site during and after construction.

Grading means stripping, stockpiling, excavation or fill of material, or combination thereof, including the land in its excavated or filled condition and the resulting conditions thereof.

Perimeter Control(s) means a barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

Phasing means clearing a parcel of land in distinct phases, with the stabilization of each phase completed before the clearing of the next.

Sediment means a solid material, whether organic or inorganic, that is in suspension, is being transported, or has been moved from its site of origin by wind, water, or gravity as a product of erosion.

Sediment Control means measures that prevent eroded sediment from leaving the site.

Site means a parcel of land or contiguous combination thereof, where grading work is performed as a single unified operation.

Site Development Permit means a permit issued by the municipality for the construction or alteration of ground improvements and structures for the control of erosion, runoff, and grading.

Stabilization means the use of practices that prevent exposed soil from eroding.

Start of Construction means the first land-disturbing activity associated with a development, including land preparation such as clearing, grading and filling; installation of streets and walkways; excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

Village means Bal Harbour Village and shall be construed to include any designated agent of the Village.

Watercourse means any body of water, including, but not limited to, lakes, ponds, rivers, streams, and bodies of water delineated by the Village.

Waterway means a channel that directs surface runoff to a watercourse or to the public storm drain.

(3) Permits

- a. No person shall be granted a site development permit for land-disturbing activity without the approval of an Erosion and Sediment Control Plan by the Village.
- b. No site development permit is required for the following activities:
 - 1. Any emergency activity that is immediately necessary for the protection of life, property or natural resources;
 - 2. Existing nursery and agricultural operations as permitted main or accessory use.
- c. Each application shall bear the names and addresses of the owner and developer of the site, and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm, and shall be accompanied by a filing fee.
- d. Each application shall include a statement that any land clearing, construction, or development involving the movement of earth shall be in accordance with the Erosion and Sediment Control Plan and that a Certified Contractor shall be on site on all days when construction or grading activity takes place.
- e. The applicant will be required to file with the Village a faithful performance bond, letter of credit, or other improvement security in an amount deemed sufficient by the Village to cover all costs of improvements, landscaping, maintenance, of improvements for such period as specified by the Village, and engineering and inspection costs to cover the cost of failure or repair improvements installed on the site.

(4) Review and Approval

The Village will review each application for a site development permit to determine its conformance with the provisions of this regulation. Within 30 calendar days after receiving an application, the Village shall, in writing:

- a. Approve the permit application;
- b. Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the permit subject to these conditions;
or
- c. Disapprove the permit application, indicating the reason(s) and procedure for submitting a revised application and/or submission.

(5) Erosion and Sediment Control Plan

a. The Erosion and Sediment Control Plan shall include the following:

1. A natural resources map identifying soils, forest cover, and resources protected under other chapters of this code.
2. A sequence of construction of the development site, including stripping and clearing, rough grading, construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.
3. All erosion and sediment control measures necessary to meet the objectives of this local regulation throughout all phases of construction and after completion of development on the site. Depending upon the complexity of the project, the drafting of immediate plans may be required at the close of each season.
4. Seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application, and kind and quantity of mulching for both temporary and permanent vegetative control measures.
5. Provisions for maintenance of control facilities, including easements and estimates of the cost of maintenance.

b. Modifications to the plan shall be processed and approved or disapproved in the same manner as those in Section 14-6(b)(4), may be authorized by the Village by written authorization to the permittee and shall include:

1. Major amendments of the erosion and sediment control plan submitted to the Village;
2. Field modifications of a minor nature.

(6) Design Requirements

a. Grading, erosion control practices, sediment control practices, and waterway crossings shall meet the design criteria set forth in the most recent version of Erosion and Sediment Control Manual, and shall be adequate to prevent transportation of sediment from the site to the satisfaction of the Village. Cut and fill slopes shall be no greater than 2:1, except as approved by the Village to meet other community or environmental objectives.

- b. Clearing and grading of natural resources, such as forest and wetlands, shall not be permitted, except when in compliance with all other chapters of this Code. Clearing techniques that retain natural vegetation and drainage patterns, as described in Erosion and Sediment Control Manual, shall be used to the satisfaction of the Village.
- c. Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.
- d. Phasing shall be required on all sites disturbing greater than 30 acres, with the size of each phase to be established at plan review and as approved by the Village.
- e. Erosion control requirements shall include the following:
 - 1. Soil stabilization shall be contemplated within five calendar days of clearing or inactivity in construction.
 - 2. If seeding or another vegetative erosion control method is used, it shall become established within two weeks or the Village may require the site to be reseeded or a nonvegetative option employed.
 - 3. Special techniques that meet the design criteria outlined in Erosion and Sediment Control Manual on steep slopes or in drainage ways shall be used to ensure stabilization.
 - 4. Soil stockpiles must be stabilized or covered at the end of each workday.
 - 5. The entire site must be stabilized, using a heavy mulch layer or another method that does not require germination to control erosion, at the close of the construction period.
 - 6. Techniques shall be employed to prevent the blowing of dust or sediment from the site.
 - 7. Techniques that divert upland runoff past disturbed slopes shall be employed.
- f. Sediment controls requirements shall include:
 - 1. Settling basins, sediment traps, or tank and perimeter controls.
 - 2. Settling basins that are designed in a manner that allows adaptation to provide long term stormwater management, if required by the Village.
 - 3. Protection for adjacent properties by the use of a vegetated buffer strip in combination with perimeter controls.
- g. Waterway and watercourse protection requirements shall include:

1. A temporary stream crossing installed and approved by (approving agency, e.g. Waterways Division, ESC agency) if a wet watercourse will be crossed regularly during construction.
 2. Stabilization of the watercourse channel before, during, and after any in-channel work.
 3. All on-site stormwater conveyance channels designed according to the criteria outlined in Erosion and Sediment Control Manual.
 4. Stabilization adequate to prevent erosion located at the outlets of all pipes and paved channels.
- h. Construction site access requirements shall include:
1. A temporary access road provided at all sites.
 2. All measures required by the Village in order to ensure that sediment is not tracked onto public streets by construction vehicles or washed into storm drains.

(7) Inspection

- a. The Village shall make inspections as hereinafter required and either shall approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the Erosion and Sediment Control Plan as approved. Plans for grading, stripping, excavating, and filling work bearing the stamp or approval of the Village shall be maintained at the site during the progress of work. To obtain inspections, the permittee shall notify the Village at least two business days before the following:
1. Start of construction;
 2. Installation of sediment and erosion measures;
 3. Completion of site clearing;
 4. Completion of final landscaping;
 5. Close of the construction permit.
- b. The Village shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved Erosion and Sediment Control Plan(s). The purpose of such inspections will be to determine the overall effectiveness of the control plan and the need for additional control measures. All inspections shall be performed and documented in written form by the Village at the time interval specified in the approved permit.
- c. The Village shall enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the reports filed under the preceding subsection.

(8) Enforcement

- a. Stop-Work Order; Revocation of Permit. In the event that any person holding a site development permit pursuant to this section violates the terms of the permit or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the Village may suspend or revoke the site development permit.
- b. Violation and Penalties. No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of the terms of any of this section. The remedies listed in this section are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency seek cumulative remedies.
 1. Assessment of Penalty for Non-Compliance.
 - a) Upon determination of a violation of this section, the Village may assess against the violator a penalty of \$250.00 per day and a penalty of \$500 per day for a repeat violation. Higher penalties may be imposed for irreparable or irreversible violations in accordance with F.S. § 162.09(2)(a).
 - b) Additional fines, charges and costs against the violator may be assessed in an amount determined by the Village Manager or designee, depending on the extent of environmental damage, required mitigation, the cost of remediation, and enforcement.
 - c) The violator shall bear all costs incurred for clean-up, enforcement action, and remediation.
 2. In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this section is a threat to public health, safety and welfare, and is declared and deemed a nuisance, pursuant to §823.01, Florida Statutes. Accordingly, any person violating any of the provisions of this Section shall be deemed guilty of a misdemeanor punishable by a \$500.00 fine, pursuant to §775.083(1)(e), Florida Statutes. In addition to any other penalty authorized by this section, any person, partnership or corporation convicted of violating any of the provisions of this section shall be required to bear the expense of such restoration.

Sec. 14-6(c). Adoption of section D4, Water Control, of Part 2–Public Works Manual of Miami-Dade County, Florida.

Bal Harbour Village adopts by reference section D4, Water Control, of Part 2–Public Works Manual, of ~~Metropolitan~~ Miami-Dade County, Florida, as amended.

BAL HARBOUR

- V I L L A G E -

COUNCIL ITEM SUMMARY

Condensed Title:

AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE FLORIDA, PURSUANT TO VILLAGE CHARTER SECTION 14(C), ALTERING THE ELECTION DISTRICT BOUNDARIES (REDISTRICTING) AS DEFINED IN SECTION 8.2 OF THE VILLAGE CODE. (FIRST READING)

Issue:

Shall the Village Council alter the boundaries of Council election districts to provide a more even distribution of population?

The Bal Harbour Experience:

- | | | |
|--|---|--|
| <input type="checkbox"/> Beautiful Environment | <input type="checkbox"/> Safety | <input type="checkbox"/> Modernized Public Facilities/Infrastructure |
| <input type="checkbox"/> Destination & Amenities | <input type="checkbox"/> Unique & Elegant | <input type="checkbox"/> Resiliency & Sustainable Community |
| <input checked="" type="checkbox"/> Other: Elections | | |

Item Summary / Recommendation:

Section 14(c) of the Village Charter allows the Village Council, by ordinance to alter the boundaries of the five voting districts from which councilmembers are chosen, and for which they represent. Having received the results of the 2020 U.S. Census, the Village Council at its February 2023 Retreat, reviewed and, by consensus, agreed to a redistricting plan that provides a more even distribution of population, and of registered voters. This ordinance will approve the plan and change the boundaries.

THE ADMINISTRATION RECOMMENDS APPROVAL OF THIS ORDINANCE ON FIRST READING.

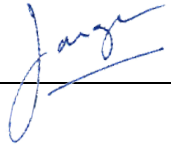
Advisory Board Recommendation:

N/A

Financial Information:

	Amount	Account	Account #
	N/A	N/A	N/A

Sign off:

Village Clerk		Village Manager
Dwight S. Danie		Jorge M. Gonzalez
		

BAL HARBOUR

- VILLAGE -

COUNCIL MEMORANDUM

TO: Honorable Mayor and Village Council

FROM: Jorge M. Gonzalez, Village Manager

DATE: April 18, 2023

SUBJECT: **AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE FLORIDA, PURSUANT TO VILLAGE CHARTER SECTION 14(C), ALTERING THE ELECTION DISTRICT BOUNDARIES (REDISTRICTING) AS DEFINED IN SECTION 8.2 OF THE VILLAGE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

ADMINISTRATIVE RECOMMENDATION

I am recommending approval of this Ordinance on first reading.

BACKGROUND

Section 14(c) of the Bal Harbour Village Charter states that "The council of said village may, by ordinance, divide the municipality into five (5) voting districts for the purpose of choosing councilmembers who shall represent such districts on the village council. Such districts shall be described in an ordinance and be clearly shown on a map to be attached thereto. The boundaries of such districts may be altered from time to time, but no alteration shall operate to deprive a councilmember of any portion of the term for which he or she shall have been elected. **Such districts shall be as nearly equal in area and population as may be, but this requirement shall not apply to a district which may embrace only business and commercial activities.**" (Emphasis added)

In 1958 the Bal Harbour Village Council adopted Ordinance No. 64 dividing the Village into 5 voting districts. In 1980, as a result of the development of the Ocean Front and shifting population, the Village Council redistricted Council District boundaries by adopting Ordinances No. 221 and No. 235. The unique characteristics of the Village and the development on the Ocean Front bringing in a higher population density, resulted in the previous administrations focusing on population, and not area size.

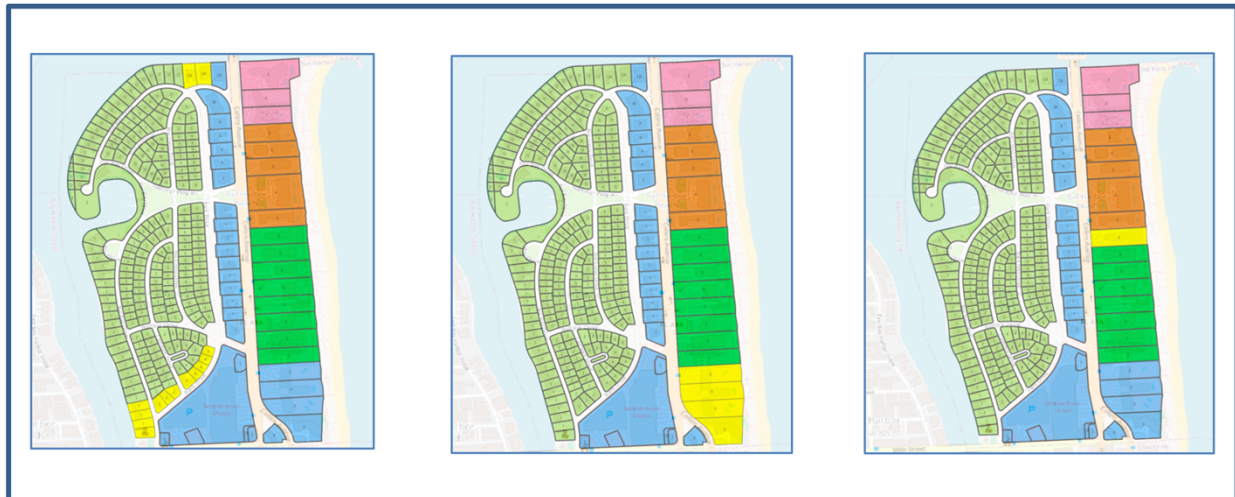
On August 21, 2021, the U.S. Census Bureau provided the most accurate population counts available from the 2020 US Census to be used for the redistricting of legislative district boundaries. The smallest statistical area and geographic unit available from the Bureau is the Census Block.

ANALYSIS

The total population for each block group was evenly apportioned to the living units within each block group, which allowed for the re-aggregation of the population to each Council District.

When the population data is apportioned to the current five district boundaries, the portion of the total population ranges as high 24.6% to as low as 15.9% within single districts. Optimally, all districts would balance as close to 20% of the total as possible.

In order to achieve a more balanced set of districts, the Village would need to modify the boundaries of the existing Council Districts in a way that would reduce the population of Districts 1 and 2 and increase the populations for Districts 4 and 5, getting as close to the average District population of 20% as possible.



In order to accomplish this redistricting, I recommend the following:

- the multi-family parcels within the Gated Community would shift from District 4 to District 5; and
- the southernmost parcels of the Ocean Front including the Majestic and the St. Regis, would shift from District 1 to District 4; and
- the southernmost parcel of District 2, the Tiffany, would shift from District 2 to District 1.

A map of the proposed districts is attached as Attachment A.

The following chart shows the current and proposed redistricting breakdown.

US Census 2020 Population

District	Current Population	Percent of Total	Proposed Population	Percent of Total
D-1	770	24.6%	623	19.9%
D-2	730	23.3%	635	20.3%
D-3	614	19.6%	614	19.6%
D-4	497	15.9%	558	17.8%
D-5	522	16.7%	704	22.5%
Grand Total	3,133	100.0%	3,133	100.0%
Average	627			

A list of the Village's 2,194 registered voters from August 2022, provided by the Miami-Dade County Elections Department, was geocoded in order to summarize the total number of voters within lot boundaries allocated to the Current District Boundaries and the Proposed District Boundaries. The following chart shows the current and proposed redistricting breakdown.

November 2022 Registered Voters

District	Current District Voters	Percent of Total	Proposed District Voters	Percent of Total
D-1	721	32.9%	571	26.0%
D-2	548	25.0%	480	21.9%
D-3	296	13.5%	296	13.5%
D-4	268	12.2%	413	18.8%
D-5	361	16.4%	434	19.8%
Grand Total	2,194	100.0%	2,194	100.0%
Average	438.4			

Attachment B provides a more detailed look at the Plats, Tracts and Lots for the Ocean Front, Business Section and Residential Section referenced by Village Code Section 8-2, which this ordinance would amend.

THE BAL HARBOUR EXPERIENCE

This ordinance is put forth to adhere to Section 14(c) of the Bal Harbour Village Charter.

CONCLUSION

This analysis was presented to the Village Council at its February 23-24, 2023 Retreat wherein there was a general consensus to approve the proposed Council District boundaries and to bring this ordinance back to the Village Council for consideration. The

Council is now asked to consider approving this ordinance on first reading. I believe the proposed boundaries provide a fairer distribution of population and registered voters, and is consistent with the Bal Harbour Village Charter. Therefore, I recommend approval of this item.

Attachments:

1. Attachment A - Map of Proposed Council District Boundaries
2. Attachment B - Bal Harbour Village Plats

ORDINANCE NO. 2023____

AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE FLORIDA, PURSUANT TO VILLAGE CHARTER SECTION 14(C), ALTERING THE ELECTION DISTRICT BOUNDARIES (REDISTRICTING) AS DEFINED IN SECTION 8.2 OF THE VILLAGE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 14(c) of the Village Charter allows the Village Council, by ordinance, to alter the boundaries of the five voting districts from which councilmembers are chosen, and for which they represent, and such districts shall be as nearly equal in area and population as may be; and

WHEREAS, the Village Council has received and reviewed the results of the 2020 U.S. Census and finds that the Village's Council districts are sufficiently out of population balance; and

WHEREAS, at its February 2023 Retreat the Village Council was presented with and, by consensus, agreed to a redistricting plan that provides a more even distribution of population and registered voters within the district.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AS FOLLOWS:

Section 1. **Recitals Adopted.** That the above stated recitals are hereby adopted and confirmed.

Section 2. **Village Code Amended - Chapter 8.2.** That Section 8.2 "Election Districts" of the Code of Bal Harbour Village, Florida, is hereby amended to read as follows:¹

CHAPTER 8 - Elections

¹ Additions to existing Village Code text are shown by underline; deletions from existing Village Code text are shown by ~~striketrough~~. Any changes between first and second reading are shown by highlighted double underline and ~~double striketrough~~ font.

Sec. 8-2. - Election districts.

Pursuant to the Village Charter, the Village is hereby divided into the following voting districts:

(1) *District No. 1:*

Lots ~~1~~⁵ through ~~1~~², Ocean Front Section of Bal Harbour, Plat Book 44, page 27.

(2) *District No. 2:*

Lots ~~1~~²~~3~~ through 16, Ocean Front Section of Bal Harbour, Plat Book 44, page 27.

Tract A, Ocean Front Section of Bal Harbour, Plat Book 44, page 27.

(3) *District No. 3:*

Tracts C, D, E, Bal Harbour Ocean Front Addition, Plat Book 57, page 68.

(4) *District No. 4:*

Lots 1 through 4, Ocean Front Section of Bal Harbour, Plat Book 44, page 27.

Tract B, Ocean Front Section of Bal Harbour, Plat Book 44, page 27.

Areas 1 through 5, Business Section of Bal Harbour, Plat Book ~~6~~⁹~~0~~, page 39.

A portion of Tract D described in DB 2886, pg. 198 and DB 3505, pg. 170, Residential Section of Bal Harbour, Plat Book 44, page 98.

Lots 1 ~~and 2~~ ~~through 4~~, Block 1, Residential Section of Bal Harbour, Plat Book 44, page 98.

~~Lots 2 through 4, Block 2, Residential Section of Bal Harbour, Plat Book 44, page 98.~~

~~Lots 2 through 6, Block 4, Residential Section of Bal Harbour, Plat Book 44, page 98.~~

Lots 1 through 10, Block 7, Residential Section of Bal Harbour, Plat Book 44, page 98.

Lots 1 through 5, Block 8, Residential Section of Bal Harbour, Plat Book 44, page 98.

Lot 1, Block 8A, Resubdivision of Residential Section of Bal Harbour, Plat Book 53, page 15.

~~Lots 1 through 3~~, Block 12A, Resubdivision of Residential Section of Bal Harbour, Plat Book 53, page 15.

(5) *District No. 5:*

Lots 2 through 4, Block 2, Residential Section of Bal Harbour, Plat Book 44, page 98.

Lots 2 through 6, Block 4, Residential Section of Bal Harbour, Plat Book 44, page 98.

Lots 1 and 2, Block 12A, Resubdivision of Residential Section of Bal Harbour, Plat Book 53, page 15.

Lots ~~5~~³ through 24, Block 1, Residential Section of Bal Harbour, Plat Book 44, page 98.

Lot 1, Block 2, Residential Section of Bal Harbour, Plat Book 44, page 98.
Lots 5 through 20, Block 2, Residential Section of Bal Harbour, Plat Book 44, page 98.
Lots 1 through 33, Block 3, Residential Section of Bal Harbour, Plat Book 44, page 98.
Lot 1, Block 4, Residential Section of Bal Harbour, Plat Book 44, page 98.
Lots 7 through 18, Block 4, Residential Section of Bal Harbour, Plat Book 44, page 98.
Lots 1 through 20, Block 5, Residential Section of Bal Harbour, Plat Book 44, page 98.
Lots 1 through 33, Block 6, Residential Section of Bal Harbour, Plat Book 44, page 98.
Lots 1 through 21, Block 9, Residential Section of Bal Harbour, Plat Book 44, page 98.
Lots 1 through 13, Block 10, Residential Section of Bal Harbour, Plat Book 44, page 98.
Lots 1 through 22, Block 11, Residential Section of Bal Harbour, Plat Book 44, page 98.
Lots 1 through 20, Block 12, Residential Section of Bal Harbour, Plat Book 44, page 98.
Tract E, Residential Section of Bal Harbour, Plat Book 44, page 98.

The districts are further delineated upon a map which is on file in the Village Clerk's office and which is made a part of this chapter by reference.

Section 3. Severability. That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Inclusion in the Code. That it is the intention of the Village Council, and it is hereby ordained that this Ordinance shall become and be made a part of the Bal Harbour Village Code; that the sections of this Ordinance may be renumbered or relettered to accomplish such intention; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 5. Conflict. That all Sections or parts of Sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions, or parts of resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

Section 6. **Effective Date.** That this Ordinance shall be effective immediately upon adoption on second reading.

PASSED AND ADOPTED on first reading this 18th day of April, 2022.

PASSED AND ADOPTED on second reading this ____ day of _____, 2022.



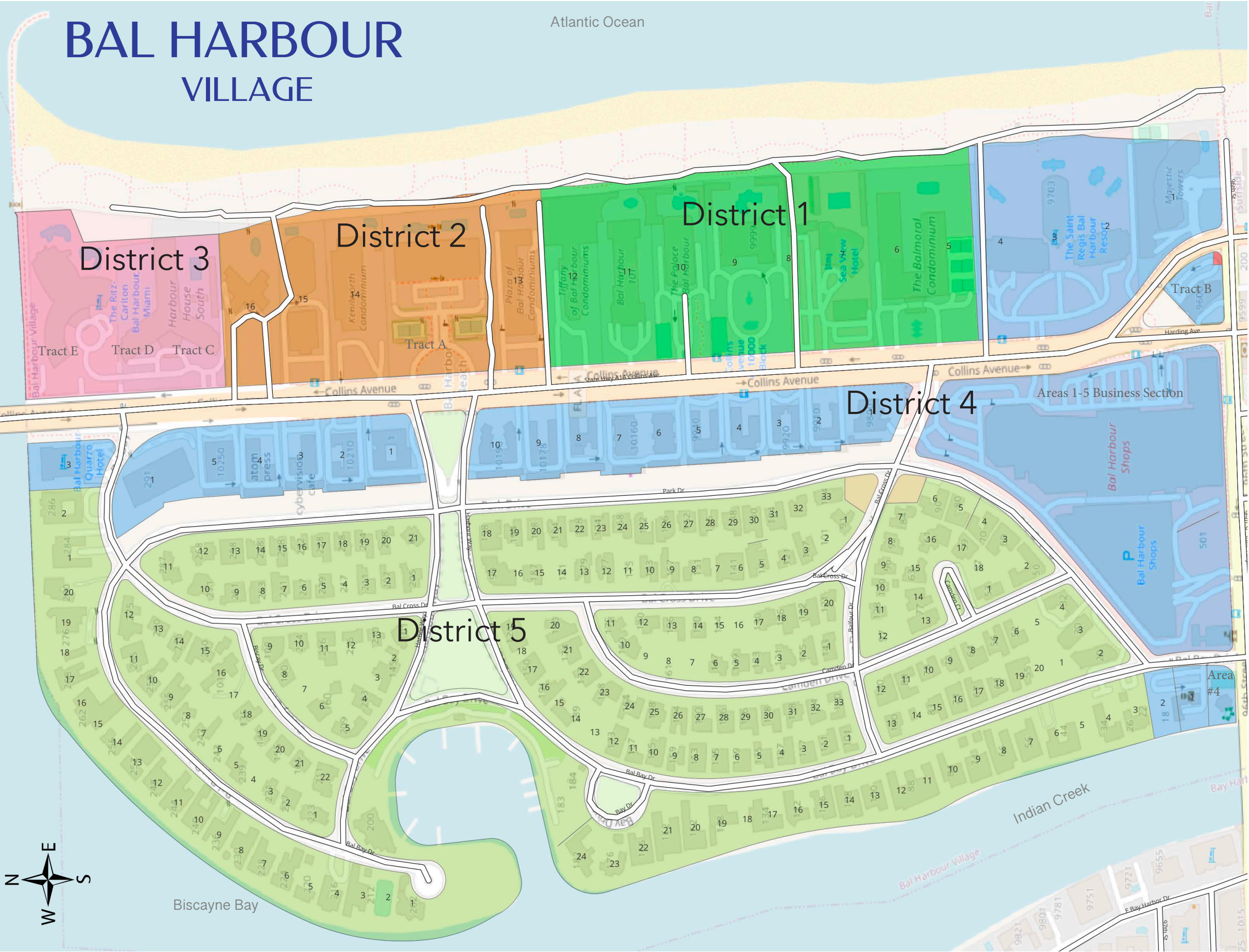
Mayor Jeffrey P. Freimark

ATTEST:

Dwight S. Danie, Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Village Attorney
Weiss Serota Helfman Cole & Bierman P.L.



BAL HARBOUR
- VILLAGE -

EXHIBIT A

APRIL 18, 2023
BAL HARBOUR VILLAGE
COUNCIL MEETING

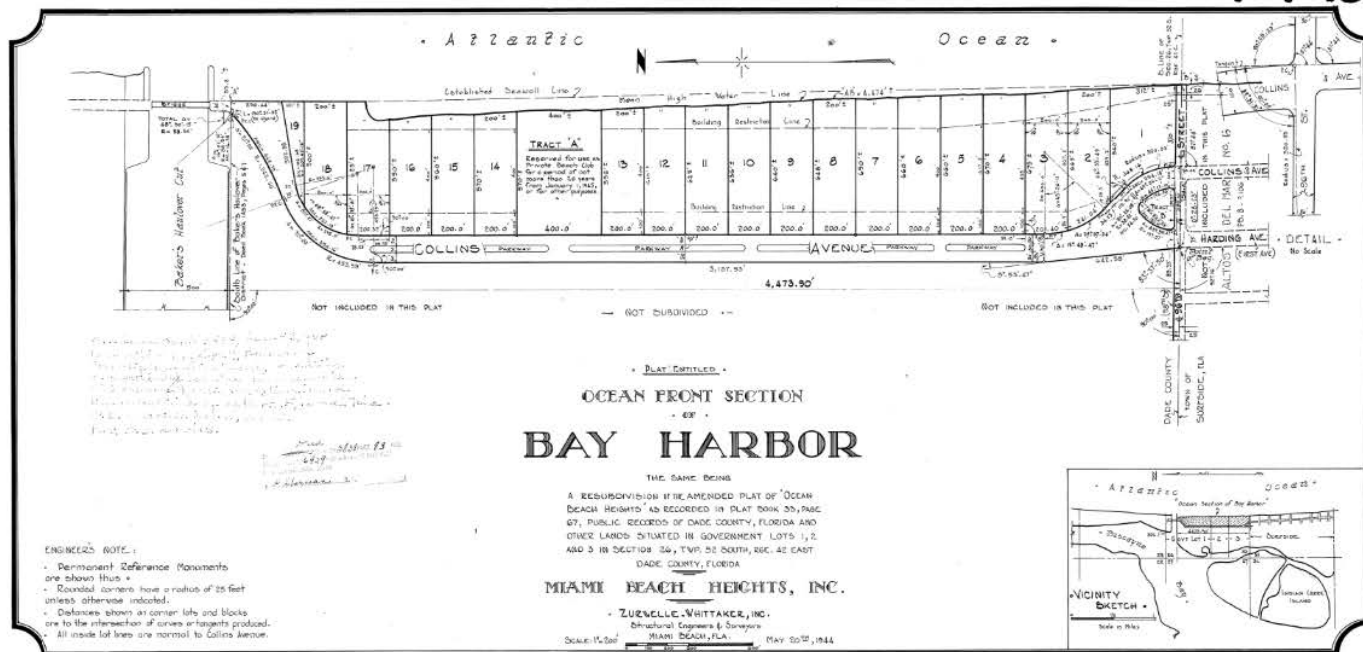
AGENDA ITEM
R5_

PROPOSED
REDISTRICTING
FOR
VILLAGE
COUNCIL
DISTRICT
BOUNDARIES

WITH DISTRICT
BOUNDARIES AND LOT
BOUNDARIES PROVIDE
BY MIAMI-DADE
COUNTY

Lots is a polygon feature class used to maintain an accurate record of platted land. Used to create the county's engineering section sheet. Updated: Weekly-Sat. The data was created using: Projected Coordinate System: WGS_1984_Web_Mercator_Auxiliary_Sphere Projection: Mercator_Auxiliary_Sphere





- C A P T I O N -

STATE OF FLORIDA: 55
COUNTY OF DADE: 55

KNOW ALL MEN BY THESE PRESENTS:

* That Miami Beach Heights, Inc., a Florida corporation hereby files this plat of its property to be known as Ocean Beach Heights or Bay Waterside, "some being a result of the amended plat of Ocean Beach Heights, as recorded in plat book 35, page 67, public records of Dade County, Florida and other lands situated in government Lots 1, 2 and 3 in Section 26, Twp. 32 North, Rge. 42 East, Dade County, Florida, and being more particularly described as follows:

Beginning at a point which is the intersection of the center line of 25th Street (now known as 36th Street), said center line of 36th Street being the south line of Section 36, Twp. 32 North, Rge. 42 East, with the westerly line of First Avenue (now Harding Avenue) produced northwesterly, as same is shown on a plat entitled "Alhosa Del Rio No. 2", recorded in plat book 8, page 100, public records of Dade County, Florida.

- Thence run in a northerly direction deflecting to the right 83°37'50" to the point center line of 96th Street a distance of 942.56 feet to a point;
- Thence deflecting 5°25'41" to the right run 3157.25 feet to the Point of Curvature (P.C.) of a circular curve;
- Thence run along the arc of a circular curve deflecting to the right and having for its elements a central angle of 30°40' and a radius of 253.59 feet a distance of 504.16 feet to the Point of Reverse Curvature (P.R.C.) of a circular curve;

• Thence run along the arc of circular curve deflecting to the left and having for its elements a central angle of $21^{\circ}00'$ and a radius of $1,262.46'$ a distance of $442.79'$ feet to the Point of Compound Curvature (P.C.) of a circular curve.

• Thence run along the arc of a circular curve deflecting to the left and in for its elements a central angle of $16.02-10^{\circ}$ and a radius of 58.54 feet, a distance of 16.38 feet to a point on the south property line of Baker's Haulway District as recorded in Deed Book 148A, Pages 8 and 9. Public Records of the

• Thence run in an easterly direction along the said south property line of Dekar's Boulevard District, along a line making an angle to the southeast of $30^{\circ} 2' 25''$ with the chord of the last mentioned circular curve, a distance of 50.27' plus or minus, to the Neen Side Marker line of the Atlantic Ocean;

- These points, including meandering sand moon high water line, a distance of 4.174 feet, plus or minus, to a point where the sand moon high water line intersects the sand center line at 60°N. Observe:
- These points are located on the center line of said 60°N. beach, a distance of 1.72 feet, plus or minus, to the East of beginning, containing 73.2 acres, more or less.
- The area covered by above description is the westerly portion of Government Lots 1 and 2 of the North Reef East of Harding lot in Section 20, Twp 26S, Rng 21E.
- The express purpose of this plan is to show the reestablishment of the limits shown on the former plan and to divide said lots into three parts, to-wit:

All Otterlee, Avenue and Parkway together with all existing and future planting, both trees and shrubbery, are hereby dedicated to the perpetual use of the public for proper purposes, concerning hereunto by them. Beach lights, and other improvements, the recreation or recreation thereof showing, by law or otherwise.

I, WILLIAM W. WILSON, WILSON BEACH LIGHTS, INC., by and with the authority of its Board of Directors, has caused these presents to be signed in its name by its President and Secretary and its corporate seal to be hereunto affixed this 27th day of July A.D. 1944.

Executed in the presence of:

George M. W. [Signature]

Robert M. [Signature] PRESIDENT

Thence E. Thwa
STATE OF FLORIDA
COUNTY OF DADE. 96

Before me, the undersigned authority, this day personally appeared ROBERT C. DEANHAM and J. JULIEN DOMESTICHO, President and Secretary respectively of MIAMI BEACH HEIGHTS, INC., a Florida corporation, to me well known and known to me to be such officers respectively and acknowledged before me that they signed the foregoing instrument as such officers for and on behalf of said corporation, for

Witness my hand and official seal at Miami Beach, in said County and State
this 8th day of JULY A.D. 1964

My Commission Expires: Nov 12, 1945 NOTARY PUBLIC - STATE OF MICHIGAN
at large

STATE OF FLORIDA
COUNTY OF DADE, FLA.

This is to certify that the attached plat entitled "OCEAN FRONT SECTION OF BAY HARBOR" is a true and correct representation of the land surveyed and platted under my direction and that the Permanent Reference Monument have been placed on the 30th day of May, A.D. 1944, in accordance with Chapter 10275, Section 7, (No. 125) Laws of the State of Florida.

ZORVILLE-WHITTAKER, W.
By Willie O. Davidson
WILLIE O. DAVIDSON, AGE 28.5.
Registered Land Surveyor No. 101
State of Florida.

This plat approved for record:
by Leslie M. Palmer, Jr.
County Engineer

The official Zoning Regulations of Dade County, now in effect, or as same may be from time to time legally changed or amended, applicable to the area within which this subdivision is located, shall be observed.

Approved for record this 7th day of Dec AD 1964

This plat approved by the County Commissioners of Gadsden County, Florida, by resolution adopted and passed this 8 day of August A.D. 1944.

Attest: E.B. LEATHERMAN
by *E.B. Leatherman*
DEPUTY CLERK

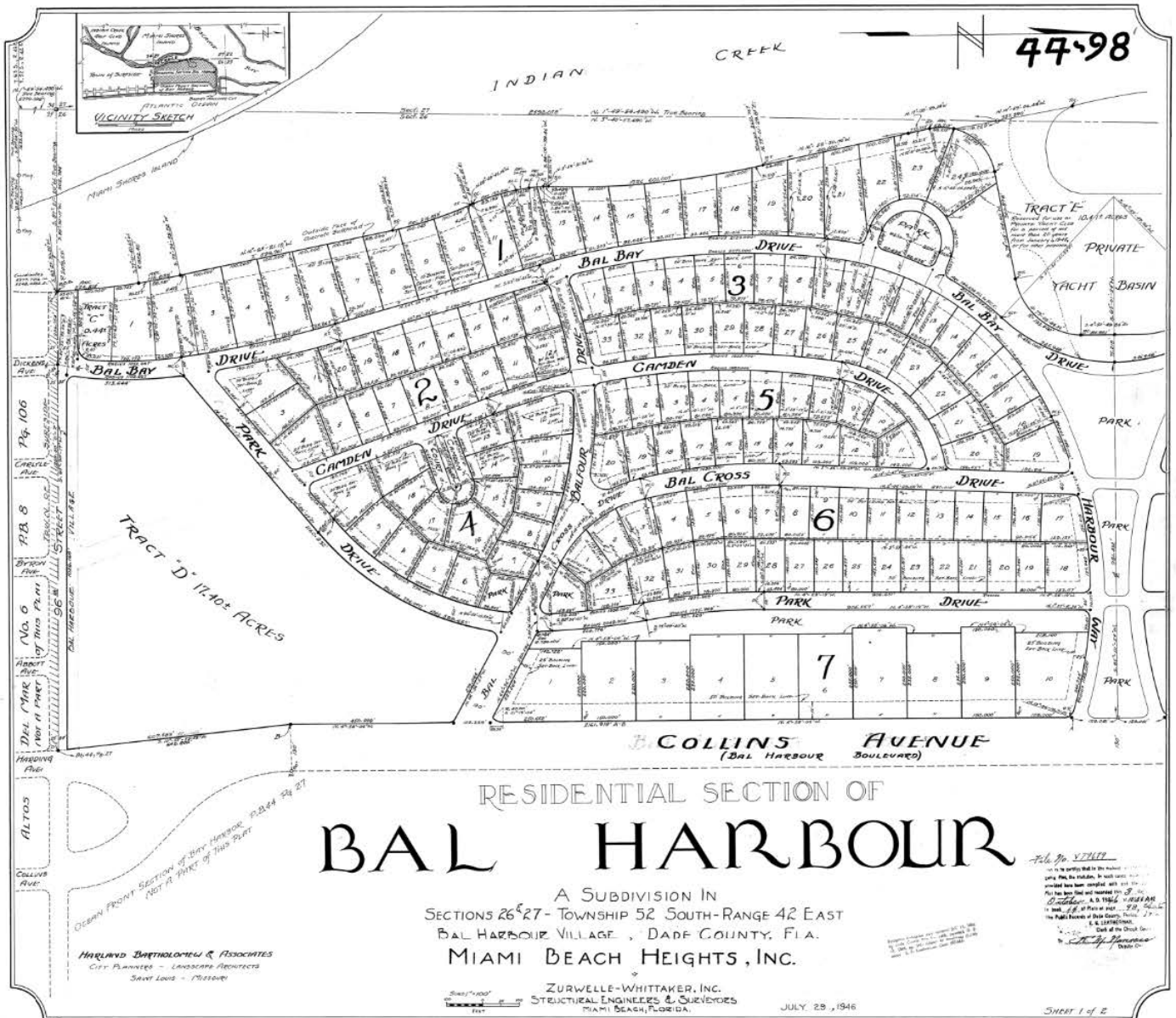
Filed for record this 10 day of Aug A.D. 1944 at 12:13 PM in Book
114 of Plate, Page 27, Public Records of Dade County, Florida. This plat
complies with the provisions of Chapter 10276 (see 205), Laws of the State of Florida.

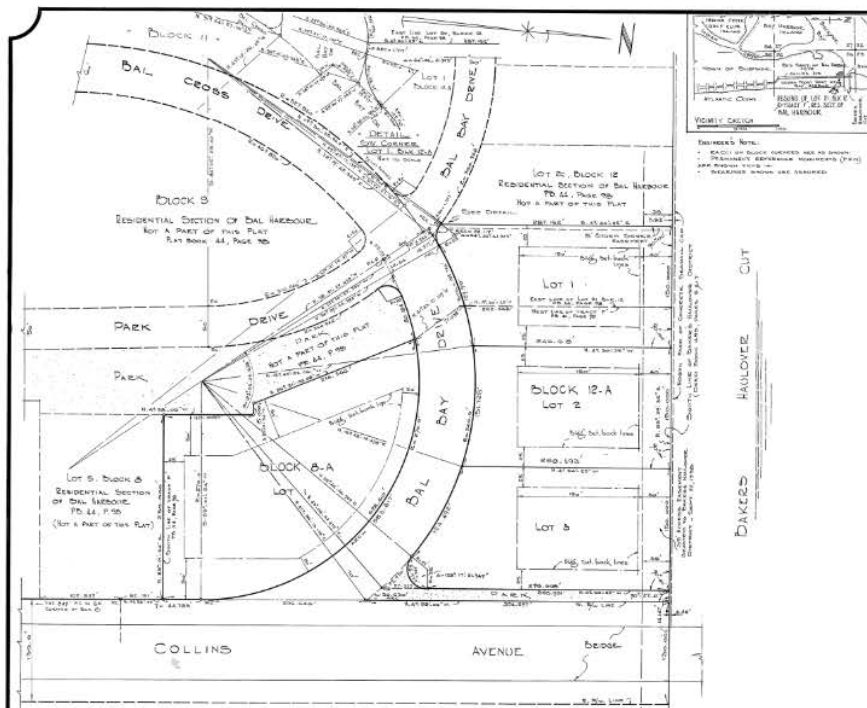
Reception: Timothy J. G. [illegible] 11/11/80

E. R. LEATHERMAN
CLERK OF COURT CHIEF

By: The Warden

and 100% to 20% (mean = 50%)
and 100% to 10% (mean = 55%)





• DEDICATION & RESERVATIONS •

KNOW ALL MEN BY THESE PRESENTS:

THAT THE OWNER, MIAMI BEACH HEIGHTS, INC., A CORPORATION ORIGINALLY INCORPORATED IN AND HAVING ITS OFFICE IN THE COUNTY OF DADE, FLORIDA, HAS FILED THIS PLAT OF ITS PROPERTY TO BE KNOWN AS "RESUBDIVISION OF LOT 21, BLOCK 12, TRACT F, RESIDENTIAL SECTION OF BAL HARBOUR, BAL HARBOUR VILLAGE, FLORIDA," RECORDED IN PLAT BOOK 44, PAGE 90 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA.

MIAMI BEACH HEIGHTS, INC. HEREBY RESERVES TO ITSELF ITS SUCCESSORS AND ASSIGNS, A STRIP OF LAND FIVE (5) FEET WIDE OFF THE WEST SIDE OF LOT 1, BLOCK 12A SHOWN BY DOTTED LINES FOR THE PURPOSE OF INSTALLING AND MAINTAINING A DRAIN SPUR AND FOR NO OTHER PURPOSE.

ALL UTILITIES, PRESENT AND FUTURE, SHALL BE CONSIDERED AND MAINTAINED UNDERGROUND, EXCEPT STREET LIGHTING DEPENDENT, TELEPHONE, CABLES AND NECESSARY ELECTRIC AND TELEPHONE APPURTENANCES.

BAL HARBOR DRIVE, TOGETHER WITH AREA DESIGNATED "PARK," AS SHOWN ON SAID PLAT, ARE HEREBY DEDICATED TO THE USE AND ENJOYMENT OF THE OWNERS OF LOTS, IN SAID SUBDIVISION, AS WELL AS THE OWNERS OF LOTS IN THE RESIDENTIAL SECTION OF BAL HARBOUR, AS SHOWN ON PLAT NUMBERED RECORDED IN PLAT BOOK 44, PAGE 90 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, AND TO THEM ONLY, SO LONG AS SAID DRIVE AND PARK SHALL REMAIN IN THE COVENANTS, LIMITS OF BAL HARBOUR VILLAGE, FLORIDA, OR THE LIMITS OF ANY TOWN OR MUNICIPALITY WHICH DIRECTLY SUCCEEDS SAID BAL HARBOUR VILLAGE, FLORIDA. IN EVENT THE SAID DRIVE OR PARK, REFERRED TO IN THIS PARAGRAPH ARE TAKEN OUT OF THE COVENANTS LIMITS OF BAL HARBOUR VILLAGE OR ANY VILLAGE OR MUNICIPALITY WHICH DIRECTLY SUCCEEDS SAID BAL HARBOUR VILLAGE, THEN IN THAT EVENT SAID DRIVE AND PARK ARE HEREBY DEDICATED TO THE PUBLIC USE OF THE PUBLIC ROAD DEPARTMENT, HEREINAFTER REFERRED TO AS THE PUBLIC ROAD DEPARTMENT, IN THE COUNTY OF DADE, FLORIDA.

THE LAYING, BEING REGULATIONS, NOW IN EFFECT, OR AT THE TIME MAY BE IN EFFECT, OF THE PUBLIC ROAD DEPARTMENT, IN THE COUNTY OF DADE, FLORIDA, SHALL BE THE LAW OF THE LAND FOR THE PURPOSES OF THIS DEDICATION.

IN WITNESS WHEREOF, MIAMI BEACH HEIGHTS, INC., BY AND WITH THE AUTHORITY OF ITS BOARD OF DIRECTORS, HAS CAUSED THIS INSTRUMENT TO BE SIGNED IN ITS NAME, AND SEAL, AND ON THIS DAY OF MAY, A.D. 1952.

STATE OF FLORIDA
COUNTY OF DADE

ROBERT C. GORMAN, PRESIDENT OF MIAMI BEACH HEIGHTS, INC., A FLORIDA CORPORATION, TO ME WELL KNOWN AND KNOWN TO ME TO BE SUCH OFFICER AND ACKNOWLEDGES BEFORE ME THAT HE HAS SIGNED THE FOREGOING INSTRUMENT AS SUCH OFFICER FOR AND ON BEHALF OF SAID CORPORATION, AND ALL THE OBLIGATIONS HEREIN EXPRESSED, AND HE HAS HAD THE AUTHORITY OF THE BOARD OF DIRECTORS OF SAID CORPORATION.

WITNESSED BY HAND AND OFFICIAL SEAL OF ME, CLARENCE J. GORMAN, CLERK OF DADE COUNTY, FLORIDA, THIS 22ND DAY OF MAY, A.D. 1952.

My Commission Expires: Dec. 17, 1952

STATE OF FLORIDA
COUNTY OF DADE

JOHN W. GORMAN, PRESIDENT OF MIAMI BEACH HEIGHTS, INC., A FLORIDA CORPORATION, TO ME WELL KNOWN AND KNOWN TO ME TO BE SUCH OFFICER AND ACKNOWLEDGES BEFORE ME THAT HE HAS SIGNED THE FOREGOING INSTRUMENT AS SUCH OFFICER FOR AND ON BEHALF OF SAID CORPORATION, AND ALL THE OBLIGATIONS HEREIN EXPRESSED, AND HE HAS HAD THE AUTHORITY OF THE BOARD OF DIRECTORS OF SAID CORPORATION.

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WITNESSED BY HAND AND OFFICIAL SEAL OF ME, CLARENCE J. GORMAN, CLERK OF DADE COUNTY, FLORIDA, THIS 22ND DAY OF MAY, A.D. 1952.

My Commission Expires: Dec. 17, 1952

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COUNTY OF DADE

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WITNESSED BY HAND AND OFFICIAL SEAL OF ME, CLARENCE J. GORMAN, CLERK OF DADE COUNTY, FLORIDA, THIS 22ND DAY OF MAY, A.D. 1952.

My Commission Expires: Dec. 17, 1952

STATE OF FLORIDA
COUNTY OF DADE

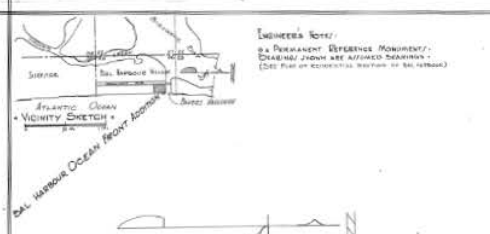
JOHN W. GORMAN, PRESIDENT OF MIAMI BEACH HEIGHTS, INC., A FLORIDA CORPORATION, TO ME WELL KNOWN AND KNOWN TO ME TO BE SUCH OFFICER AND ACKNOWLEDGES BEFORE ME THAT HE HAS SIGNED THE FOREGOING INSTRUMENT AS SUCH OFFICER FOR AND ON BEHALF OF SAID CORPORATION, AND ALL THE OBLIGATIONS HEREIN EXPRESSED, AND HE HAS HAD THE AUTHORITY OF THE BOARD OF DIRECTORS OF SAID CORPORATION.

PLAT ENTITLED
RESUBDIVISION OF LOT 21, BLOCK 12 & TRACT F
RESIDENTIAL SECTION OF BAL HARBOUR
BAL HARBOUR VILLAGE, FLORIDA

MIAMI BEACH HEIGHTS, INC.
OWNERS

ZURVELLE, WHITTAKER, INC.
ARCHITECTAL ENGINEERS & ARCHITECTS
MIAMI BEACH, FLORIDA

MAY 3, 1952



PLAT ENTITLED
BAL HARBOUR
OCEAN FRONT ADDITION

BEING A RESUBDIVISION OF LOTS 17, 18 AND 19 OF OCEAN FRONT SECTION OF DAY HARBOUR, PLAT BOOK 44, PAGE 27; THAT PORTION OF PUBLIC ROAD KNOWN AS COLLINS AVENUE CLOSED BY RESOLUTION NO. 6429 OF DADE COMMISSIONERS, DEED BOOK 5836, AT PAGES 85-84 AND 85, AND ALL OF TRACT G OF RESIDENTIAL SECTION OF BAL HARBOUR, PLAT BOOK 44 AT PAGE 28, ALL RECORDED IN THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA.

SECTION 25, TOWNSHIP 23 S, RANGE 21 E,
BAL HARBOUR VILLAGE, DADE COUNTY, FLORIDA

ZURWELLE, WHITTAKER, INC.
PLANNING ENGINEERS & ARCHITECTS
MIAMI BEACH, FLORIDA

DECEMBER 3, 1954

THIS PLAT WAS APPROVED AND THE NECESSARY REVISIONS WERE ACCEPTED AND APPROVED BY ORDINANCE NO. 1222, PASSED AND ADOPTED BY THE BAL HARBOUR COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, THIS 18th DAY OF DECEMBER, A.D. 1954.

DEDICATION & RESERVATIONS

KNOW ALL MEN BY THESE PRESENTS: THAT THE OWNERS, DEEDS COMMERCIAL AND DEVELOPMENT CO., A CORPORATION ONLY ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF MICHIGAN; DEANE SECURITIES CORPORATION, A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF MICHIGAN; GRAHAM DEVELOPMENT CORPORATION, A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF MICHIGAN; AND ROBERT C. GRAHAM, JOINED BY HIS WIFE BEATRICE ANN GRAHAM, AND ROBERT C. GRAHAM, JOINED BY HIS WIFE BEATRICE ANN GRAHAM, HERETOFOR FILER OF THIS PLAT, BEING A RESUBDIVISION OF ALL OF LOTS 17, 18 AND 19 OF OCEAN FRONT SECTION OF DAY HARBOUR, ADDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 44 AT PAGE 27, OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, THAT PORTION OF PUBLIC ROAD KNOWN AS COLLINS AVENUE CLOSED BY RESOLUTION NO. 6429 OF DADE COUNTY COMMISSIONERS AND RECORDED IN DEED BOOK 5836 AT PAGES 85-84 AND 85, AND ALL OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, AND ALL OF TRACT G AS SHOWN ON A PLAT ENTITLED "RESIDENTIAL SECTION OF BAL HARBOUR" ADDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 44 AT PAGE 28, OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, ALL OF THE SAID RESUBDIVISIONS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEING THE INTERSECTION OF THE EASTERLY LINE OF COLLINS AVENUE, WITH THE EASTERLY LINE OF PUBLIC ROAD KNOWN AS DAY HARBOUR, AS SAID DISTRICT IS RECORDED IN DEED BOOK 1459, AT PAGES 8 AND 7, PUBLIC RECORDS OF DADE COUNTY, FLORIDA, AS SHOWN ON A PLAT ENTITLED "RESIDENTIAL SECTION OF BAL HARBOUR" AS RECORDED IN PLAT BOOK 44 AT PAGE 28, PUBLIC RECORDS OF DADE COUNTY, FLORIDA, RUN S. 47° 58' 00" E. ALONG THE EASTERLY LINE OF COLLINS AVENUE, OR THE EASTERLY LINE OF TRACT G AS SHOWN ON THE SAID RECORDED PLAT OF "RESIDENTIAL SECTION OF BAL HARBOUR", A DISTANCE OF 300.00 FEET TO A POINT ON THE SOUTHERLY LINE OF TRACT G, AS SHOWN ON THE SAID RECORDED PLAT OF "RESIDENTIAL SECTION OF BAL HARBOUR".

THENCE CONTINUE S. 47° 58' 00" E. ALONG COLLINS AVENUE, AS SAID COLLINS AVENUE, AS SHOWN ON SAID PLAT OF OCEAN FRONT SECTION OF DAY HARBOUR, AS SAID COLLINS AVENUE BEING CLOSED BY RESOLUTION NO. 6429 OF DADE COUNTY COMMISSIONERS AND RECORDED IN DEED BOOK 5836, AT PAGES 85-84 AND 85, PUBLIC RECORDS OF DADE COUNTY, FLORIDA, A DISTANCE OF 289.00 FEET TO THE POINT OF QUARTERS (PQ) IN THE EASTERLY LINE OF LOT 17 OF SAID OCEAN FRONT SECTION OF DAY HARBOUR.

THENCE RUN EASTERLY 88° 00' 00" E. ALONG A LINE DEFLECTING 90° TO THE LEFT ALONG THE SOUTHERLY LINE OF SAID LOT 17, A DISTANCE OF 300.00 FEET, PLUS OR MINUS, TO THE MEAN HIGH WATER LINE OF THE ATLANTIC OCEAN, BE THE VARIOUS PARTS OF A QUARTER SECTION, TO BE WITNESSED.

THENCE RUN NORTHERLY REINTERSECTING THE MEAN HIGH WATER LINE OF THE ATLANTIC OCEAN, AT DISTANCE 300.00 FEET, MORE OR LESS, TO A POINT, SAID POINT BEING THE INTERSECTION OF THE MEAN HIGH WATER LINE OF THE ATLANTIC OCEAN, WITH THE SOUTHERLY LINE OF PUBLIC ROAD KNOWN AS DAY HARBOUR, AS SAID DISTRICT IS RECORDED IN DEED BOOK 1459, AT PAGES 8 AND 7, PUBLIC RECORDS OF DADE COUNTY, FLORIDA.

THENCE CONTINUE S. 47° 58' 00" E. ALONG THE SOUTHERLY LINE OF SAID "RESIDENTIAL SECTION OF BAL HARBOUR", A DISTANCE OF 300.00 FEET TO THE SOUTHERLY LINE OF TRACT G, AS SHOWN ON THE SAID RECORDED PLAT OF "RESIDENTIAL SECTION OF BAL HARBOUR".

THENCE CONTINUE S. 47° 58' 00" E. ALONG THE SOUTHERLY LINE OF SAID COLLINS AVENUE, AS SHOWN, TOGETHER WITH ALL FUTURE AND EXISTING TRACES AND SUBSEQUENT THEREON, AS HEREBY DEDICATED TO THE PUBLIC USE OF THE PUBLIC FOR PUBLIC PURPOSES, RESERVING, HOWEVER, TO OURSELVES, OUR HEIRS, SUCCESSORS AND ASSIGNS, THE REVERSION OR REVERSIONS THEREOF WHEREVER DISCONTINUED BY LAW.

THE LAWS ON ZONING REGULATIONS NOW IN EFFECT OR AS SAME MAY BE CHANGED BY THIS PLAT WILL BE OBSERVED.

IT IS THE PURPOSE OF THIS PLAT TO SUBDIVIDE, VACATE AND ASSIGN FOR PUBLIC USE, THAT PORTION OF COLLINS AVENUE REFERRED TO IN THE ABOVE MENTIONED DADE COUNTY COMMISSIONERS' RESOLUTION NO. 6429.

THIS PLAT WAS APPROVED AND THE NECESSARY REVISIONS WERE ACCEPTED AND APPROVED BY ORDINANCE NO. 1222, PASSED AND ADOPTED BY THE BAL HARBOUR COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, THIS 18th DAY OF DECEMBER, A.D. 1954.

IN WITNESS WHEREOF, DEEDS COMMERCIAL AND DEVELOPMENT CO., DEANE SECURITIES CORPORATION AND GRAHAM DEVELOPMENT CORPORATION, BY AND WITH THE AUTHORITY OF THEIR RESPECTIVE BOARDS OF DIRECTORS, AND ROBERT C. GRAHAM, JOINED BY HIS WIFE BEATRICE ANN GRAHAM, AND ROBERT C. GRAHAM, JOINED BY HIS WIFE BEATRICE ANN GRAHAM, HAVE CAUSED THEIR RESPECTIVE DAY OF RECORD, AND IN THE PRESENCE OF TWO JUSTICES OF THE PEACE, A.D. 1954.

DEEDS COMMERCIAL AND DEVELOPMENT CO.
BY: *[Signature]*
DEANE SECURITIES CORPORATION
BY: *[Signature]*
GRAHAM DEVELOPMENT CORPORATION
BY: *[Signature]*

ROBERT C. GRAHAM
BEATRICE ANN GRAHAM
BY: *[Signature]*
BY: *[Signature]*

STATE OF MICHIGAN
COUNTY OF DADE
DEEDS COMMERCIAL AND DEVELOPMENT CO.
DEANE SECURITIES CORPORATION
GRAHAM DEVELOPMENT CORPORATION

ROBERT C. GRAHAM
BEATRICE ANN GRAHAM
BY: *[Signature]*
BY: *[Signature]*

STATE OF MICHIGAN
COUNTY OF DADE
DEEDS COMMERCIAL AND DEVELOPMENT CO.
DEANE SECURITIES CORPORATION
GRAHAM DEVELOPMENT CORPORATION

ROBERT C. GRAHAM
BEATRICE ANN GRAHAM
BY: *[Signature]*
BY: *[Signature]*

STATE OF MICHIGAN
COUNTY OF DADE
DEEDS COMMERCIAL AND DEVELOPMENT CO.
DEANE SECURITIES CORPORATION
GRAHAM DEVELOPMENT CORPORATION

ROBERT C. GRAHAM
BEATRICE ANN GRAHAM
BY: *[Signature]*
BY: *[Signature]*

STATE OF MICHIGAN
COUNTY OF DADE
DEEDS COMMERCIAL AND DEVELOPMENT CO.
DEANE SECURITIES CORPORATION
GRAHAM DEVELOPMENT CORPORATION

ROBERT C. GRAHAM
BEATRICE ANN GRAHAM
BY: *[Signature]*
BY: *[Signature]*

STATE OF MICHIGAN
COUNTY OF DADE
DEEDS COMMERCIAL AND DEVELOPMENT CO.
DEANE SECURITIES CORPORATION
GRAHAM DEVELOPMENT CORPORATION

ROBERT C. GRAHAM
BEATRICE ANN GRAHAM
BY: *[Signature]*
BY: *[Signature]*

STATE OF MICHIGAN
COUNTY OF DADE
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DEANE SECURITIES CORPORATION
GRAHAM DEVELOPMENT CORPORATION

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BEATRICE ANN GRAHAM
BY: *[Signature]*
BY: *[Signature]*

STATE OF MICHIGAN
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DEANE SECURITIES CORPORATION
GRAHAM DEVELOPMENT CORPORATION

ROBERT C. GRAHAM
BEATRICE ANN GRAHAM
BY: *[Signature]*
BY: *[Signature]*

STATE OF MICHIGAN
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DEANE SECURITIES CORPORATION
GRAHAM DEVELOPMENT CORPORATION

ROBERT C. GRAHAM
BEATRICE ANN GRAHAM
BY: *[Signature]*
BY: *[Signature]*

STATE OF MICHIGAN
COUNTY OF DADE
DEEDS COMMERCIAL AND DEVELOPMENT CO.
DEANE SECURITIES CORPORATION
GRAHAM DEVELOPMENT CORPORATION

BAL HARBOUR

- V I L L A G E -

COUNCIL ITEM SUMMARY

Condensed Title:

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING CHAPTER 2 "ADMINISTRATION" AND CHAPTER 17 "STREETS, SIDEWALKS AND OTHER PUBLIC PLACES" OF THE VILLAGE CODE TO CREATE ARTICLE V "PARKS"; PROVIDING FOR SEVERABILITY, CONFLICTS, AND FOR AN EFFECTIVE DATE.

Issue:

Should the Village Council approve on first reading, a Village Ordinance which regulates public parks in the Village?

The Bal Harbour Experience:

- | | | |
|---|--|--|
| <input checked="" type="checkbox"/> Beautiful Environment | <input checked="" type="checkbox"/> Safety | <input type="checkbox"/> Modernized Public Facilities/Infrastructure |
| <input checked="" type="checkbox"/> Destination & Amenities | <input type="checkbox"/> Unique & Elegant | <input type="checkbox"/> Resiliency & Sustainable Community |
| <input type="checkbox"/> Other: _____ | | |

Item Summary / Recommendation:

Currently, the Village Code contains minimal regulation for Village Parks, with some reference in Section 5-5 as it relates to dogs, Section 12-5 as it relates to injuring trees or plants, and reference in Section 11-2 as it relates to littering.

With the upcoming opening of the Village's newest gem, the Bal Harbour Waterfront Park, it is important to establish a basis of regulations that will ensure that Village parks are protected and maintained in order to continue to provide a beautiful and safe environment for all residents and guests to enjoy. The intention of this ordinance is to establish general rules for all parks in Bal Harbour, define areas designated as public parks and establish the mechanism to develop administrative rules unique to each park. The addition to the code will provide for clarification of what areas fall under "Parks" and provide for consistency in regulation of activities in all of these areas.

THE ADMINISTRATION RECOMMENDS APPROVAL OF THIS ORDINANCE.


Advisory Board Recommendation:

N/A

Financial Information:

	Amount	Account	Account #
	X	X	X

Sign off:

Rec., Arts & Culture	Chief Financial Officer	Village Manager
Sylvia Flores	Claudia Dixon	Jorge M. Gonzalez
		

BAL HARBOUR

- V I L L A G E -

COUNCIL MEMORANDUM

TO: Honorable Mayor and Village Council

FROM: Jorge M. Gonzalez, Village Manager

DATE: April 18, 2023

SUBJECT: **AMENDING CHAPTER 2 "ADMINISTRATION" AND CHAPTER 17 "STREETS, SIDEWALKS AND OTHER PUBLIC PLACES" OF THE VILLAGE CODE TO CREATE ARTICLE V "PARKS"; PROVIDING FOR IMPLEMENTATION, AND AN EFFECTIVE DATE.**

ADMINISTRATIVE RECOMMENDATION

I am recommending approval of this Ordinance.

BACKGROUND

As we prepare for the opening of our newest asset, Bal Harbour Waterfront Park, it is important to ensure that we have regulations in place to protect the property, and maintain the condition as beautiful and safe throughout the years, as it will be at the time of opening.

While reviewing the Village Code of Ordinances, we found that although there were some references to "parks" throughout, there was no section that clearly defined what "parks" are, nor any section that established a clear expectation of behaviors permitted or not permitted throughout these areas.

The intention of this ordinance is to establish general rules for all parks in Bal Harbour, define areas designated as public parks and establish the mechanism to develop administrative rules unique to each park.

ANALYSIS

The Village Code currently refers to "parks" in the following sections:

- Section 5-5: Dogs in parks, on beaches; dogs running at large; canine excrement.
- Section 9-3: Prohibition on use, distribution or sale of Single-Use Plastics
- Section 11-2: Littering; throwing material in drains or sewers.
- Section 11-4: Prohibitions of polystyrene.
- Section 11-5: Prohibited use of Single Use Plastics
- Section 12-5: Injuring trees, other plants.

In order to ensure consistency throughout properties, it is necessary to define what areas fall under "parks" or "public parks" and to clearly define those behaviors that are prohibited to ensure the continued aesthetic and safety of the park and all users. As this section is

applicable to all properties that fall under the definition of parks, the prohibited activities must also be applicable to all properties.

While evaluating previous experience as well as comparable municipalities, staff compiled a list of key behaviors that should be addressed in the ordinance:

- Vehicles, which can cause damage to life or property
- Vandalism or damage to property, whether natural (plants, trees, shrubs) or built materials (benches, trash cans, buildings, etc.)
- Animals, which may impact the enjoyment and/or the safety of other users
- Private or Commercial Use of property without approval
- Portable tents or structures
- Fires
- Weapons

As such, an ordinance has been drafted to address these behaviors. In addition, staff is developing administrative rules, specific to the Bal Harbour Waterfront Park, that will address use of the facility and the grounds. As an example, these rules will include some of the following:

- Park Hours of Operation
- Open to Bal Harbour Residents
- Children under 12 must be accompanied by an adult
- Special Events by permit only

These regulations are still being developed and will be presented for information as part of the second reading of this ordinance. In the future, staff will also work on developing administrative rules for each of the additional park locations, which can be made available to the public via the website.

THE BAL HARBOUR EXPERIENCE

It is important to establish general guidelines for use of all public parks, in order to ensure that the grounds and facilities are maintained in good condition, and are enjoyable and safe for all residents and guests. This aligns directly with the Bal Harbour Experience through the pillars of beautiful environment, destination and amenities, as well as safety

CONCLUSION

Council is asked to consider the importance of establishing general guidelines for use of our newest facility, to ensure that staff can appropriately and consistently enforce proper use of the facility to maintain the quality of this beautiful asset. I, therefore, recommend approval of this ordinance.

ORDINANCE NO. 2023____

AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; AMENDING CHAPTER 2 "ADMINISTRATION", AND CHAPTER 17 "STREETS, SIDEWALKS AND OTHER PUBLIC PLACES" OF THE VILLAGE CODE TO CREATE AND DEFINE "PUBLIC PARKS" AND AUTHORIZE RELATED RULES AND PENALTIES; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village Council has recently constructed the Bal Harbour Waterfront Park, and has identified that it needs to establish provisions related to the use of this and other public park areas in the Village; and

WHEREAS, the Village Council deems it to be in the best interest of the Village to adopt this Ordinance to amend the Village Code of Ordinances to define public parks and establish prohibited activities, to create penalties for these prohibitions, and to enable the administrative promulgation of rules related to use of public parks.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AS FOLLOWS:

Section 1. **Recitals Adopted.** That the above stated recitals are hereby adopted and confirmed.

Section 2. **Village Code Amended - Chapter 2.** That Section 2-191, entitled "Schedule of Civil Penalties" of Article V "Code Enforcement" of Chapter 2 "Administration", is hereby amended to read as follows: ¹

CHAPTER 2 - Administration

Sec. 2-191. - Schedule of civil penalties.

¹ Additions to existing Village Code text are shown by underline; deletions from existing Village Code text are shown by ~~striketrough~~. Any changes between first and second reading are shown by highlighted double underline and ~~double striketrough~~ font.

(a) The following table shows the sections of this Code, as they may be amended from time to time, and the dollar amount of civil penalty for the violation of these sections as they may be amended. Each "Description of Violations" below is for informational purposes only and is not meant to limit or define the nature of the violations or the subject matter of the listed Code sections. To determine the exact nature of the activity proscribed or required by this Code, the relevant Code section must be examined.

(b) The following is the schedule of civil penalties:

Code section	Description of violation	Civil penalty
(1) 3-51	Operating an alarm system without a valid alarm user certificate	\$10.00
*	*	*
(18) 10-31	Doing prohibited activities on a public beach: driving vehicles, destroying plants, taking animals, starting fires, building or maintaining tents, shelters or structures, or fishing in posted areas	\$50.00
*	*	*
(43) 17-32	Permitting shrubbery to grow near intersections so as to obstruct the view of drivers	\$25.00
(44) 17-82	<u>Doing prohibited activities in public parks</u>	<u>\$50.00</u>
(44) (45) 19-5	Parking or storing certain vehicles in residential districts	\$25.00
*	*	*

Section 3. Village Code Amended. That Article V "Parks" is hereby created in Chapter 17 "Streets, Sidewalks, and Other Public Places" to read as follows:

CHAPTER 17 - STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

* * *

ARTICLE V. - PARKS

Sec. 17-80. Definitions.

Public Park means any land, water area, or trail and all facilities thereon, under the jurisdiction, control, maintenance, or ownership of the Village or another governmental entity, including, without limitation:

- the Village jogging path and beach vehicle access road area west of the Public Beach defined in Chapter 10 of this Code
- the Bal Harbour Waterfront Park, located at 18 Bal Bay Drive
- the Bal Harbour Jetty, located at 10301 Collins Avenue
- the cutwalk and area beneath the Herman B. Fultz bridge
- Founders' Circle, located at 9650 Collins Avenue
- the greenspace at the entrance to the gated community, located at 10200 Collins Avenue
- the pedestrian beach access crossing south of Oceana, located at 10201 Collins Avenue
- the greenspace on Collins Avenue, in front of Oceana, located at 10201 Collins Avenue

Village Manager means the Village Manager or designee.

Sec. 17-81. Authorization of Administrative Rules.

The Village Manager shall promulgate administrative rules for the use of Public Parks, and shall post notice of them on the Village website.

Sec. 17-82. Prohibited Acts in Public Parks.

(a) It shall be unlawful for any Person to, in any Public Park:

(1) Drive, operate, propel, or place any motor vehicle in a Public Park or upon any public land, easement or right-of-way within the Public Park, except when directed to do so by a police officer or Village designee. The provisions of this subsection shall not apply to the use of any self-propelled wheelchair, power wheelchair, electric scooter, or other mobility device by an individual with a mobility impairment.

(2) Cut, break, tear, remove or damage plants, plant material, trees, shrubbery or any part thereof, including flowers or leaves, in a Public Park.

(3) Feed any animals in or on a Public Park.

(4) Destroy, damage or remove real property or improvements thereto, or movable or personal property belonging to the Village.

(5) Throw or deposit, or permit to be deposited or scattered, upon any area of a Public Park, any waste or other material of any kind.

(6) Build, ignite, maintain, or cause to be built, ignited or maintained any fire in any area of any Public Park, except in such areas as are specifically designated therefor by the Village. No Person igniting or maintaining a fire shall leave the area without extinguishing the fire.

(7) Erect, maintain or cause to be erected or maintained any tent, shelter or structure in a Public Park, except when approved in writing by the Village Manager.

(8) Carry, possess or use air rifles, spring guns, slingshots, bows, or arrows or any other form of weapon potentially inimical to wildlife or dangerous to human safety in a Public Park. This section shall not apply to firearms as regulated by F.S. ch. 790.

(9) Engage in the operation of any concession or commercial activity on Public Park property, without written permission of the Village Manager.

(10) Engage in any organized or pickup athletic, recreation, or special events, games, practice for same, or group exercise, utilizing a substantial portion of any Public Park that is not formally organized by the Village without written permission of the Village Manager.

(b) It shall be unlawful for any Person, in the Bal Harbour Waterfront Park, to:

(1) Bring any dog, cat or other animal, domestic or wild, into the Waterfront Park, whether on leash, carried or running at large. The provisions of this subsection shall not apply to the use of a service animal, which means any dog guide or other animal individually trained to work or perform tasks for an individual with a disability.

Sec. 17-83 - 17-100. Reserved.

Section 4. Severability. That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Inclusion in the Code. That it is the intention of the Village Council, and it is hereby ordained that this Ordinance shall become and be made a part of the Bal Harbour Village Code; that the sections of this Ordinance may be renumbered or relettered to accomplish such intention; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 6. Conflict. That all Sections or parts of Sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions, or parts of resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

Section 7. Effective Date. That this Ordinance shall be effective immediately upon adoption on second reading.

PASSED AND ADOPTED on first reading this 18th day of April, 2023.

PASSED AND ADOPTED on second reading this ____ day of _____, 2023.



Mayor Jeffrey P. Freimark

ATTEST:

Dwight S. Danie, Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Village Attorney

Weiss Serota Helfman Cole & Bierman P.L.

BAL HARBOUR

- V I L L A G E -

COUNCIL ITEM SUMMARY

Condensed Title:

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; APPROVING THE TASK AGREEMENT WITH CALVIN GIORDANO AND ASSOCIATES INC. (CGA) FOR THE PROVISION OF PROFESSIONAL SURVEYING, CIVIL ENGINEERING AND CONSTRUCTION ADMINISTRATION SERVICES FOR THE SANITARY SEWER AND ASSOCIATED WORK RELATED TO THE UTILITIES INFRASTRUCTURE IMPROVEMENTS PROJECT PHASE 5(B), AS SPECIFIED WITHIN CGA PROPOSAL NO. 17-9868.74, IN THE AMOUNT NOT TO EXCEED \$155,432, INCLUSIVE OF A 10% CONTINGENCY ALLOCATION IN THE AMOUNT \$14,131 ROUNDED UP TO THE NEAREST DOLLAR.

Issue:

Should the Village Council approve the Task Agreement with Clavin Giordano and Associates (CGA) for the services detailed within CGA Proposal No. 17-9868.74 related to the phase 5 (b) sanitary sewer line replacement in the amount not to exceed \$155,432?

The Bal Harbour Experience:

☐ Beautiful Environment ☐ Safety ☒ Modernized Public Facilities/Infrastructure
☐ Destination & Amenities ☐ Unique & Elegant ☒ Resiliency & Sustainable Community
☐ Other: _____

Item Summary / Recommendation:

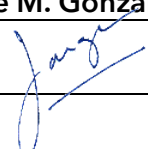
Village Engineer CGA has identified approximately 800 ft of sanitary sewer line within the phase 5 (b) locations, which requires replacement. CGA has submitted a requested proposal No. 17-9868.74 in the amount of \$141,302, for the professional surveying, civil engineering, and construction administration, for the sewer line replacement. A 10% or \$14,131 contingency allocation has been applied. The total not to exceed cost for the Task Agreement with CGA for the services as detailed within CGA Proposal No17-9868.74., is \$155,432, inclusive of the applied contingency.

THE ADMINISTRATION RECOMMENDS APPROVAL OF THIS RESOLUTION.

Financial Information:

	Amount	Account	Account #
	\$155,432.00	UMP Project 5 (b)	40-36-506322

Sign off:

Director Public Works & Beautification Department	Chief Financial Officer	Village Manager
John Oldenburg	Claudia Dixon	Jorge M. Gonzalez
		

BAL HARBOUR

- V I L L A G E -

COUNCIL MEMORANDUM

TO: Honorable Mayor and Village Council

FROM: Jorge M. Gonzalez, Village Manager

DATE: April 18, 2023

SUBJECT: **A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; APPROVING THE TASK AGREEMENT WITH CALVIN GIORDANO AND ASSOCIATES INC. FOR THE PROVISION OF PROFESSIONAL SURVEYING, CIVIL ENGINEERING AND CONSTRUCTION ADMINISTRATION SERVICES FOR THE SANITARY SEWER AND ASSOCIATED WORK RELATED TO THE UTILITIES INFRASTRUCTURE IMPROVEMENTS PROJECT PHASE 5(B), AS SPECIFIED WITHIN CGA PROPOSAL NO. 17-9868.74, IN THE AMOUNT NOT TO EXCEED ONE HUNDRED FIFTY-FIVE THOUSAND FOUR HUNDRED THIRTY-TWO DOLLARS (\$155,432), INCLUSIVE OF A TEN PERCENT (10%) CONTINGENCY ALLOCATION IN THE AMOUNT OF FOURTEEN THOUSAND ONE HUNDRED THIRTY-ONE (\$14,131) ROUNDED UP TO THE NEAREST DOLLAR; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.**

ADMINISTRATIVE RECOMMENDATION

I am recommending approval of this Resolution.

BACKGROUND

We are currently implementing 4 major and distinct Utility/PW Projects within the Gated Community.

1. Water
 - Transmission water main lines;
 - House & irrigation meters redirected from the rear to the front of homes;
 - Backflow preventers installed for all irrigation connections;
 - New fire hydrants;
 - Distribution water lines to each property.
2. Sanitary Sewer
 - Repair, replace or line all sewer pipes;
 - Refurbish/line all sewer manhole structures.
3. Stormwater
 - Major engineering/ installation of drainage piping to connect areas to the drainage system;
 - A new upgraded Stormwater Pump Station (PS-1) at Harbour Way;
 - New drainage wells;
 - New curb and gutter installed throughout.

4. Road reconstruction where required, milling, and paving throughout the Gated Community.

These activities collectively are designated, The Utility Infrastructure Improvement Project (UIIP), which is completed in geographically based Phases. Except for pending roadway milling and paving, the Project phases 3 (a, b, c) and 4 are complete. The focus is currently the completion of the South of the Harbour Way West locations specifically, Phases, 5 (a, b, c), 6 (a, b) and the Stormwater Station improvements Phase 7.

The engineering and subsequent construction of these 4 components requires coordination and scheduling to avoid excessive impacts to the residents. Most of this work is conducted within the streets which at times are heavily traveled. Each of the components are completed separately within the same phase areas and in many instances simultaneously in different Project phase locations inside the Community. Generally, the water system component is installed first followed by the identified sanitary sewer work, then stormwater and finally curb & gutter installation prior to the roadway restoration, milling and paving. There is a recognition that large road closures for extended periods is not acceptable and avoided whenever possible. The high volume of private resident construction ongoing in the Community is another factor which affects the scheduling of this work, resulting in a complex planning activity to complete the work in a timely fashion while minimizing disruptions to area residents.

On March 20, 2018, the Village Council adopted Resolution No. 2018-1133 approving the Continuing Services Agreement between the Village and Calvin Giordano and Associates, Inc. (CGA) for the provision of engineering and professional consulting services, to act on behalf of the Village as the Village Engineer of Record. Since the retention of CGA as Village Engineer of Record in 2018, they have provided engineering, design and construction related services to the Village related to UIIP phases 3 (a, b, c) and 5 (c).

ANALYSIS

The UIIP Phase 5(b) is ongoing and is approximately sixty percent (60)% complete overall. The following details the work completed to date along with the pending activities.

Complete

- Water mains, services, meters, fire hydrants;
- 5 sanitary sewer spot repairs, 1,980 linear ft sewer pipe lining and 12 sewer manholes lined to date;

Pending work (identified)

- 14 sanitary sewer laterals;
- 1,005 linear feet sanitary sewer line replacement;
- 950 linear feet of sanitary sewer lining;
- 5,868 linear feet curb and gutter replacement;
- 2,934 linear feet Milling paving.
- Anticipated Stormwater work TBD when design for Phase 7 Stormwater Station is complete.

This Resolution addresses the UIIP activities within the Phase 5 (b) locations, specifically the identified need to replace and redirect approximately eight hundred linear feet (800 ft) of sanitary sewer line.

CGA has submitted a requested proposal No. 17-9868.74 in the amount of one hundred forty-one thousand three hundred two dollars (\$141,302), rounded up to the nearest dollar, for the envisioned services. The services include professional surveying, civil engineering, and construction administration, for the replacement and redirection of approximately 800 linear feet of sanitary sewer main within the phase 5 (b) location, specifically Camden Drive, Bal Cross Drive, north of Balfour Drive and Harbour Way East.

During construction, professional report development and specialized utility maintenance activities, contingency funds are utilized as reserve monies used to cover unexpected costs which arise from unforeseen conditions. These funds are not allocated to any specific area of work and if they are not required, the funds are returned to the overall General Fund Budget at the completion of the work. To anticipate the cost of unforeseen conditions and additional meetings not accounted for within the proposals, it is appropriate to include a contingency of ten percent (10%) of the total cost, which equates in this instance to fourteen thousand one hundred thirty-one dollars (\$14,131) rounded up to the nearest dollar.

The pre-construction design and related activities contained within the proposal totals eighty-three thousand six hundred two dollars (\$83,602), rounded up to the nearest dollar, and the Construction Services total fifty-seven thousand seven hundred dollars (\$57,700).

Therefore, the total not to exceed cost for the professional surveying, civil engineering, and construction administration, related to the phase 5(b) locations as detailed within the proposal provided by Calvin Giordano and Associates, Inc. is one hundred fifty-five thousand four hundred thirty-two (\$155,432), inclusive of the applied contingency.

Scope of Service

The information below summarizes the scope of service contained within the CGA Proposal No. 17-9868.74.

A. Survey, Geotechnical Engineering, and Subsurface Utility Investigation

Survey

1. Identify platted rights-of-way, lot numbers, house addresses, ownership lines, block numbers, and platted easements within the Project Limits;
2. Field collect all above ground improvements within the Project Limits such items as edge-of-pavement, sidewalks, driveways, access points / curb cuts and visible above ground utilities;
3. Data for pipe sizes, type of material, direction of flow and invert elevations will be obtained for any accessible manholes of storm and sewer manholes;

4. Location with color and type of any above-ground paint marks identifying underground utility demarcation as completed by others within the Project Limits;
5. Survey data will be referenced vertically to National Geodetic Vertical Datum of 1929 (NGVD29) and horizontally to Florida State Plane Coordinates, North American Datum 83/90 (NAD 83/90);
6. The topographic survey will be prepared in accordance with the Standards of Practice requirements for Surveying and Mapping in the State of Florida as set forth by Chapter 5J-17 of the Florida Administrative Code, pursuant to Florida Statutes Chapter 472.027.

Geotechnical Engineering

1. Geotechnical investigations (by Nutting Engineers) will evaluate the soil conditions within the Project Limits;
2. Results of the geotechnical work will be issued in an engineering report of findings and will be included for informational purposes to potential Bidders;

Subsurface Utility Investigation

1. Underground locates and test holes will be provided (by Blood Hound LLC) to assist with the design of the proposed improvements. Ground-penetrating radar (GPR) will be used to investigate the subsurface utility conditions and assist with determining existing utilities within the Project Limits.

B. Deliverables

1. Prepare average and peak flow calculations to determine acceptable sanitary sewer main size (required for permitting);
2. Prepare 60% and 100% plans inclusive of Cover Sheet, Legend and Abbreviations, Details, Existing Conditions / Demolition, Sanitary Sewer, and Stormwater Pollution Prevention;
3. Conduct an internal quality assurance/ quality control (QA/QC) review;
4. Prepare cost estimates;
5. Submit 60% and 100% plans and cost estimate to Bal Harbour Village (BHV) for review; and
6. Address comments, revise documents, and resubmit as needed.

C. Permitting

1. Prepare and submit permit application packages to the Miami-Dade County Water and Sewer Department (WASD and Miami-Dade County Division of Environmental Resources Management (DERM).

D. Bidding Services

1. Address Bidder Requests for Information (RFIs) related to documents prepared by CGA;

2. Prepare a bid tabulation summarizing the opened bids. Assist BHV in determining the lowest, most responsive, and most responsible Bidder. This shall include contacting and verifying Bidder references for the low Bidder. Prepare a letter summarizing the bid evaluations for BHV to make a recommendation to Council for contract award.

E. Construction Services

1. Attend one (1) preconstruction meeting and monthly construction progress meetings (includes up to two (2) total meetings). Prepare and distribute meeting minutes;
2. Review required shop drawing submittals;
3. Review and respond to Contractor Requests for Information (RFIs) regarding the design documents;
4. Assist BHV in reviewing any Change Order proposals;
5. Perform routine inspections and observation of field/ construction activities for compliance with the plans and specifications (total effort estimated at not-to-exceed 400 hours, based on ten (10) weeks of active construction). These hours also include one substantial completion inspection and one final completion inspection and observations of required field testing;
6. Assist BHV in reviewing Contractor's monthly payment applications;
7. Review as-builts provided by the Contractor to determine conformance with the contract documents;
8. Submit for permit closeouts to WASD and DERM.

The proposed sanitary sewer pipe replacement and redirection is the last identified large sewer pipe replacement work remaining within the phase 5 (b) locations. The anticipated timeline to complete the design and permitting activities for this work is two hundred twenty (220) working days, with bidding and construction to follow.

Additionally, there is a companion UIIP item on this meeting agenda to approve a task agreement with CGA for the professional surveying, civil engineering, and construction administration, as required to construct the new water main and property meter relocations within the phase 5 (a) locations, specifically, Park Drive south of Harbour Way East.

THE BAL HARBOUR EXPERIENCE

This action is aligned with the Village's stated mission through the *Bal Harbour Experience*. The replacement of Village sanitary sewer piping within the UIIP phase 5(b) locations, corresponds directly to the goals of Modernized Public Facilities and Infrastructure as well as, Resiliency & Sustainable Community.

CONCLUSION

This Resolution addresses the UIIP activities within the Phase 5 (b) locations, specifically the identified need to replace and redirect approximately eight hundred linear feet (800 ft) of

sanitary sewer line within the phase 5 (b) location, specifically Camden Drive, Bal Cross Drive, north of Balfour Drive and Harbour Way East.

CGA has submitted a requested proposal No. 17-9868.74 in the amount of \$141,302, for the professional surveying, civil engineering, and construction administration, as required to construct the replacement sewer piping. A 10% contingency allocation has been applied in the amount of \$14,131 to account for unforeseen conditions and unplanned meeting costs.

I have reviewed the proposal submitted by CGA and deem the cost to be appropriate for the services requested. Consequently, I am recommending the approval of the Task Agreement with CGA for the services as detailed within CGA Proposal No17-9868.74., in the not to exceed amount of \$155,432, inclusive of the applied contingency.

Attachments:

1. Calvin Giordano and Associates, Inc. Proposal No. 17-9868.74

RESOLUTION NO. 2023-____

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; APPROVING THE TASK AGREEMENT WITH CALVIN GIORDANO AND ASSOCIATES INC. FOR THE PROVISION OF PROFESSIONAL SURVEYING, CIVIL ENGINEERING AND CONSTRUCTION ADMINISTRATION SERVICES FOR THE SANITARY SEWER AND ASSOCIATED WORK RELATED TO THE UTILITIES INFRASTRUCTURE IMPROVEMENTS PROJECT PHASE 5(B), AS SPECIFIED WITHIN CGA PROPOSAL NO. 17-9868.74, IN THE AMOUNT NOT TO EXCEED ONE HUNDRED FIFTY-FIVE THOUSAND FOUR HUNDRED THIRTY-TWO DOLLARS (\$155,432), INCLUSIVE OF A TEN PERCENT (10%) CONTINGENCY ALLOCATION IN THE AMOUNT OF FOURTEEN THOUSAND ONE HUNDRED THIRTY-ONE (\$14,131) ROUNDED UP TO THE NEAREST DOLLAR; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the adopted Utility Master Plan envisioned relocating water services from the rear of the individual residential properties to the front along with water meters, and the restoration of the Storm Water and Sanitary Sewer systems where deficiencies are identified; and

WHEREAS, on March 20, 2018, the Village Council adopted Resolution No. 2018-1133 approving a Continuous Services Agreement between the Village and Calvin Giordano and Associates, Inc. ("CGA") for the provision of engineering and professional consulting services and to act as the Village Engineer of Record; and

WHEREAS, CGA has identified the need to replace and redirect approximately eight hundred linear feet (800 ft) of sanitary sewer line within the Phase 5 (b) location, specifically Camden Drive, Bal Cross Drive, North of Balfour Drive and Harbour Way East; and

WHEREAS, CGA has submitted a requested proposal No. 17-9868.74 in the amount of \$141,302, for the professional surveying, civil engineering, and construction administration, as required to construct the replacement sewer piping; and

WHEREAS, a 10% contingency allocation has been applied in the amount of \$14,131 to account for unforeseen conditions and unplanned costs; and

WHEREAS, this Council has determined that it is the best interest of the Village to approve the Task Agreement with CGA for the services as detailed within CGA Proposal No17-9868.74., in the not to exceed cost of \$155,432, inclusive of the contingency allocation.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. That the above stated recitals are hereby adopted and confirmed.

Section 2. Task Agreement Approved. That the Task Agreement with CGA for the services as detailed within CGA Proposal No17-9868.74., in the not to exceed cost of one hundred fifty-five thousand four hundred thirty-two dollars (\$155,432), inclusive of the applied contingency, rounded up to the nearest dollar, in substantially the form attached hereto as Exhibit "A", is hereby approved and the Village Manager is hereby authorized to sign the quote on behalf of the Village.

Section 3. Expenditure Approved. That the expenditure identified budgeted funds for the envisioned professional surveying, civil engineering, and construction administration, as required to construct the replacement sewer piping at the Phase 5 (b) location is hereby approved.

Section 4. Implementation. That the Village Manager is hereby authorized to take all actions necessary to implement the purposes of this Resolution.

Section 5. **Effective Date.** That this Resolution shall take effect immediately upon the adoption hereof.

PASSED AND ADOPTED this 18th day of April 2023.



Mayor Jeffrey P. Freimark

ATTEST:

Dwight S. Danie, Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Village Attorney
Weiss Serota Helfman Cole & Bierman P.L.



Calvin, Giordano & Associates, Inc.
A SAFEbuilt COMPANY

Proposal for Professional Services

Date: March 15, 2023
RE: **Camden Drive and Bal Cross Drive Sanitary Sewer**
Client: Bal Harbour Village
1840 NE 144th Street
North Miami, FL 33181
Attention: Mike Alvarez, Utility Compliance Officer, CGC, PWLF
CGA Project No: 17-9868.74

Building Code Services
Civil Engineering / Roadway
& Highway Design
Coastal Engineering
Code Enforcement
Construction Engineering &
Inspection (CEI)
Construction Services
Data Technologies &
Development
Electrical Engineering
Engineering
Environmental Services
Facilities Management
Grant Management &
Writing
Geographic Information
Systems (GIS)
Governmental Services
Indoor Air Quality (IAQ)
Landscape Architecture
Planning
Project Management
Redevelopment &
Urban Design
Surveying & Mapping
Transportation & Mobility
Transportation Planning
Water / Utilities Engineering
Website Development

Bal Harbour Village (BHV) has requested professional Surveying, Civil Engineering, and Construction Administration services from Calvin, Giordano & Associates, Inc. (CGA) for the replacement and redirection of approximately 800 linear feet of sanitary sewer main (see Project Location Exhibit). The "Project Limits" are shown on the Project Location Exhibit and are primarily Camden Drive, Bal Cross Drive, and Harbour Way East.

CGA is pleased to submit this proposal for professional Surveying, Civil Engineering, and Construction Administration services. CGA shall subcontract the required scope for Geotechnical Engineering and Subsurface Utility Investigation to Nutting Engineers of Florida, Inc. (Nutting) and Blood Hound, LLC (Blood Hound), respectively. The specific scope of services proposed is further detailed in the subsequent sections.

1800 Eller Drive
Suite 600
Fort Lauderdale, FL 33316
Tel: 954.921.7781
Fax: 954.921.8807

www.cgasolutions.com

I. SURVEY, GEOTECHNICAL ENGINEERING, AND SUBSURFACE UTILITY INVESTIGATION

I.1 Survey

- I.1.1** Identify platted rights-of-way (including bearing and distances for centerline) lot numbers, house addresses, ownership lines, block numbers, and platted easements within the Project Limits.
- I.1.2** All above ground improvements within the Project Limits will be field collected, with horizontal locations and vertical elevations being provided for such items as edge-of-pavement, sidewalks, driveways, access points / curb cuts and visible above ground utilities. Visible above ground utilities refer to the visible structures (e.g., manholes, valve boxes, inlets, etc.) typically associated with storm drainage, sanitary sewer, potable water, electric, gas, telephone, and cable television.
- I.1.3** Data for pipe sizes, type of material, direction of flow and invert elevations will be obtained for any accessible manholes of storm and sewer manholes / inlets within the Project Limits including the next structure in the line of flow outside of the Project Limits.
- I.1.4** A grid of cross section elevations will be obtained at 25-foot to 50-foot intervals together with any grade breaks, swales, mounds, or other definitive elevation change throughout the roadway corridor within the Project Limits.
- I.1.5** All trees within the Project Limits, with at least a 3-inch caliper or greater, will be located and identified on the survey with unique tree symbol for each common name tree species and tree diameter.
- I.1.6** Location with color and type of any above-ground paint marks identifying underground utility demarcation as completed by others within the Project Limits.
- I.1.7** Survey data will be referenced vertically to National Geodetic Vertical Datum of 1929 (NGVD29) and horizontally to Florida State Plane Coordinates, North American Datum 83/90 (NAD 83/90).
- I.1.8** The topographic survey will be prepared in accordance with the Standards of Practice requirements for Surveying and Mapping in the State of Florida as set forth by Chapter 5J-17 of the Florida Administrative Code, pursuant to Florida Statutes Chapter 472.027.

I.2 Geotechnical Engineering (Subconsultant)

- I.2.1** Geotechnical investigations (by Nutting) will evaluate the soil conditions within the Project Limits. It is anticipated that up to four (4) soil borings

will be performed along with four (4) pavement cores for basecourse measurements. Two (2) soil borings will be approximately 20 feet deep and the other two (2) will be approximately 10 feet deep.

- I.2.2 Results of the geotechnical work will be issued in an engineering report of findings and will be included for informational purposes to potential Bidders. The engineering report will include graphic logs of the test borings and a map of their locations.

I.3 Subsurface Utility Investigation (Subconsultant)

- I.3.1 Underground locates and test holes will be provided (by Blood Hound) to assist with the design of the proposed improvements. Ground-penetrating radar (GPR) will be used to investigate the subsurface utility conditions and assist with determining existing utilities within the Project Limits. Up to twenty-five (25) test holes will be performed. The work will identify the horizontal and vertical locations of existing utilities, such as water mains, force mains, gas lines, and communication and will be incorporated into the design plans. For each test hole performed, a Test Hole Report will be provided that summarizes the type of utility found, size, material, depth from surface, horizontal distance from fixed objects in the field, and pipe direction.
- I.3.2 Sometimes, pipe size and material may not be identifiable due to water table, depth, or hole collapse from unfavorable soils.

II. 60% DELIVERABLES

- II.1 Review any available as-builts and GIS data for the project area.
- II.2 Submit an 811 Design Ticket to obtain information on existing infrastructure for the project area. Incorporate information into design plans.
- II.3 Update design plans with topographic information obtained by CGA's Survey Department, information from 811 Design Ticket responses, and from the subsurface utility investigation.
- II.4 Prepare average and peak flow calculations to determine acceptable sanitary sewer main size (required for permitting).
- II.5 Prepare 60% plans inclusive of Cover Sheet, Legend and Abbreviations, Details, Existing Conditions / Demolition, Sanitary Sewer, and Stormwater Pollution Prevention.
- II.6 Conduct an internal quality assurance / quality control (QA/QC) review.
- II.7 Prepare cost estimate.

- II.8 Submit 60% plans and cost estimate to BHV for review. Attend one (1) meeting with BHV to review the 60% deliverables. Address questions and comments, as needed.

III. PERMITTING

- III.1 Prepare and submit permit application packages to the following Agencies (sanitary sewer extension permit only):

- III.1.1 Miami-Dade County Water and Sewer Department (WASD)

- III.1.2 Miami-Dade County Division of Environmental Resources Management (DERM)

- III.2 Address comments, revise documents, and resubmit as needed.

IV. 100% DELIVERABLES

- IV.1 Prepare 100% plans and specifications after permit approvals. Specifications shall include typical BHV front-end documents and relevant technical specifications.

- IV.2 Conduct a final internal QA/QC review.

- IV.3 Prepare a 100% cost estimate.

- IV.4 Submit 100% plans, specifications, and cost estimate to BHV for review. Attend one (1) meeting with BHV to review the 100% deliverables. Address questions and comments, as needed.

- IV.5 Resubmit revised bid documents to BHV.

V. BIDDING SERVICES

- V.1 Attend one (1) pre-bid meeting.

- V.2 Address Bidder Requests for Information (RFIs) related to documents prepared by CGA. These include responses to written questions and revised plans or technical specifications, if required. This may also require assisting BHV in issuing addenda to the bid documents.

- V.3 Prepare a bid tabulation summarizing the opened bids. Assist BHV in determining the lowest, most responsive, and most responsible Bidder. This shall include contacting and verifying Bidder references for the low Bidder. Prepare a letter summarizing the bid evaluations for BHV to make a recommendation to Council for contract award.

VI. CONSTRUCTION SERVICES

- VI.1 Attend one (1) preconstruction meeting and monthly construction progress meetings (includes up to two (2) total meetings). Prepare and distribute meeting minutes.

- VI.2 Review required shop drawing submittals.
- VI.3 Review and respond to Contractor RFIs regarding the design documents.
- VI.4 Assist BHV in reviewing any Change Order proposals.
- VI.5 Perform routine inspections and observation of field / construction activities for compliance with the plans and specifications (total effort estimated at not-to-exceed 400 hours, based on ten (10) weeks of active construction). These hours also include one substantial completion inspection and one final completion inspection and observations of required field testing.
- VI.6 Assist BHV in reviewing Contractor's monthly payment applications.
- VI.7 Review as-builts provided by the Contractor to determine conformance with the contract documents.
- VI.8 Submit for permit closeouts to WASD and DERM.

VII. ASSUMPTIONS AND EXCLUSIONS

- VII.1 BHV acknowledges that CGA has no control over costs of labor, materials, competitive bidding environments and procedures, unidentified field conditions, financial and/or market conditions, or other factors likely to affect the cost estimates of this project, all of which are and will unavoidably remain in a state of change, especially in light of the high volatility of the market. BHV further acknowledges that this is a "snapshot in time" and that the reliability of cost estimates will inherently degrade over time.
- VII.2 \$1,500.00 in reimburseables has been included for permit application fees. Any fees exceeding this amount shall be the responsibility of BHV. Any other permit not specifically mentioned herein shall be the responsibility of the Contractor, such as dewatering permits.
- VII.3 Construction Services efforts were based on ten (10) weeks of active construction time. Should additional time be required, it shall warrant additional fees.
- VII.4 BHV shall be responsible for bid advertisement, coordination with potential Bidders, arranging a pre-bid meeting, and receiving / opening bids.
- VII.5 MOT / Traffic Control Plans or any other plans not specifically listed herein are excluded.
- VII.6 BHV advised CGA that the southern project limit is be Sanitary Sewer Manhole No. 26 (located in front of 168 Camden Drive). BHV Staff field-confirmed positive sanitary sewer flow towards the south and therefore does not wish to replace pipe south of this manhole regardless of existing substandard slope.

VIII. ESTIMATED PROJECT SCHEDULE*

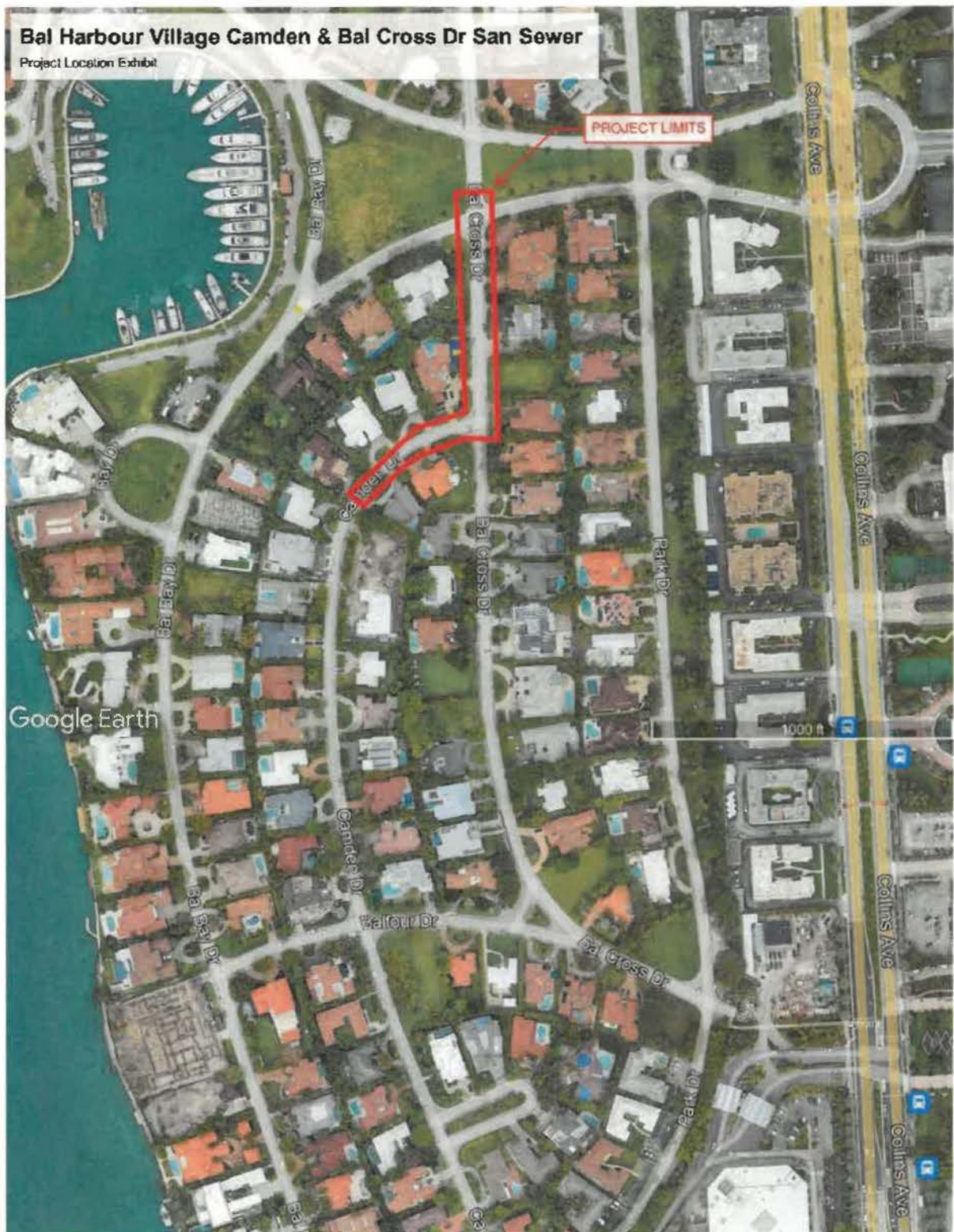
Deliverables	Time to Completion (in calendar days from NTP)
Survey, Geotechnical Engineering, and Subsurface Utility Investigation	40
60% Deliverables	90
Permit Approval	200
100% Deliverables	220
Bid Evaluation Letter	295
Project Closeout	520

*Certain turnaround times are ultimately out of CGA's control, such as BHV reviews, permit reviews, bidding, and construction. However, they were estimated and are shown above based on past experience.

IX. FEE SCHEDULE

Tasks	Subtotals
Task 1 – Survey, Geotechnical Engineering, and Subsurface Utility Investigation	\$36,781.50
Task 2 – 60% Deliverables	\$25,880.00
Task 3 – Permitting	\$5,930.00
Task 4 – 100% Deliverables	\$8,110.00
Task 5 – Bidding Services	\$5,400.00
Task 6 – Construction Services	\$57,700.00
Reimbursables (permitting allowance)	\$1,500.00
GRAND TOTAL	\$141,301.50

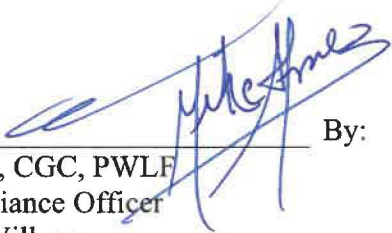
X. PROJECT LOCATION EXHIBIT




AUTHORIZATION

Kindly sign and return this authorization at your earliest convenience. Calvin, Giordano & Associates, Inc. will proceed upon receipt of authorization.

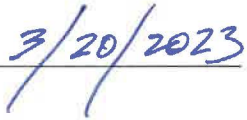
By:


Mike Alvarez, CGC, PWLF
Utility Compliance Officer
Bal Harbour Village

By:

David E Stambaugh 
Digitally signed by David E Stambaugh
Date: 2023.03.17 11:37:10-04'00'
David Stambaugh, PE, DBIA
Vice President of Professional Services
Calvin, Giordano & Associates, Inc.

Date:



Date:

TASK AGREEMENT

Between

BAL HARBOUR VILLAGE

And

CALVIN GIORDANO & ASSOCIATES

For

Work Authorization No. 17-9868.74

Utility Infrastructure Improvements Project Phase 5B

Pursuant to the provisions contained in the "Continuing Services Agreement for Professional Engineering and Consulting Services" (hereinafter referred to "CONTINUING SERVICES AGREEMENT") between BAL HARBOUR VILLAGE (hereinafter referred to as "VILLAGE") and Calvin Giordano & Associates, hereinafter referred to as "CONSULTANT"), approved March 20th, 2018 as an award of RFQ 2017-04, this Project Agreement authorizes the CONSULTANT to provide the services as set forth below:

The VILLAGE and CONSULTANT agree as follows:

SECTION 1. SCOPE OF SERVICES

1.1 The CONSULTANT shall provide professional services associated with survey, design, permitting, and construction services for the work described above. The specific scope of services proposed by CGA is detailed as follows:

1.2 Professional engineering services to the VILLAGE for the Project as described in the "Scope of Service" attached as Exhibit "A."

1.3 The "Scope of Services" and tasks to be provided by the CONSULTANT for this Project are those services and tasks as listed in Exhibit "A", which incorporates proposal No. 17-9868.74.

1.4 The VILLAGE may request changes that would increase, decrease, or otherwise modify the Scope of Services. Such changes must be contained in a written change order executed by the parties in accordance with the provisions of the Continuing Services Agreement, prior to any deviation from the terms of the Project Agreement, including the initiation of any extra work.

SECTION 2. DELIVERABLES

As part of the Scope of Services the CONSULTANT shall provide to the VILLAGE the following Deliverables:

Professional services associated with survey, design, permitting, bidding, and construction services as specified within proposal No. 17-9868.74 in order to govern the installation of the work as designed by the CONSULTANT.

SECTION 3. TERM/TIME OF PERFORMANCE/DAMAGES

3.1 Term. This Project Agreement shall commence on the date this instrument is fully executed by all parties and shall continue in full force and effect through 06/30/2025, unless otherwise terminated pursuant to Section 6 or other applicable provisions of this Project Agreement. The Village Manager, in his/her sole discretion, may extend the term of this Agreement through written notification to the CONSULTANT. Such extension shall not exceed 45 days. No further extensions of this Agreement shall be effective unless authorized by the Village Council.

3.2 Commencement. The CONSULTANT'S services ("Services" or "Work") under this Project Agreement and the time frames applicable to this Project Agreement shall commence upon receipt of a Notice to Proceed in a form similar to Exhibit "B" attached hereto. The CONSULTANT shall not incur any expenses or obligations for payment to third parties prior to the issuance of the Notification to Proceed.

3.3 Contract Time. Upon receipt of the Notification to Proceed, the CONSULTANT shall commence services to the VILLAGE on the Commencement Date, and shall continuously perform services to the VILLAGE, without interruption, in accordance with the time frames set forth in incorporated into this Agreement as Exhibit "A." The number of calendar days from the Commencement Date, through the date set forth in the Project Schedule for completion of the Project or the date of actual completion of the Project, whichever shall last occur, shall constitute the Contract Time.

3.4 Liquidated Damages. Unless otherwise excused by the VILLAGE in writing, in the event that the CONSULTANT fails to meet the contract time for completion of services as determined by the Project Schedule, the CONSULTANT shall pay to the VILLAGE the sum of dollars identified below per day for each and every calendar day of unexcused delay beyond the completion date, plus approved time extensions, until completion of the project: \$100

Any sums due and payable hereunder by the CONSULTANT shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by the VILLAGE, estimated at or before the time of executing this Agreement. When the VILLAGE reasonably believes that completion will be inexcusably delayed, the VILLAGE shall be entitled, but not required, to withhold from any amounts otherwise due the CONSULTANT an amount then believed by the VILLAGE to be adequate to recover liquidated damages applicable to such delays. If and when the CONSULTANT overcomes the delay in achieving completion, or any part thereof, for which the VILLAGE has withheld payment, the VILLAGE shall promptly release to the CONSULTANT those funds withheld, but no longer applicable, as liquidated damages.

3.5 All limitations of time set forth in this Agreement are of the essence.

SECTION 4. AMOUNT, BASIS AND METHOD OF COMPENSATION

4.1 Lump Sum Compensation. VILLAGE agrees to pay CONSULTANT as compensation for performance of all services as related to the Project a Not to Exceed Sum of \$155,432, inclusive of a ten percent (10%) contingency. It is understood that the method of compensation is that of Not to Exceed Sum which means that CONSULTANT shall perform all services set forth for total compensation in the amount stated above. Said Not to Exceed Sum includes but is not limited to, compensation for all fees, expenses, and out-of-pocket costs of the CONSULTANT.

4.2 Reimbursables. It is acknowledged and agreed to by CONSULTANT that the lump sum set forth in Section 4.1 includes Direct Expenses and describes the maximum extent of, VILLAGE's obligation to reimburse CONSULTANT for direct, non-salary expenses, but does not constitute a limitation, of any sort, upon CONSULTANT's obligation to incur such expenses in the performance of services hereunder.

SECTION 5. BILLING AND PAYMENTS TO THE CONSULTANT

5.1.1 Invoices Compensation. CONSULTANT shall submit invoices which are identified by the specific project number and in a timely manner. These invoices shall identify the nature of ~~the work performed,~~ the phase of work, and the estimated percent of work accomplished in accordance with the Payment Schedule as shown on Exhibit "1", attached hereto and made a part of this Agreement. Invoices for each phase shall not exceed the amounts allocated to said phase. The statement shall show a summary of fees with accrual of the total and credits for portions paid previously.

5.2 Disputed Invoices. In the event that all or a portion of an invoice submitted to the VILLAGE for payment to the CONSULTANT is disputed, or additional backup documentation is required, the VILLAGE shall notify the CONSULTANT within 15 working days of receipt of the invoice of such objection, modification or additional documentation request. The CONSULTANT shall provide the VILLAGE with a written response and any additional information requested by the VILLAGE within ten (10) working days of the date of the VILLAGE'S notice. The VILLAGE may request additional information, including but not limited to, all invoices, time records, expense records, accounting records, and payment records of the CONSULTANT. The VILLAGE, at its sole discretion, may pay to the CONSULTANT the undisputed portion of the invoice. The parties shall endeavor to resolve the dispute in a mutually agreeable fashion.

5.3 Suspension of Payment. In the event that the VILLAGE becomes credibly informed that any representations of the CONSULTANT, provided pursuant to Subparagraph 5.1, are wholly or partially inaccurate, or in the event that the CONSULTANT is not in compliance with any term or condition of this Project Agreement, the VILLAGE may withhold payment of sums then or in the future otherwise due to the CONSULTANT until the inaccuracy, or other breach of Project Agreement, and the cause thereof, is corrected to the Village's reasonable satisfaction.

5.4 Retainage. The VILLAGE reserves the right to withhold retainage in the amount of ten percent (10%) of any payment due the CONSULTANT until the project is completed. Said retainage may be withheld at the sole discretion of the VILLAGE and as security for the successful completion of the CONSULTANT'S duties and responsibilities under this Project Agreement.

5.5 Final Payment. Submission of the CONSULTANT'S invoice for final payment and reimbursement shall constitute the CONSULTANT'S representation to the VILLAGE that, upon receipt from the VILLAGE of the amount invoiced, all obligations of the CONSULTANT to others, including its consultants, incurred in connection with the Project, shall be paid in full. The CONSULTANT shall deliver to the VILLAGE all documents requested by the VILLAGE evidencing payment to any and all subcontractors, and all final specifications, plans or other documents as dictated in the Scope of Services and Deliverables. Acceptance of final payment shall constitute a waiver of all claims against the VILLAGE by the CONSULTANT.

SECTION 6. TERMINATION/SUSPENSION

6.1 For Cause. This Agreement may be terminated by VILLAGE upon fourteen (14) calendar days' written notice to the CONSULTANT should such CONSULTANT fail substantially to perform in accordance with its material terms through no fault of the party initiating the termination. In the event that CONSULTANT abandons this Agreement or causes it to be terminated by the VILLAGE, the CONSULTANT shall indemnify the VILLAGE against any loss pertaining to this termination. In the event that the CONSULTANT is terminated by the VILLAGE for cause and it is subsequently determined by a court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a termination for convenience under Section 6.2 and the provisions of Section 6.2 shall apply.

6.2 For Convenience. This Agreement may be terminated by the VILLAGE for convenience upon thirty (30) calendar days' written notice to the CONSULTANT. In the event of such a termination, the CONSULTANT shall incur no further obligations in connection with the Project and shall, to the extent possible terminate any outstanding subconsultant obligations. The CONSULTANT shall be compensated for all services performed to the satisfaction of the VILLAGE and reimbursable expenses incurred prior to the date of termination. In such event, the CONSULTANT shall promptly submit to the VILLAGE its invoice for final payment and reimbursement which invoice shall comply with the provisions of Paragraph 5.1. Under no circumstances shall the VILLAGE make payment of profit to the CONSULTANT for services which have not been performed.

6.3 Assignment Upon Termination. Upon termination of this Project Agreement, the work product of the CONSULTANT shall become the property of the VILLAGE and the CONSULTANT shall within ten (10) working days of receipt of written direction from the VILLAGE, transfer to either the VILLAGE or its authorized designee, all work product in its possession, including but not limited to, designs, specifications, drawings, studies, reports and all other documents and data in the possession of the CONSULTANT pertaining to this Project Agreement. Upon the VILLAGE'S request, the CONSULTANT shall additionally assign its rights, title and interest under any subcontractor's agreements to the VILLAGE.

6.4 Suspension for Convenience. The VILLAGE shall have the right at any time to direct the CONSULTANT to suspend its performance, or any designated part thereof, for any reason whatsoever, or without reason, for a cumulative period of up to thirty (30) calendar days. If any such suspension is directed by the VILLAGE, the CONSULTANT shall immediately comply with same. In the event the VILLAGE directs a suspension of performance as provided herein, through no fault of the CONSULTANT, the VILLAGE shall pay the CONSULTANT as full compensation for such suspension the CONSULTANT's reasonable cost, actually incurred and paid, of demobilization and remobilization.

SECTION 7. PERSONNEL ASSIGNED TO PROJECT

7.1 The CONSULTANT shall assign only qualified personnel to perform any services concerning this Project. At the time of execution of this Agreement, the parties anticipate that the following named individuals will perform those supervisory or primary functions indicated:

NAME	FUNCTION
_____	_____
_____	_____
_____	_____
_____	_____

So long as the individuals named above remain actively employed or retained by the CONSULTANT, they shall perform the functions indicated next to their names. Furthermore, the VILLAGE reserves the right to reject any proposed substitution for any of the above named individuals, and the VILLAGE shall have the further right to require that any individual assigned to the Project by the CONSULTANT be removed from the Project and reassigned for good cause.

SECTION 8. INCORPORATION OF CONTINUING SERVICES AGREEMENT

All terms and conditions of the "Continuing Service Agreement" between the VILLAGE and the CONSULTANT dated July 17, 2018, not specifically modified by this Project Agreement shall remain in full force and effect and are incorporated into and made a part of this Project Agreement by this reference as though set forth in full.

SECTION 9. SEVERABILITY

If any provision of this Project Agreement or its application to any person or situation shall to any extent, be invalid or unenforceable, the remainder of this Project Agreement, and the application of such provisions to persons or situations other than those to which it shall have been held invalid or unenforceable shall not be affected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law.

SECTION 10. MISCELLANEOUS

10.1 Scrutinized Companies.

10.1.1 CONSULTANT certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S., the City may immediately terminate this Agreement at its sole option if the CONSULTANT or its subcontractors are found to have submitted a false certification; or if the CONSULTANT, or its

subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.

10.1.2. If this Agreement is for more than one million dollars, the CONSULTANT certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the City may immediately terminate this Agreement at its sole option if the CONSULTANT, its affiliates, or its subcontractors are found to have submitted a false certification; or if the CONSULTANT, its affiliates, or its subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.

10.1.3 The CONSULTANT agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.

10.1.4 As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

10.2 The CONSULTANT shall comply with Chapter 119, Florida Statutes, as applicable, and shall comply with the following:

10.2.1 CONSULTANT agrees to keep and maintain public records in CONSULTANT's possession or control in connection with CONSULTANT's performance under this Agreement. CONSULTANT additionally agrees to comply specifically with the provisions of Section 119.0701, Florida Statutes. CONSULTANT shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the Agreement, and following completion of the Agreement until the records are transferred to the VILLAGE.

10.2.2 Upon request from the VILLAGE's custodian of public records, CONSULTANT shall provide the VILLAGE with a copy of the requested records or allow CGI Task Agreement Construction Administration Services UIP-Phase 3(A) 2020 the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Chapter 119, Florida Statutes, or as otherwise provided by law.

10.2.3 Unless otherwise provided by law, any and all records, including but not limited to reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of the VILLAGE.

10.2.4 Upon completion of this Agreement or in the event of termination by either party, any and all public records relating to the Agreement in the possession of the CONSULTANT shall be delivered by the CONSULTANT to the VILLAGE Manager, at no cost to the VILLAGE, within seven (7) days. All such records stored electronically by CONSULTANT shall be delivered to the VILLAGE in a format that is compatible with the VILLAGE's information technology systems. Once the public records have been delivered upon completion or termination of this Agreement, the CONSULTANT shall destroy any and all duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.

10.2.5 Any Compensation due to CONSULTANT shall be withheld until all records are received as provided herein.

SECTION 11. E-VERIFY

Effective January 1, 2021, public and private employers, contractors and subcontractors will begin required registration with, and use of, the E-verify system in order to verify the work authorization status of all newly hired employees. Contractor acknowledges and agrees to utilize the U.S. Department of Homeland Security's E-Verify System to verify the employment eligibility of: a) All persons employed by Contractor to perform employment duties within Florida during the term of the contract; and b) All persons (including sub-vendors/subconsultants/subcontractors) assigned by Contractor to perform work pursuant to the contract with the Village. The Contractor acknowledges and agrees that use of the U.S. Department of Homeland Security's E-Verify System during the term of the contract is a condition of the contract with the Village of Bal Harbour.

Should Vendor become the successful Contractor awarded for the above-named project, by entering into this Agreement, the Contractor becomes obligated to comply with the provisions of § 448.095, FL. Statutes, as amended from time to time. This includes but is not limited to utilization of the E-Verify System to verify the work authorization status of all newly hired employees; and requiring all Subcontractors to provide an affidavit attesting that the Subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. The Contractor shall maintain a copy of such affidavit for the duration of the contract. Failure to comply will lead to termination of this Contract, or if a Subcontractor knowingly violates the statute, the Subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than 20 calendar days after the date of termination. If this contract is terminated for a violation of the statute by the Contractor, the Contractor may not be awarded a public contract by the Village for a period of 1 year after the date of termination.

IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 305-866-4633, or by mail: VILLAGE Clerk, 655-96TH STREET BAL HARBOUR, FLORIDA 33154

(THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: The VILLAGE, signing by and through its Mayor, attested to by its Village Clerk, duly authorized to execute same, and by CONSULTANT, by and through its_____, duly authorized officer to execute same.

VILLAGE

BAL HARBOUR VILLAGE
655 Ninety-Sixth Street
Bal Harbour, FL 33154

By:_____
Jorge M. Gonzalez, Village Manager

AUTHENTICATION: The_____day of_____, 2023.

Dwight S. Danie,
Village Clerk

(SEAL)

APPROVED AS TO FORM

Village Attorney
Weiss Serota Helfman Cole & Bierman P.L.

CONSULTANT:
Calvin, Giordano & Associates, Inc.
1800 Eller Drive
Fort. Lauderdale, FL 33316

By:_____

Print Name:_____

Title:_____

AUTHENTICATE:

The_____day of_____, 2023.

Secretary

Print Name

(CORPORATE
SEAL)

WITNESSES:

Print Name:_____

Print Name:_____



Calvin, Giordano & Associates, Inc.
A SAFEbuilt COMPANY

Proposal for Professional Services

Date: March 15, 2023
RE: Camden Drive and Bal Cross Drive Sanitary Sewer
Client: Bal Harbour Village
1840 NE 144th Street
North Miami, FL 33181
Attention: Mike Alvarez, Utility Compliance Officer, CGC, PWLF
CGA Project No: 17-9868.74

Building Code Services
Civil Engineering / Roadway
& Highway Design
Coastal Engineering
Code Enforcement
Construction Engineering &
Inspection (CEI)
Construction Services
Data Technologies &
Development
Electrical Engineering
Engineering
Environmental Services
Facilities Management
Grant Management &
Writing
Geographic Information
Systems (GIS)
Governmental Services
Indoor Air Quality (IAQ)
Landscape Architecture
Planning
Project Management
Redevelopment &
Urban Design
Surveying & Mapping
Transportation & Mobility
Transportation Planning
Water / Utilities Engineering
Website Development

Bal Harbour Village (BHV) has requested professional Surveying, Civil Engineering, and Construction Administration services from Calvin, Giordano & Associates, Inc. (CGA) for the replacement and redirection of approximately 800 linear feet of sanitary sewer main (see Project Location Exhibit). The "Project Limits" are shown on the Project Location Exhibit and are primarily Camden Drive, Bal Cross Drive, and Harbour Way East.

CGA is pleased to submit this proposal for professional Surveying, Civil Engineering, and Construction Administration services. CGA shall subcontract the required scope for Geotechnical Engineering and Subsurface Utility Investigation to Nutting Engineers of Florida, Inc. (Nutting) and Blood Hound, LLC (Blood Hound), respectively. The specific scope of services proposed is further detailed in the subsequent sections.

1800 Eller Drive
Suite 600
Fort Lauderdale, FL 33316
Tel: 954.921.7781
Fax: 954.921.8807

www.cgasolutions.com

I. SURVEY, GEOTECHNICAL ENGINEERING, AND SUBSURFACE UTILITY INVESTIGATION

I.1 Survey

- I.1.1** Identify platted rights-of-way (including bearing and distances for centerline) lot numbers, house addresses, ownership lines, block numbers, and platted easements within the Project Limits.
- I.1.2** All above ground improvements within the Project Limits will be field collected, with horizontal locations and vertical elevations being provided for such items as edge-of-pavement, sidewalks, driveways, access points / curb cuts and visible above ground utilities. Visible above ground utilities refer to the visible structures (e.g., manholes, valve boxes, inlets, etc.) typically associated with storm drainage, sanitary sewer, potable water, electric, gas, telephone, and cable television.
- I.1.3** Data for pipe sizes, type of material, direction of flow and invert elevations will be obtained for any accessible manholes of storm and sewer manholes / inlets within the Project Limits including the next structure in the line of flow outside of the Project Limits.
- I.1.4** A grid of cross section elevations will be obtained at 25-foot to 50-foot intervals together with any grade breaks, swales, mounds, or other definitive elevation change throughout the roadway corridor within the Project Limits.
- I.1.5** All trees within the Project Limits, with at least a 3-inch caliper or greater, will be located and identified on the survey with unique tree symbol for each common name tree species and tree diameter.
- I.1.6** Location with color and type of any above-ground paint marks identifying underground utility demarcation as completed by others within the Project Limits.
- I.1.7** Survey data will be referenced vertically to National Geodetic Vertical Datum of 1929 (NGVD29) and horizontally to Florida State Plane Coordinates, North American Datum 83/90 (NAD 83/90).
- I.1.8** The topographic survey will be prepared in accordance with the Standards of Practice requirements for Surveying and Mapping in the State of Florida as set forth by Chapter 5J-17 of the Florida Administrative Code, pursuant to Florida Statutes Chapter 472.027.

I.2 Geotechnical Engineering (Subconsultant)

- I.2.1** Geotechnical investigations (by Nutting) will evaluate the soil conditions within the Project Limits. It is anticipated that up to four (4) soil borings

will be performed along with four (4) pavement cores for basecourse measurements. Two (2) soil borings will be approximately 20 feet deep and the other two (2) will be approximately 10 feet deep.

- I.2.2 Results of the geotechnical work will be issued in an engineering report of findings and will be included for informational purposes to potential Bidders. The engineering report will include graphic logs of the test borings and a map of their locations.

I.3 Subsurface Utility Investigation (Subconsultant)

- I.3.1 Underground locates and test holes will be provided (by Blood Hound) to assist with the design of the proposed improvements. Ground-penetrating radar (GPR) will be used to investigate the subsurface utility conditions and assist with determining existing utilities within the Project Limits. Up to twenty-five (25) test holes will be performed. The work will identify the horizontal and vertical locations of existing utilities, such as water mains, force mains, gas lines, and communication and will be incorporated into the design plans. For each test hole performed, a Test Hole Report will be provided that summarizes the type of utility found, size, material, depth from surface, horizontal distance from fixed objects in the field, and pipe direction.
- I.3.2 Sometimes, pipe size and material may not be identifiable due to water table, depth, or hole collapse from unfavorable soils.

II. 60% DELIVERABLES

- II.1 Review any available as-builts and GIS data for the project area.
- II.2 Submit an 811 Design Ticket to obtain information on existing infrastructure for the project area. Incorporate information into design plans.
- II.3 Update design plans with topographic information obtained by CGA's Survey Department, information from 811 Design Ticket responses, and from the subsurface utility investigation.
- II.4 Prepare average and peak flow calculations to determine acceptable sanitary sewer main size (required for permitting).
- II.5 Prepare 60% plans inclusive of Cover Sheet, Legend and Abbreviations, Details, Existing Conditions / Demolition, Sanitary Sewer, and Stormwater Pollution Prevention.
- II.6 Conduct an internal quality assurance / quality control (QA/QC) review.
- II.7 Prepare cost estimate.

- II.8 Submit 60% plans and cost estimate to BHV for review. Attend one (1) meeting with BHV to review the 60% deliverables. Address questions and comments, as needed.

III. PERMITTING

- III.1 Prepare and submit permit application packages to the following Agencies (sanitary sewer extension permit only):

- III.1.1 Miami-Dade County Water and Sewer Department (WASD)

- III.1.2 Miami-Dade County Division of Environmental Resources Management (DERM)

- III.2 Address comments, revise documents, and resubmit as needed.

IV. 100% DELIVERABLES

- IV.1 Prepare 100% plans and specifications after permit approvals. Specifications shall include typical BHV front-end documents and relevant technical specifications.

- IV.2 Conduct a final internal QA/QC review.

- IV.3 Prepare a 100% cost estimate.

- IV.4 Submit 100% plans, specifications, and cost estimate to BHV for review. Attend one (1) meeting with BHV to review the 100% deliverables. Address questions and comments, as needed.

- IV.5 Resubmit revised bid documents to BHV.

V. BIDDING SERVICES

- V.1 Attend one (1) pre-bid meeting.

- V.2 Address Bidder Requests for Information (RFIs) related to documents prepared by CGA. These include responses to written questions and revised plans or technical specifications, if required. This may also require assisting BHV in issuing addenda to the bid documents.

- V.3 Prepare a bid tabulation summarizing the opened bids. Assist BHV in determining the lowest, most responsive, and most responsible Bidder. This shall include contacting and verifying Bidder references for the low Bidder. Prepare a letter summarizing the bid evaluations for BHV to make a recommendation to Council for contract award.

VI. CONSTRUCTION SERVICES

- VI.1 Attend one (1) preconstruction meeting and monthly construction progress meetings (includes up to two (2) total meetings). Prepare and distribute meeting minutes.

- VI.2 Review required shop drawing submittals.
- VI.3 Review and respond to Contractor RFIs regarding the design documents.
- VI.4 Assist BHV in reviewing any Change Order proposals.
- VI.5 Perform routine inspections and observation of field / construction activities for compliance with the plans and specifications (total effort estimated at not-to-exceed 400 hours, based on ten (10) weeks of active construction). These hours also include one substantial completion inspection and one final completion inspection and observations of required field testing.
- VI.6 Assist BHV in reviewing Contractor's monthly payment applications.
- VI.7 Review as-builts provided by the Contractor to determine conformance with the contract documents.
- VI.8 Submit for permit closeouts to WASD and DERM.

VII. ASSUMPTIONS AND EXCLUSIONS

- VII.1 BHV acknowledges that CGA has no control over costs of labor, materials, competitive bidding environments and procedures, unidentified field conditions, financial and/or market conditions, or other factors likely to affect the cost estimates of this project, all of which are and will unavoidably remain in a state of change, especially in light of the high volatility of the market. BHV further acknowledges that this is a "snapshot in time" and that the reliability of cost estimates will inherently degrade over time.
- VII.2 \$1,500.00 in reimburseables has been included for permit application fees. Any fees exceeding this amount shall be the responsibility of BHV. Any other permit not specifically mentioned herein shall be the responsibility of the Contractor, such as dewatering permits.
- VII.3 Construction Services efforts were based on ten (10) weeks of active construction time. Should additional time be required, it shall warrant additional fees.
- VII.4 BHV shall be responsible for bid advertisement, coordination with potential Bidders, arranging a pre-bid meeting, and receiving / opening bids.
- VII.5 MOT / Traffic Control Plans or any other plans not specifically listed herein are excluded.
- VII.6 BHV advised CGA that the southern project limit is be Sanitary Sewer Manhole No. 26 (located in front of 168 Camden Drive). BHV Staff field-confirmed positive sanitary sewer flow towards the south and therefore does not wish to replace pipe south of this manhole regardless of existing substandard slope.

VIII. ESTIMATED PROJECT SCHEDULE*

Deliverables	Time to Completion (in calendar days from NTP)
Survey, Geotechnical Engineering, and Subsurface Utility Investigation	40
60% Deliverables	90
Permit Approval	200
100% Deliverables	220
Bid Evaluation Letter	295
Project Closeout	520

*Certain turnaround times are ultimately out of CGA's control, such as BHV reviews, permit reviews, bidding, and construction. However, they were estimated and are shown above based on past experience.

IX. FEE SCHEDULE

Tasks	Subtotals
Task 1 – Survey, Geotechnical Engineering, and Subsurface Utility Investigation	\$36,781.50
Task 2 – 60% Deliverables	\$25,880.00
Task 3 – Permitting	\$5,930.00
Task 4 – 100% Deliverables	\$8,110.00
Task 5 – Bidding Services	\$5,400.00
Task 6 – Construction Services	\$57,700.00
Reimbursables (permitting allowance)	\$1,500.00
GRAND TOTAL	\$141,301.50

X. PROJECT LOCATION EXHIBIT

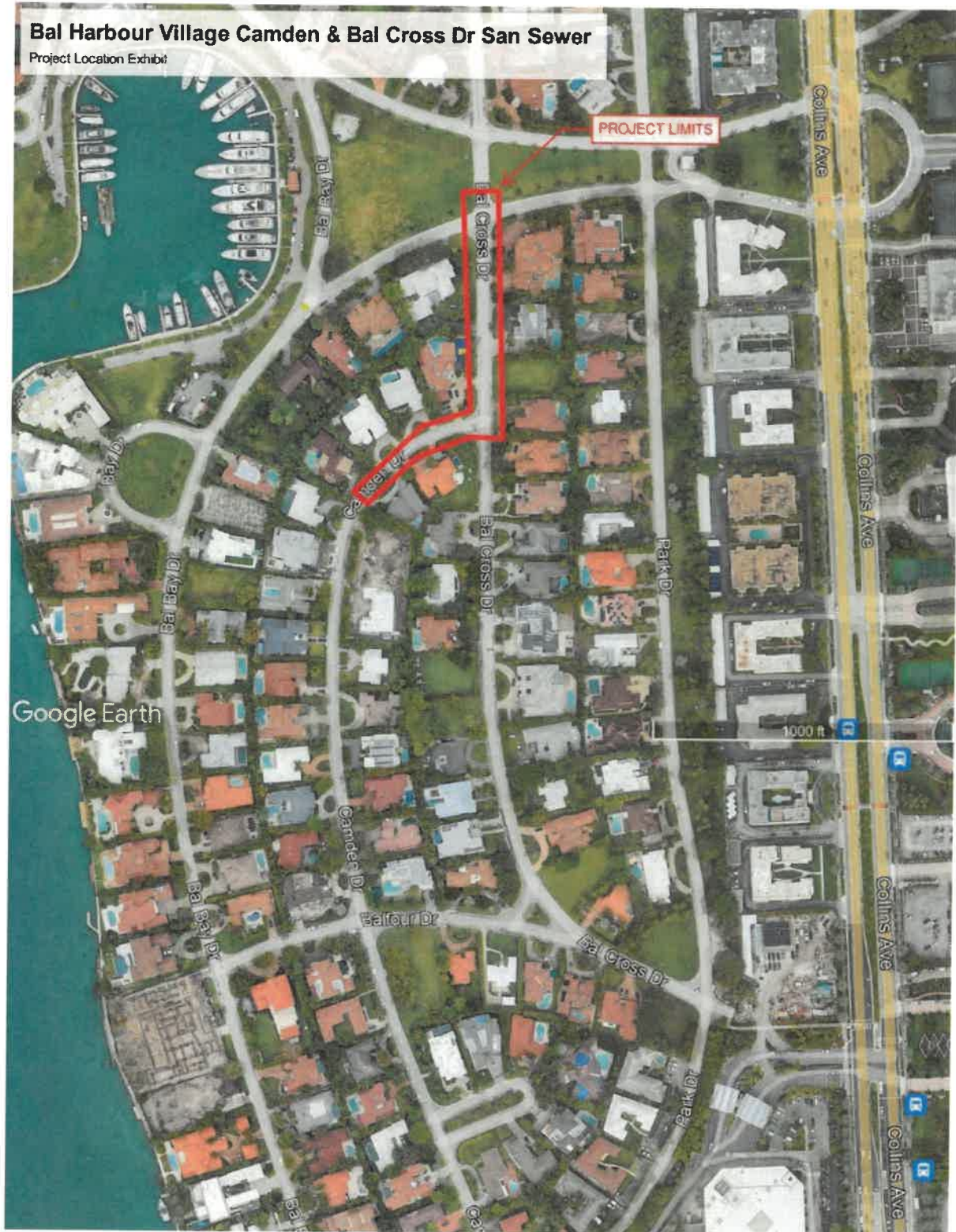


Exhibit B-Notice to Proceed

BAL HARBOUR

- V I L L A G E -

JORGE M. GONZALEZ
VILLAGE MANAGER

Calvin Giordano & Associates
Attn: Chris Giordano
1800 Eller Dr., Suite 600
Fort Lauderdale, FL 33316

RE: Work Authorization No. 17-9868.74, Phase 5 B- Infrastructure Improvement

Dear Mr. Giordano,

Please consider this your official Notice to Proceed on the above referenced work/service. You are hereby authorized to proceed with the work as of _____. Contract time will begin to be counted on this day. The work shall be completed within the prescribed timeframe as specified in the contract documents.

The Village has appointed John Oldenburg as the Village's Representative who will be your single point of contact.

If you have any questions, please contact the Village Representative.

Sincerely,

Jorge M. Gonzalez
Village Manager

Cc: John Oldenburg, PPS Director
Michael Alvarez, Compliance Officer
Claudia Dixon, Chief Financial Officer

BAL HARBOUR

- VILLAGE -

COUNCIL ITEM SUMMARY

Condensed Title:

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; APPROVING THE TASK AGREEMENT WITH CALVIN GIORDANO AND ASSOCIATES INC. FOR THE PROVISION OF PROFESSIONAL SURVEYING, CIVIL ENGINEERING AND CONSTRUCTION ADMINISTRATION SERVICES FOR THE WATER MAIN REPLACEMENT, RELOCATION OF RESIDENTIAL WATER METERS AND ASSOCIATED WORK RELATED TO THE UTILITIES INFRASTRUCTURE IMPROVEMENTS PROJECT PHASE 5(A), AS SPECIFIED WITHIN CGA PROPOSAL NO. 17-9868.75, IN THE AMOUNT NOT TO EXCEED \$141,974, INCLUSIVE OF A 10% CONTINGENCY ALLOCATION IN THE AMOUNT OF (\$12,907) ROUNDED UP TO THE NEAREST DOLLAR.

Issue:

Should the Village Council approve the Task Agreement with Calvin Giordano and Associates (CGA) for the services detailed within CGA Proposal No. 17-9868.75 related to the phase 5 (a) water main replacement in the amount not to exceed \$141,974?

The Bal Harbour Experience:

- | | | |
|--|---|---|
| <input type="checkbox"/> Beautiful Environment | <input type="checkbox"/> Safety | <input checked="" type="checkbox"/> Modernized Public Facilities/Infrastructure |
| <input type="checkbox"/> Destination & Amenities | <input type="checkbox"/> Unique & Elegant | <input checked="" type="checkbox"/> Resiliency & Sustainable Community |
| <input type="checkbox"/> Other: _____ | | |

Item Summary / Recommendation:

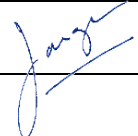
Village engineer CGA has submitted a requested proposal No. 17-9868.75 in the amount of \$129,067, for the professional surveying, civil engineering, and construction administration, to replace the water main and services within the UIIP phase (5 a) locations. A 10% or \$12,907 contingency allocation has been applied. The total not to exceed cost for the Task Agreement with CGA for the services as detailed within CGA Proposal No17-9868.75., is \$141,974.

THE ADMINISTRATION RECOMMENDS APPROVAL OF THIS RESOLUTION.

Financial Information:

	Amount	Account	Account #
	\$141.974.00	UMP - Project 5(a)	40-36-506321

Sign off:

Director Public Works & Beautification Department	Chief Financial Officer	Village Manager
John Oldenburg	Claudia Dixon	Jorge M. Gonzalez
		

BAL HARBOUR

- V I L L A G E -

COUNCIL MEMORANDUM

TO: Honorable Mayor and Village Council

FROM: Jorge M. Gonzalez, Village Manager

DATE: April 18, 2023

SUBJECT: **A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; APPROVING THE TASK AGREEMENT WITH CALVIN GIORDANO AND ASSOCIATES INC. FOR THE PROVISION OF PROFESSIONAL SURVEYING, CIVIL ENGINEERING AND CONSTRUCTION ADMINISTRATION SERVICES FOR THE WATER MAIN REPLACEMENT, RELOCATION OF RESIDENTIAL WATER METERS AND ASSOCIATED WORK RELATED TO THE UTILITIES INFRASTRUCTURE IMPROVEMENTS PROJECT PHASE 5(A), AS SPECIFIED WITHIN CGA PROPOSAL NO. 17-9868.75, IN THE AMOUNT NOT TO EXCEED ONE HUNDRED FORTY-ONE THOUSAND NINE HUNDRED SEVENTY FOUR DOLLARS (\$141,974), INCLUSIVE OF A TEN PERCENT (10%) CONTINGENCY ALLOCATION IN THE AMOUNT OF TWELVE THOUSAND NINE HUNDRED SEVEN DOLLARS (\$12,907) ROUNDED UP TO THE NEAREST DOLLAR; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.**

ADMINISTRATIVE RECOMMENDATION

I am recommending approval of this Resolution.

BACKGROUND

The Village is currently implementing 4 major and distinct Utility/PW Projects within the Gated Community.

1. Water
 - Transmission water main lines;
 - House & irrigation meters redirected from the rear to the front of homes;
 - Backflow preventers installed for all irrigation connections;
 - New fire hydrants;
 - Distribution water lines to each property.
2. Sanitary Sewer
 - Repair, replace or line all sewer pipes;
 - Refurbish/line all sewer manhole structures.
3. Stormwater
 - Major engineering/ installation of drainage piping to connect areas to the drainage system;
 - A new upgraded Stormwater Pump Station (PS-1) at Harbour Way;
 - New drainage wells;
 - New curb and gutter installed throughout.

4. Road reconstruction where required, milling, and paving throughout the Gated Community.

These activities collectively are designated, The Utility Infrastructure Improvement Project (UIIP), which is completed in geographically based Phases. Except for pending roadway milling and paving, Project phases 3 (a, b, c) and 4 are complete. The focus is currently the completion of the South of the Harbour Way West locations specifically, Phases, 5 (a, b, c), 6 (a, b) and the Stormwater Station improvements Phase 7.

The engineering and subsequent construction of these 4 components requires coordination and scheduling to avoid excessive impacts to the residents. Most of this work is conducted within the streets which at times are heavily traveled. Each of the components are completed separately within the same phase areas and in many instances simultaneously in different Project phase locations inside the Gated Community. Generally, the water system component is installed first followed by the identified sanitary sewer work, then stormwater and finally curb & gutter installation prior to the roadway restoration, milling and paving. There is a recognition that large road closures for extended periods is not acceptable and avoided whenever possible. The high volume of private resident construction ongoing in the Community is another factor which affects the scheduling of this work, resulting in a complex planning activity to complete the work in a timely fashion while minimizing disruptions to area residents.

On March 20, 2018, the Village Council adopted Resolution No. 2018-1133 approving the Continuing Services Agreement between the Village and Calvin Giordano and Associates, Inc. (CGA) for the provision of engineering and professional consulting services, to act on behalf of the Village as the Village Engineer of Record. Since the retention of CGA as Village Engineer of Record in 2018, they have provided engineering, design and construction related services to the Village related to UIIP phases 3 (a, b, c) and 5 (c).

ANALYSIS

The UIIP Phase 5(a) is in the early stages of construction and is approximately fifteen percent (15%) complete overall. The following details the work completed to date along with the pending activities. Complete

- 9 sanitary sewer manholes rehabilitated, 1430 linear feet of sewer pipe lining, and 100 linear feet of sanitary sewer pipe repairs completed to date.

Pending work

- 1,530 linear feet -Water main line;
- 54 Water services and meter boxes;
- 4 fire hydrants;
- 3,060 linear feet of curb & gutter replacement;
- 1,530 linear feet milling & paving.

This Resolution addresses the UIIP activities within the Phase 5 (A) locations, specifically the identified need to replace approximately one thousand five hundred linear feet (1,500') of six-inch (6") diameter water main with new ten-inch (10") diameter water main.

Additionally, the existing rear-lot water meters for the single-family homes shall be relocated to the front of the properties with new water services, and multi-family buildings with existing buried fire lines shall be retrofitted with new aboveground backflow preventers.

CGA has submitted a requested proposal No. 17-9868.75 in the amount of one hundred twenty-nine thousand sixty-seven dollars (\$129,067) for the envisioned services. The services included professional surveying, civil engineering, and construction administration, for the water main replacement and residential water meter re-locations within the phase 5 (a) location, specifically Park Drive between Harbour Way East and Bal Cross Drive and the side yards on the west side of Park Drive for the new water services to connect to the existing backyard water services.

During construction, professional report development and specialized utility maintenance activities, contingency funds are utilized as reserve monies used to cover unexpected costs which arise from unforeseen conditions. These funds are not allocated to any specific area of work and if they are not required, the funds are returned to the overall General Fund Budget at the completion of the work. To anticipate the cost of unforeseen conditions and additional meetings not accounted for within the proposals, it is appropriate to include a contingency of ten percent (10%) of the total cost, which equates in this instance to twelve thousand nine hundred seven dollars (\$12,907) rounded up to the nearest dollar.

The pre-construction design and related activities contained within the proposal total seventy-one thousand three hundred sixty-seven dollars (\$71,367) and the construction services total fifty-seven thousand seven hundred dollars (\$57,700).

Therefore, the total not to exceed cost for the professional surveying, civil engineering, and construction administration, related to the phase 5(a) locations as detailed within the proposal provided by Calvin Giordano and Associates, Inc. is one hundred forty-one thousand nine hundred seventy-four dollars (\$141,974), inclusive of the applied contingency, rounded up to the nearest dollar.

Scope of Service

The information below summarizes the scope of service contained within the CGA Proposal No. 17-9868.75.

A. Due Diligence

1. Review water meter registry, topographic survey, and as-builts.
2. Conduct a site visit with Bal Harbour Village (BHV) Staff to document the following:
 - a. Existing water meter locations. This includes the backyards of the single-family homes and the multi-family buildings; and
 - b. The presence of existing fire protection systems for the multi-family buildings to propose reconnections and new aboveground backflow preventers.

B. Subsurface Utility Investigation

Underground locates and test holes will be provided (by Blood Hound LLC) to assist with the design of the proposed improvements. Ground-penetrating radar (GPR) will be used to investigate the subsurface utility conditions and assist with determining existing utilities within the Project Limits.

C. Deliverables

1. Submit an 811 Design Ticket to obtain information on existing and planned infrastructure within the Project Limits. Additionally, review any pending BHV Building Department permits within the Project Limits. Incorporate information into design plans;
2. Update base file with topographic information obtained from topographic survey (by others; see Assumptions and Exclusions), as-builts, information from 811 Design Ticket responses, and from the Subsurface Utility Investigation;
3. Prepare 60% and 100% plans inclusive of Cover Sheet, Legend and Abbreviations, Details, Existing Conditions / Demolition, Water Plans, and Stormwater Pollution Prevention;
4. Conduct an internal quality assurance/ quality control (QA/QC) review;
5. Prepare cost estimates;
6. Submit 60% and 100% plans and cost estimate to BHV for review; and
7. Address comments, revise documents, and resubmit as needed.

D. Permitting

1. Prepare and submit permit application packages to the Miami-Dade County Water and Sewer Department (WASD), the Miami-Dade County Division of Environmental Resources Management (DERM) and Florida Department of Health in Miami-Dade County (FDOH);
2. Address comments, revise documents, and resubmit as needed.

E. Construction Services

1. Attend one (1) preconstruction meeting and monthly construction progress meetings (includes up to two (2) total meetings). Prepare and distribute meeting minutes;
2. Review required shop drawing submittals;
3. Review and respond to Contractor Requests for Information (RFIs) regarding the design documents;
4. Assist BHV in reviewing any Change Order proposals;
5. Perform routine inspections and observation of field/ construction activities for compliance with the plans and specifications (total effort estimated at not-to-exceed 400 hours, based on ten (10) weeks of active construction). These hours also include one substantial completion inspection and one final completion inspection and observations of required field testing;
6. Assist BHV in reviewing Contractor's monthly payment applications;

7. Review as-builts provided by the Contractor to determine conformance with the contract documents; and
8. Submit for permit closeouts to WASD, DERM and FDOH.

The proposed water main replacement and relocation of the residential water meters is the last identified large water main replacement work remaining to be designed within the Residential Gated Community. The anticipated timeline to complete the design and permitting activities for this work is five hundred forty-five twenty (545) calendar days, with construction to follow.

Additionally, there is a companion UIIP item on this meeting agenda to approve a task agreement with CGA for the professional surveying, civil engineering, and construction administration, as required to replace and redirect approximately, eight hundred linear feet (800') of sanitary sewer pipe within the phase 5 (b) locations.

THE BAL HARBOUR EXPERIENCE

This action is aligned with the Village's stated mission through the *Bal Harbour Experience*. The replacement of Village water main and relocation of the residential water meters from the rear of the properties to the front within the UIIP phase 5(a) locations, corresponds directly to the goals of Modernized Public Facilities and Infrastructure and Resiliency & Sustainable Community.

CONCLUSION

This Resolution if approved, addresses the UIIP activities within the Phase 5 (A) locations, specifically the identified need to replace approximately one thousand five hundred linear feet (1,500') of six-inch (6") diameter water main with new ten-inch (10") diameter water main. Additionally, the existing rear-lot water meters for the single-family homes shall be relocated to the front of the properties with new water services. This proposed work is the last identified large water main replacement work remaining to be designed within the Residential Gated Community.

CGA has submitted a requested proposal No. 17-9868.75 in the amount of \$129,067, for the professional surveying, civil engineering, and construction administration, as required to construct the replacement water main and relocation of water meters. A 7% contingency allocation has been applied in the amount of \$12,907, rounded up to the nearest dollar to account for unforeseen conditions and unplanned costs.

I have reviewed the proposal submitted by CGA and deem the cost to be appropriate for the services requested. Consequently, I am recommending the approval of the Task Agreement with CGA for the services as detailed within their Proposal No17-9868.75, in the not to exceed cost of \$141,974, rounded up to the nearest dollar, inclusive of the applied contingency.

Attachments:

1. Calvin Giordano and Associates, Inc. Proposal No. 17-9868.75

RESOLUTION NO. 2023-____

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; APPROVING THE TASK AGREEMENT WITH CALVIN GIORDANO AND ASSOCIATES INC. FOR THE PROVISION OF PROFESSIONAL SURVEYING, CIVIL ENGINEERING AND CONSTRUCTION ADMINISTRATION SERVICES FOR THE WATER MAIN REPLACEMENT, RELOCATION OF RESIDENTIAL WATER METERS AND ASSOCIATED WORK RELATED TO THE UTILITIES INFRASTRUCTURE IMPROVEMENTS PROJECT PHASE 5(A), AS SPECIFIED WITHIN CGA PROPOSAL NO. 17-9868.75, IN THE AMOUNT NOT TO EXCEED ONE HUNDRED FORTY-ONE THOUSAND NINE HUNDRED SEVENTY-FOUR DOLLARS (\$141,974), INCLUSIVE OF A TEN PERCENT (10%) CONTINGENCY ALLOCATION IN THE AMOUNT OF TWELVE THOUSAND NINE HUNDRED SEVEN DOLLARS (\$12,907) ROUNDED UP TO THE NEAREST DOLLAR; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the adopted Utility Master Plan envisioned relocating water services from the rear of the individual residential properties to the front along with water meters, and the restoration of the Storm Water and Sanitary Sewer systems where deficiencies are identified; and

WHEREAS, on March 20, 2018, the Village Council adopted Resolution No. 2018-1133 approving a Continuous Services Agreement between the Village and Calvin Giordano and Associates, Inc. ("CGA") for the provision of engineering and professional consulting services and to act as the Village Engineer of Record; and

WHEREAS, CGA, has identified need to replace approximately one thousand five hundred linear feet (1,500') of six inch diameter (6") water main with new ten inch (10") diameter water main; and

WHEREAS, the existing rear-lot water meters for the single-family homes shall be relocated to the front of the properties with new water services, and multi-family buildings with existing buried fire lines shall be retrofitted with new aboveground backflow preventers; and

WHEREAS, CGA has submitted a requested proposal No. 17-9868.75 in the amount of \$129,067, for the professional surveying, civil engineering, and construction

administration, as required to construct the water main replacement and residential water meter re-locations within the Phase 5 (a) locations; and

WHEREAS, a 10% contingency allocation has been applied in the amount of \$12,907 to account for unforeseen conditions and unplanned costs; and

WHEREAS, this Council has determined that it is the best interest of the Village to approve the Task Agreement with CGA for the services as detailed within CGA Proposal No17-9868.75, in the not to exceed cost of \$141,974, inclusive of the applied contingency.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. That the above stated recitals are hereby adopted and confirmed.

Section 2. Task Agreement Approved. That the Task Agreement with CGA for the services as detailed within CGA Proposal No. 17-9868.7., for the Phase 5(a) improvements in substantially the form attached hereto as Exhibit "A", is hereby approved and the Village Manager is hereby authorized to sign the quote on behalf of the Village.

Section 3. Expenditure Approved. That the expenditure identified budgeted funds for the envisioned professional surveying, civil engineering, and construction administration, as required to construct the water main replacement and residential water meter re-locations within the Phase 5(a) locations is hereby approved.

Section 4. Implementation. That the Village Manager is hereby authorized to take all actions necessary to implement the purposes of this Resolution.

Section 5. **Effective Date.** That this Resolution shall take effect immediately upon the adoption hereof.

PASSED AND ADOPTED this 18th day of April 2023.



Mayor Jeffrey P. Freimark

ATTEST:

Dwight S. Danie, Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Village Attorney
Weiss Serota Helfman Cole & Bierman P.L.



Calvin, Giordano & Associates, Inc.
A **SAFEbuilt** COMPANY

Proposal for Professional Services

Date: March 30, 2023
RE: Phase 5A Water Main
Client: Bal Harbour Village
1840 NE 144th Street
North Miami, FL 33181
Attention: Mike Alvarez, Utility Compliance Officer, CGC, PWLF
CGA Project No: 17-9868.75

Bal Harbour Village (BHV) has requested professional Civil Engineering and Construction Administration services from Calvin, Giordano & Associates, Inc. (CGA) for the replacement of approximately 1,500 linear feet of 6-inch water main with new 10-inch water main. Existing rear-lot water meters for the single-family homes shall be relocated to the front of the properties with new water services, and multi-family buildings with existing buried fire lines shall be retrofitted with new aboveground backflow preventers. The "Project Limits" are shown on the Project Location Exhibit and are primarily the greenspace on Park Drive between Harbour Way East and Bal Cross Drive and the side yards on the west side of Park Drive for the new water services to connect to the existing backyard water services.

CGA is pleased to submit this proposal for professional Civil Engineering and Construction Administration services. CGA shall subcontract the required scope for Subsurface Utility Investigation to Blood Hound, LLC (Blood Hound). The specific scope of services proposed is further detailed in the subsequent sections.

Building Code Services
Civil Engineering / Roadway
& Highway Design
Coastal Engineering
Code Enforcement
Construction Engineering &
Inspection (CEI)
Construction Services
Data Technologies &
Development
Electrical Engineering
Engineering
Environmental Services
Facilities Management
Grant Management &
Writing
Geographic Information
Systems (GIS)
Governmental Services
Indoor Air Quality (IAQ)
Landscape Architecture
Planning
Project Management
Redevelopment &
Urban Design
Surveying & Mapping
Transportation & Mobility
Transportation Planning
Water / Utilities Engineering
Website Development

1800 Eller Drive
Suite 600
Fort Lauderdale, FL 33316
Tel: 954.921.7781
Fax: 954.921.8807

www.cgasolutions.com

I. DUE DILIGENCE AND SUBSURFACE UTILITY INVESTIGATION

I.1 Due Diligence

I.1.1 Review water meter registry, topographic survey, and as-builts.

I.1.2 Conduct a site visit with BHV Staff to document the following:

I.1.2.1 Existing water meter locations. This includes the backyards of the single-family homes and the multi-family buildings.

I.1.2.2 The presence of existing fire protection systems for the multi-family buildings in order to propose reconnections and new aboveground backflow preventers.

I.2 Subsurface Utility Investigation (Subconsultant)

I.2.1 Underground locates and test holes will be provided (by Blood Hound) to assist with the design of the proposed improvements. Ground-penetrating radar (GPR) will be used to investigate the subsurface utility conditions and assist with determining existing utilities within the Project Limits. Up to thirty (30) test holes will be performed. The work will identify the horizontal and vertical locations of existing utilities, such as water mains, force mains, gas lines, and communication and will be incorporated into the design plans. For each test hole performed, a report will be provided that summarizes the type of utility found, size, material, depth from surface, horizontal distance from fixed objects in the field, and pipe direction.

II. 60% DELIVERABLES

II.1 Submit an 811 Design Ticket to obtain information on existing and planned infrastructure within the Project Limits. Additionally, review any pending BHV Building Department permits within the Project Limits. Incorporate information into design plans.

II.2 Update base file with topographic information obtained from topographic survey (by others; see Assumptions and Exclusions), as-builts, information from 811 Design Ticket responses, and from the Subsurface Utility Investigation.

II.3 Prepare 60% design plans inclusive of Cover Sheet, Legend and Abbreviations, Details, Existing Conditions / Demolition, Water Plans, and Stormwater Pollution Prevention.

II.4 Conduct an internal quality assurance / quality control (QA/QC) review.

II.5 Prepare cost estimate.

- II.6 Submit 60% plans and cost estimate to BHV for review. Attend one (1) meeting with BHV to review the 60% deliverables. Address questions and comments, as needed.

III. PERMITTING

- III.1 Prepare and submit permit application packages to the following Agencies (water main permitting only):

- III.1.1 Miami-Dade County Water and Sewer Department (WASD)

- III.1.2 Miami-Dade County Division of Environmental Resources Management (DERM)

- III.1.3 Florida Department of Health in Miami-Dade County (FDOH)

- III.2 Address comments, revise documents, and resubmit as needed.

IV. 100% DELIVERABLES

- IV.1 Prepare 100% plans after permit approvals.

- IV.2 Conduct a final internal QA/QC review.

- IV.3 Prepare a 100% cost estimate.

- IV.4 Submit 100% plans and cost estimate to BHV for review. Attend one (1) meeting with BHV to review the 100% deliverables. Address questions and comments, as needed.

- IV.5 Resubmit revised documents to BHV, as needed.

V. CONSTRUCTION SERVICES

- V.1 Attend one (1) preconstruction meeting and monthly construction progress meetings (includes up to three (3) total meetings). Prepare and distribute meeting minutes.

- V.2 Review required shop drawing submittals.

- V.3 Review and respond to Contractor Requests for Information (RFIs) regarding the design documents.

- V.4 Assist BHV in reviewing any Change Order proposals.

- V.5 Perform routine inspections and observation of field / construction activities for compliance with the plans and specifications (total effort estimated at not-to-exceed 400 hours based on ten (10) weeks of active construction). These hours also include one (1) substantial completion inspection, one (1) final completion inspection, and observations of required field testing.

- V.6 Assist BHV in reviewing Contractor's monthly payment applications.
- V.7 Review as-builts provided by the Contractor to determine conformance with the contract documents.
- V.8 Submit for permit closeouts to WASD, DERM, and FDOH.

VI. ASSUMPTIONS AND EXCLUSIONS

- VI.1 BHV acknowledges that CGA has no control over costs of labor, materials, competitive bidding environments and procedures, unidentified field conditions, financial and/or market conditions, or other factors likely to affect the cost estimates of this project, all of which are and will unavoidably remain in a state of change, especially considering the high volatility of the market. BHV further acknowledges that this is a "snapshot in time" and that the reliability of cost estimates will inherently degrade over time.
- VI.2 \$1,500.00 in reimburseables has been included for permit application fees. Any fees exceeding this amount shall be the responsibility of BHV. Any other permit not specifically mentioned herein shall be the responsibility of the Contractor, such as dewatering permits.
- VI.3 Construction Services efforts were based on ten (10) weeks of active construction time. Should additional time be required, it shall warrant additional fees.
- VI.4 It is understood that BHV shall contract with one of their previous Contractors for this project. Therefore, preparation of technical specifications, bidding documents, or other related efforts for the procurement of a new Contractor have been excluded.
- VI.5 Contractor shall utilize the previous survey of the Project Limits as performed by Chen-Moore & Associates, Inc. (CMA) and their Subconsultant. For CGA to perform their scope, BHV or CMA shall provide to CGA a signed and sealed topographic survey and AutoCAD files of the Project Limits. AutoCAD files shall include topographic survey, existing utilities, and as-builts of the new 20-inch transmission water main and its appurtenances. If the survey data provided is not accurate for design of the project, CGA shall notify BHV who can request CMA to update the survey or have CGA prepare an additional services agreement.
- VI.6 BHV shall provide their water meter registry for the Customers within the Project Limits.
- VI.7 For the Subsurface Utility Investigation, pipe sizes and materials may not always be identifiable due to water table, depth, or hole collapse from unfavorable soils.

VII. ESTIMATED PROJECT SCHEDULE*

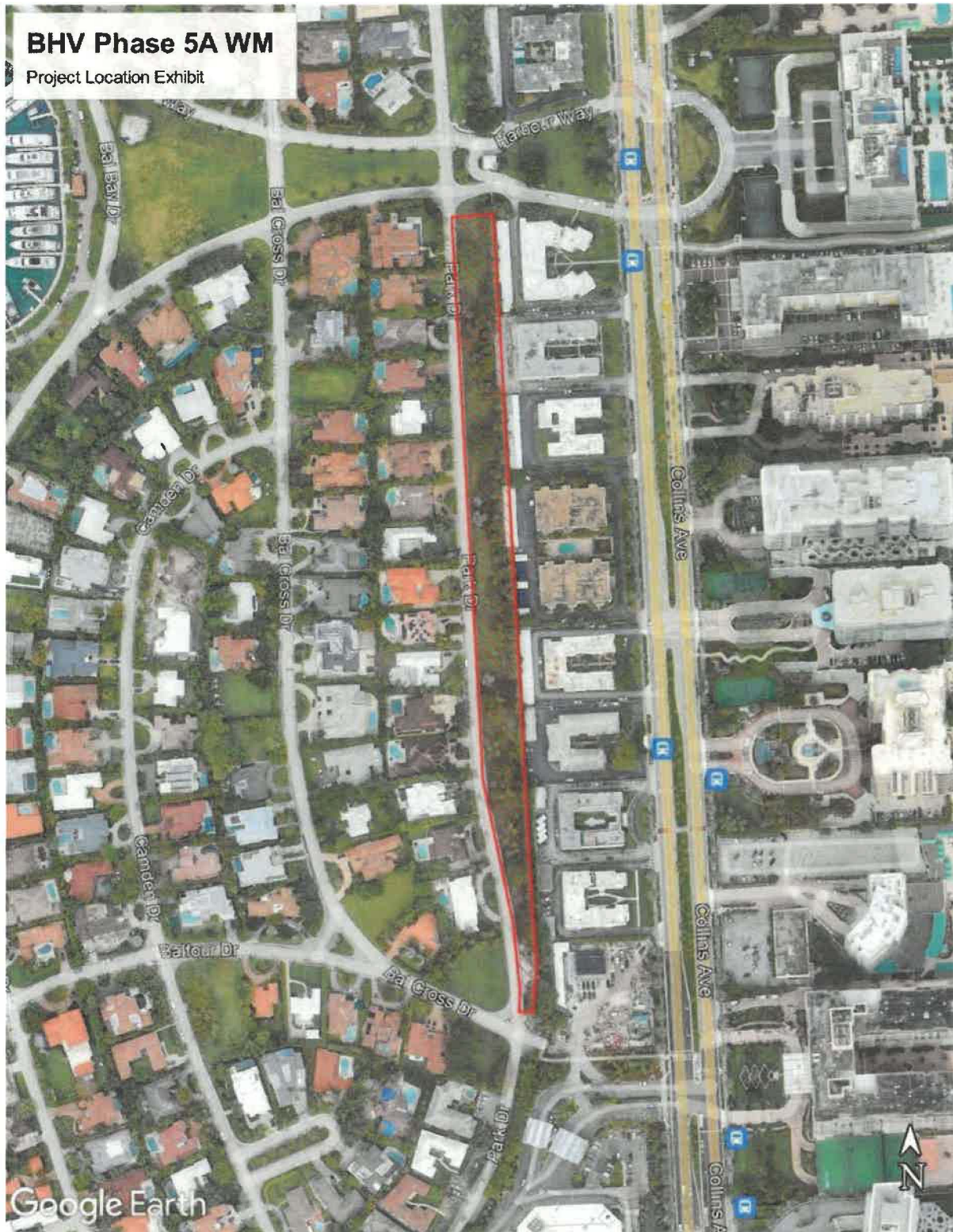
Deliverables	Time to Completion (in calendar days from NTP)
Due Diligence and Subsurface Utility Investigation	40
60% Deliverables	80
Permit Approvals	200
100% Deliverables	225
Construction Closeout	505

*Certain turnaround times are ultimately out of CGA's control, such as BHV reviews, permit reviews, and construction. However, they were estimated and are shown above based on past experience.

VIII. FEE SCHEDULE

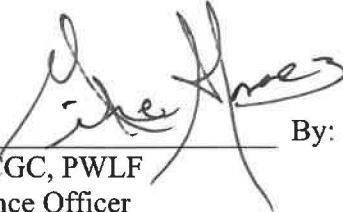

Tasks	Subtotals
Task 1 – Due Diligence and Subsurface Utility Investigation	\$35,672.00
Task 2 – 60% Deliverables	\$20,685.00
Task 3 – Permitting	\$6,240.00
Task 4 – 100% Deliverables	\$7,270.00
Task 5 – Construction Services	\$57,700.00
Reimbursables (permitting allowance)	\$1,500.00
GRAND TOTAL	\$129,067.00

IX. PROJECT LOCATION EXHIBIT



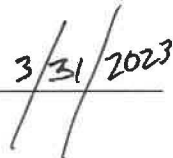
AUTHORIZATION

Kindly sign and return this authorization at your earliest convenience. Calvin, Giordano & Associates, Inc. will proceed upon receipt of authorization.

By:  By:  Digitally signed by David E Stambaugh
Date: 2023.03.31 09:49:11-04'00'

Mike Alvarez, CGC, PWLF
Utility Compliance Officer
Bal Harbour Village

David Stambaugh, PE, DBIA
Vice President of Professional Services
Calvin, Giordano & Associates, Inc.

Date:  Date: 03/31/2023

TASK AGREEMENT

Between

BAL HARBOUR VILLAGE

And

CALVIN GIORDANO & ASSOCIATES

For

Work Authorization No. 17-9868.75

Utility Infrastructure Improvements Project Phase 5A

Pursuant to the provisions contained in the "Continuing Services Agreement for Professional Engineering and Consulting Services" (hereinafter referred to "CONTINUING SERVICES AGREEMENT") between BAL HARBOUR VILLAGE (hereinafter referred to as "VILLAGE") and Calvin Giordano & Associates, hereinafter referred to as "CONSULTANT"), approved March 20th, 2018 as an award of RFQ 2017-04, this Project Agreement authorizes the CONSULTANT to provide the services as set forth below:

The VILLAGE and CONSULTANT agree as follows:

SECTION 1. SCOPE OF SERVICES

1.1 The CONSULTANT shall provide professional services associated with survey, design, permitting, and construction services for the work described above. The specific scope of services proposed by CGA is detailed as follows:

1.2 Professional engineering services to the VILLAGE for the Project as described in the "Scope of Service" attached as Exhibit "A."

1.3 The "Scope of Services" and tasks to be provided by the CONSULTANT for this Project are those services and tasks as listed in Exhibit "A", which incorporates proposal No. 17-9868.75.

1.4 The VILLAGE may request changes that would increase, decrease, or otherwise modify the Scope of Services. Such changes must be contained in a written change order executed by the parties in accordance with the provisions of the Continuing Services Agreement, prior to any deviation from the terms of the Project Agreement, including the initiation of any extra work.

SECTION 2. DELIVERABLES

As part of the Scope of Services the CONSULTANT shall provide to the VILLAGE the following Deliverables:

Professional services associated with survey, design, permitting, bidding, and construction services as specified within proposal No. 17-9868.75 in order to govern the installation of the work as designed by the CONSULTANT.

SECTION 3. TERM/TIME OF PERFORMANCE/DAMAGES

3.1 Term. This Project Agreement shall commence on the date this instrument is fully executed by all parties and shall continue in full force and effect through 06/30/2025, unless otherwise terminated pursuant to Section 6 or other applicable provisions of this Project Agreement. The Village Manger, in his/her sole discretion, may extend the term of this Agreement through written notification to the CONSULTANT. Such extension shall not exceed 45 days. No further extensions of this Agreement shall be effective unless authorized by the Village Council.

3.2 Commencement. The CONSULTANT'S services ("Services" or "Work") under this Project Agreement and the time frames applicable to this Project Agreement shall commence upon receipt of a Notice to Proceed in a form similar to Exhibit "B" attached hereto. The CONSULTANT shall not incur any expenses or obligations for payment to third parties prior to the issuance of the Notification to Proceed.

3.3 Contract Time. Upon receipt of the Notification to Proceed, the CONSULTANT shall commence services to the VILLAGE on the Commencement Date, and shall continuously perform services to the VILLAGE, without interruption, in accordance with the time frames set forth in incorporated into this Agreement as Exhibit "A." The number of calendar days from the Commencement Date, through the date set forth in the Project Schedule for completion of the Project or the date of actual completion of the Project, whichever shall last occur, shall constitute the Contract Time.

3.4 Liquidated Damages. Unless otherwise excused by the VILLAGE in writing, in the event that the CONSULTANT fails to meet the contract time for completion of services as determined by the Project Schedule, the CONSULTANT shall pay to the VILLAGE the sum of dollars identified below per day for each and every calendar day of unexcused delay beyond the completion date, plus approved time extensions, until completion of the project: \$100

Any sums due and payable hereunder by the CONSULTANT shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by the VILLAGE, estimated at or before the time of executing this Agreement. When the VILLAGE reasonably believes that completion will be inexcusably delayed, the VILLAGE shall be entitled, but not required, to withhold from any amounts otherwise due the CONSULTANT an amount then believed by the VILLAGE to be adequate to recover liquidated damages applicable to such delays. If and when the CONSULTANT overcomes the delay in achieving completion, or any part thereof, for which the VILLAGE has withheld payment, the VILLAGE shall promptly release to the CONSULTANT those funds withheld, but no longer applicable, as liquidated damages.

3.5 All limitations of time set forth in this Agreement are of the essence.

SECTION 4. AMOUNT, BASIS AND METHOD OF COMPENSATION

4.1 Lump Sum Compensation. VILLAGE agrees to pay CONSULTANT as compensation for performance of all services as related to the Project a Not to Exceed Sum of \$141,974, inclusive of a ten percent (10%) contingency. It is understood that the method of compensation is that of Not to Exceed Sum which means that CONSULTANT shall perform all services set forth for total compensation in the amount stated above. Said Not to Exceed Sum includes but is not limited to, compensation for all fees, expenses, and out-of-pocket costs of the CONSULTANT.

4.2 Reimbursables. It is acknowledged and agreed to by CONSULTANT that the lump sum set forth in Section 4.1 includes Direct Expenses and describes the maximum extent of, VILLAGE's obligation to reimburse CONSULTANT for direct, non-salary expenses, but does not constitute a limitation, of any sort, upon CONSULTANT's obligation to incur such expenses in the performance of services hereunder.

SECTION 5. BILLING AND PAYMENTS TO THE CONSULTANT

5.1.1 Invoices Compensation. CONSULTANT shall submit invoices which are identified by the ~~specific project number~~ and in a timely manner. These invoices shall identify the nature of the work performed, the phase of work, and the estimated percent of work accomplished in accordance with the Payment Schedule as shown on Exhibit "1", attached hereto and made a part of this Agreement. Invoices for each phase shall not exceed the amounts allocated to said phase. The statement shall show a summary of fees with accrual of the total and credits for portions paid previously.

5.2 Disputed Invoices. In the event that all or a portion of an invoice submitted to the VILLAGE for payment to the CONSULTANT is disputed, or additional backup documentation is required, the VILLAGE shall notify the CONSULTANT within 15 working days of receipt of the invoice of such objection, modification or additional documentation request. The CONSULTANT shall provide the VILLAGE with a written response and any additional information requested by the VILLAGE within ten (10) working days of the date of the VILLAGE'S notice. The VILLAGE may request additional information, including but not limited to, all invoices, time records, expense records, accounting records, and payment records of the CONSULTANT. The VILLAGE, at its sole discretion, may pay to the CONSULTANT the undisputed portion of the invoice. The parties shall endeavor to resolve the dispute in a mutually agreeable fashion.

5.3 Suspension of Payment. In the event that the VILLAGE becomes credibly informed that any representations of the CONSULTANT, provided pursuant to Subparagraph 5.1, are wholly or partially inaccurate, or in the event that the CONSULTANT is not in compliance with any term or condition of this Project Agreement, the VILLAGE may withhold payment of sums then or in the future otherwise due to the CONSULTANT until the inaccuracy, or other breach of Project Agreement, and the cause thereof, is corrected to the Village's reasonable satisfaction.

5.4 Retainage. The VILLAGE reserves the right to withhold retainage in the amount of ten percent (10%) of any payment due the CONSULTANT until the project is completed. Said retainage may be withheld at the sole discretion of the VILLAGE and as security for the successful completion of the CONSULTANT'S duties and responsibilities under this Project Agreement.

5.5 Final Payment. Submission of the CONSULTANT'S invoice for final payment and reimbursement shall constitute the CONSULTANT'S representation to the VILLAGE that, upon receipt from the VILLAGE of the amount invoiced, all obligations of the CONSULTANT to others, including its consultants, incurred in connection with the Project, shall be paid in full. The CONSULTANT shall deliver to the VILLAGE all documents requested by the VILLAGE evidencing payment to any and all subcontractors, and all final specifications, plans or other documents as dictated in the Scope of Services and Deliverables. Acceptance of final payment shall constitute a waiver of all claims against the VILLAGE by the CONSULTANT.

SECTION 6. TERMINATION/SUSPENSION

6.1 For Cause. This Agreement may be terminated by VILLAGE upon fourteen (14) calendar days' written notice to the CONSULTANT should such CONSULTANT fail substantially to perform in accordance with its material terms through no fault of the party initiating the termination. In the event that CONSULTANT abandons this Agreement or causes it to be terminated by the VILLAGE, the CONSULTANT shall indemnify the VILLAGE against any loss pertaining to this termination. In the event that the CONSULTANT is terminated by the VILLAGE for cause and it is subsequently determined by a court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a termination for convenience under Section 6.2 and the provisions of Section 6.2 shall apply.

6.2 For Convenience. This Agreement may be terminated by the VILLAGE for convenience upon thirty (30) calendar days' written notice to the CONSULTANT. In the event of such a termination, the CONSULTANT shall incur no further obligations in connection with the Project and shall, to the extent possible terminate any outstanding subconsultant obligations. The CONSULTANT shall be compensated for all services performed to the satisfaction of the VILLAGE and reimbursable expenses incurred prior to the date of termination. In such event, the CONSULTANT shall promptly submit to the VILLAGE its invoice for final payment and reimbursement which invoice shall comply with the provisions of Paragraph 5.1. Under no circumstances shall the VILLAGE make payment of profit to the CONSULTANT for services which have not been performed.

6.3 Assignment Upon Termination. Upon termination of this Project Agreement, the work product of the CONSULTANT shall become the property of the VILLAGE and the CONSULTANT shall within ten (10) working days of receipt of written direction from the VILLAGE, transfer to either the VILLAGE or its authorized designee, all work product in its possession, including but not limited to, designs, specifications, drawings, studies, reports and all other documents and data in the possession of the CONSULTANT pertaining to this Project Agreement. Upon the VILLAGE'S request, the CONSULTANT shall additionally assign its rights, title and interest under any subcontractor's agreements to the VILLAGE.

6.4 Suspension for Convenience. The VILLAGE shall have the right at any time to direct the CONSULTANT to suspend its performance, or any designated part thereof, for any reason whatsoever, or without reason, for a cumulative period of up to thirty (30) calendar days. If any such suspension is directed by the VILLAGE, the CONSULTANT shall immediately comply with same. In the event the VILLAGE directs a suspension of performance as provided herein, through no fault of the CONSULTANT, the VILLAGE shall pay the CONSULTANT as full compensation for such suspension the CONSULTANT's reasonable cost, actually incurred and paid, of demobilization and remobilization.

SECTION 7. PERSONNEL ASSIGNED TO PROJECT

7.1 The CONSULTANT shall assign only qualified personnel to perform any services concerning this Project. At the time of execution of this Agreement, the parties anticipate that the following named individuals will perform those supervisory or primary functions indicated:

NAME	FUNCTION
_____	_____
_____	_____
_____	_____
_____	_____

So long as the individuals named above remain actively employed or retained by the CONSULTANT, they shall perform the functions indicated next to their names. Furthermore, the VILLAGE reserves the right to reject any proposed substitution for any of the above named individuals, and the VILLAGE shall have the further right to require that any individual assigned to the Project by the CONSULTANT be removed from the Project and reassigned for good cause.

SECTION 8. INCORPORATION OF CONTINUING SERVICES AGREEMENT

All terms and conditions of the "Continuing Service Agreement" between the VILLAGE and the CONSULTANT dated July 17, 2018, not specifically modified by this Project Agreement shall remain in full force and effect and are incorporated into and made a part of this Project Agreement by this reference as though set forth in full.

SECTION 9. SEVERABILITY

If any provision of this Project Agreement or its application to any person or situation shall to any extent, be invalid or unenforceable, the remainder of this Project Agreement, and the application of such provisions to persons or situations other than those to which it shall have been held invalid or unenforceable shall not be affected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law.

SECTION 10. MISCELLANEOUS

10.1 Scrutinized Companies.

10.1.1 CONSULTANT certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S., the City may immediately terminate this Agreement at its sole option if the CONSULTANT or its subcontractors are found to have submitted a false certification; or if the CONSULTANT, or its

subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.

10.1.2. If this Agreement is for more than one million dollars, the CONSULTANT certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the City may immediately terminate this Agreement at its sole option if the CONSULTANT, its affiliates, or its subcontractors are found to have submitted a false certification; or if the CONSULTANT, its affiliates, or its subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.

10.1.3 The CONSULTANT agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.

10.1.4 As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

10.2 The CONSULTANT shall comply with Chapter 119, Florida Statutes, as applicable, and shall comply with the following:

10.2.1 CONSULTANT agrees to keep and maintain public records in CONSULTANT's possession or control in connection with CONSULTANT's performance under this Agreement. CONSULTANT additionally agrees to comply specifically with the provisions of Section 119.0701, Florida Statutes. CONSULTANT shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the Agreement, and following completion of the Agreement until the records are transferred to the VILLAGE.

10.2.2 Upon request from the VILLAGE's custodian of public records, CONSULTANT shall provide the VILLAGE with a copy of the requested records or allow CGI Task Agreement Construction Administration Services UIP-Phase 3(A) 2020 the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Chapter 119, Florida Statutes, or as otherwise provided by law.

10.2.3 Unless otherwise provided by law, any and all records, including but not limited to reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of the VILLAGE.

10.2.4 Upon completion of this Agreement or in the event of termination by either party, any and all public records relating to the Agreement in the possession of the CONSULTANT shall be delivered by the CONSULTANT to the VILLAGE Manager, at no cost to the VILLAGE, within seven (7) days. All such records stored electronically by CONSULTANT shall be delivered to the VILLAGE in a format that is compatible with the VILLAGE's information technology systems. Once the public records have been delivered upon completion or termination of this Agreement, the CONSULTANT shall destroy any and all duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.

10.2.5 Any Compensation due to CONSULTANT shall be withheld until all records are received as provided herein.

SECTION 11. E-VERIFY

Effective January 1, 2021, public and private employers, contractors and subcontractors will begin required registration with, and use of, the E-verify system in order to verify the work authorization status of all newly hired employees. Contractor acknowledges and agrees to utilize the U.S. Department of Homeland Security's E-Verify System to verify the employment eligibility of: a) All persons employed by Contractor to perform employment duties within Florida during the term of the contract; and b) All persons (including sub-vendors/subconsultants/subcontractors) assigned by Contractor to perform work pursuant to the contract with the Village. The Contractor acknowledges and agrees that use of the U.S. Department of Homeland Security's E-Verify System during the term of the contract is a condition of the contract with the Village of Bal Harbour.

Should Vendor become the successful Contractor awarded for the above-named project, by entering into this Agreement, the Contractor becomes obligated to comply with the provisions of § 448.095, FL. Statutes, as amended from time to time. This includes but is not limited to utilization of the E-Verify System to verify the work authorization status of all newly hired employees; and requiring all Subcontractors to provide an affidavit attesting that the Subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. The Contractor shall maintain a copy of such affidavit for the duration of the contract. Failure to comply will lead to termination of this Contract, or if a Subcontractor knowingly violates the statute, the Subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than 20 calendar days after the date of termination. If this contract is terminated for a violation of the statute by the Contractor, the Contractor may not be awarded a public contract by the Village for a period of 1 year after the date of termination.

IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 305-866-4633, or by mail: VILLAGE Clerk, 655-96TH STREET BAL HARBOUR, FLORIDA 33154

(THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: The VILLAGE, signing by and through its Mayor, attested to by its Village Clerk, duly authorized to execute same, and by CONSULTANT, by and through its_____, duly authorized officer to execute same.

VILLAGE

BAL HARBOUR VILLAGE
655 Ninety-Sixth Street
Bal Harbour, FL 33154

By:_____
Jorge M. Gonzalez, Village Manager

AUTHENTICATION: The_____day of_____, 2023.

Dwight S. Danie,
Village Clerk

(SEAL)

APPROVED AS TO FORM

Village Attorney
Weiss Serota Helfman Cole & Bierman P.L.

CONSULTANT:
Calvin, Giordano & Associates, Inc.
1800 Eller Drive
Fort. Lauderdale, FL 33316

By:_____

Print Name:_____

Title:_____

AUTHENTICATE:

The_____day of_____, 2023.

Secretary

Print Name

(CORPORATE
SEAL)

WITNESSES:

Print Name:_____

Print Name:_____



Calvin, Giordano & Associates, Inc.
A **SAFEbuilt** COMPANY

Proposal for Professional Services

Date: March 30, 2023
RE: **Phase 5A Water Main**
Client: Bal Harbour Village
1840 NE 144th Street
North Miami, FL 33181
Attention: Mike Alvarez, Utility Compliance Officer, CGC, PWLF
CGA Project No: 17-9868.75

Bal Harbour Village (BHV) has requested professional Civil Engineering and Construction Administration services from Calvin, Giordano & Associates, Inc. (CGA) for the replacement of approximately 1,500 linear feet of 6-inch water main with new 10-inch water main. Existing rear-lot water meters for the single-family homes shall be relocated to the front of the properties with new water services, and multi-family buildings with existing buried fire lines shall be retrofitted with new aboveground backflow preventers. The "Project Limits" are shown on the Project Location Exhibit and are primarily the greenspace on Park Drive between Harbour Way East and Bal Cross Drive and the side yards on the west side of Park Drive for the new water services to connect to the existing backyard water services.

CGA is pleased to submit this proposal for professional Civil Engineering and Construction Administration services. CGA shall subcontract the required scope for Subsurface Utility Investigation to Blood Hound, LLC (Blood Hound). The specific scope of services proposed is further detailed in the subsequent sections.

Building Code Services
Civil Engineering / Roadway
& Highway Design
Coastal Engineering
Code Enforcement
Construction Engineering &
Inspection (CEI)
Construction Services
Data Technologies &
Development
Electrical Engineering
Engineering
Environmental Services
Facilities Management
Grant Management &
Writing
Geographic Information
Systems (GIS)
Governmental Services
Indoor Air Quality (IAQ)
Landscape Architecture
Planning
Project Management
Redevelopment &
Urban Design
Surveying & Mapping
Transportation & Mobility
Transportation Planning
Water / Utilities Engineering
Website Development

1800 Eller Drive
Suite 600
Fort Lauderdale, FL 33316
Tel: 954.921.7781
Fax: 954.921.8807

www.cgasolutions.com

I. DUE DILIGENCE AND SUBSURFACE UTILITY INVESTIGATION

I.1 Due Diligence

I.1.1 Review water meter registry, topographic survey, and as-builts.

I.1.2 Conduct a site visit with BHV Staff to document the following:

I.1.2.1 Existing water meter locations. This includes the backyards of the single-family homes and the multi-family buildings.

I.1.2.2 The presence of existing fire protection systems for the multi-family buildings in order to propose reconnections and new aboveground backflow preventers.

I.2 Subsurface Utility Investigation (Subconsultant)

I.2.1 Underground locates and test holes will be provided (by Blood Hound) to assist with the design of the proposed improvements. Ground-penetrating radar (GPR) will be used to investigate the subsurface utility conditions and assist with determining existing utilities within the Project Limits. Up to thirty (30) test holes will be performed. The work will identify the horizontal and vertical locations of existing utilities, such as water mains, force mains, gas lines, and communication and will be incorporated into the design plans. For each test hole performed, a report will be provided that summarizes the type of utility found, size, material, depth from surface, horizontal distance from fixed objects in the field, and pipe direction.

II. 60% DELIVERABLES

II.1 Submit an 811 Design Ticket to obtain information on existing and planned infrastructure within the Project Limits. Additionally, review any pending BHV Building Department permits within the Project Limits. Incorporate information into design plans.

II.2 Update base file with topographic information obtained from topographic survey (by others; see Assumptions and Exclusions), as-builts, information from 811 Design Ticket responses, and from the Subsurface Utility Investigation.

II.3 Prepare 60% design plans inclusive of Cover Sheet, Legend and Abbreviations, Details, Existing Conditions / Demolition, Water Plans, and Stormwater Pollution Prevention.

II.4 Conduct an internal quality assurance / quality control (QA/QC) review.

II.5 Prepare cost estimate.

- II.6 Submit 60% plans and cost estimate to BHV for review. Attend one (1) meeting with BHV to review the 60% deliverables. Address questions and comments, as needed.

III. PERMITTING

- III.1 Prepare and submit permit application packages to the following Agencies (water main permitting only):
 - III.1.1 Miami-Dade County Water and Sewer Department (WASD)
 - III.1.2 Miami-Dade County Division of Environmental Resources Management (DERM)
 - III.1.3 Florida Department of Health in Miami-Dade County (FDOH)
- III.2 Address comments, revise documents, and resubmit as needed.

IV. 100% DELIVERABLES

- IV.1 Prepare 100% plans after permit approvals.
- IV.2 Conduct a final internal QA/QC review.
- IV.3 Prepare a 100% cost estimate.
- IV.4 Submit 100% plans and cost estimate to BHV for review. Attend one (1) meeting with BHV to review the 100% deliverables. Address questions and comments, as needed.
- IV.5 Resubmit revised documents to BHV, as needed.

V. CONSTRUCTION SERVICES

- V.1 Attend one (1) preconstruction meeting and monthly construction progress meetings (includes up to three (3) total meetings). Prepare and distribute meeting minutes.
- V.2 Review required shop drawing submittals.
- V.3 Review and respond to Contractor Requests for Information (RFIs) regarding the design documents.
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- V.7 Review as-builts provided by the Contractor to determine conformance with the contract documents.
- V.8 Submit for permit closeouts to WASD, DERM, and FDOH.

VI. ASSUMPTIONS AND EXCLUSIONS

- VI.1 BHV acknowledges that CGA has no control over costs of labor, materials, competitive bidding environments and procedures, unidentified field conditions, financial and/or market conditions, or other factors likely to affect the cost estimates of this project, all of which are and will unavoidably remain in a state of change, especially considering the high volatility of the market. BHV further acknowledges that this is a "snapshot in time" and that the reliability of cost estimates will inherently degrade over time.
- VI.2 \$1,500.00 in reimburseables has been included for permit application fees. Any fees exceeding this amount shall be the responsibility of BHV. Any other permit not specifically mentioned herein shall be the responsibility of the Contractor, such as dewatering permits.
- VI.3 Construction Services efforts were based on ten (10) weeks of active construction time. Should additional time be required, it shall warrant additional fees.
- VI.4 It is understood that BHV shall contract with one of their previous Contractors for this project. Therefore, preparation of technical specifications, bidding documents, or other related efforts for the procurement of a new Contractor have been excluded.
- VI.5 Contractor shall utilize the previous survey of the Project Limits as performed by Chen-Moore & Associates, Inc. (CMA) and their Subconsultant. For CGA to perform their scope, BHV or CMA shall provide to CGA a signed and sealed topographic survey and AutoCAD files of the Project Limits. AutoCAD files shall include topographic survey, existing utilities, and as-builts of the new 20-inch transmission water main and its appurtenances. If the survey data provided is not accurate for design of the project, CGA shall notify BHV who can request CMA to update the survey or have CGA prepare an additional services agreement.
- VI.6 BHV shall provide their water meter registry for the Customers within the Project Limits.
- VI.7 For the Subsurface Utility Investigation, pipe sizes and materials may not always be identifiable due to water table, depth, or hole collapse from unfavorable soils.

VII. ESTIMATED PROJECT SCHEDULE*

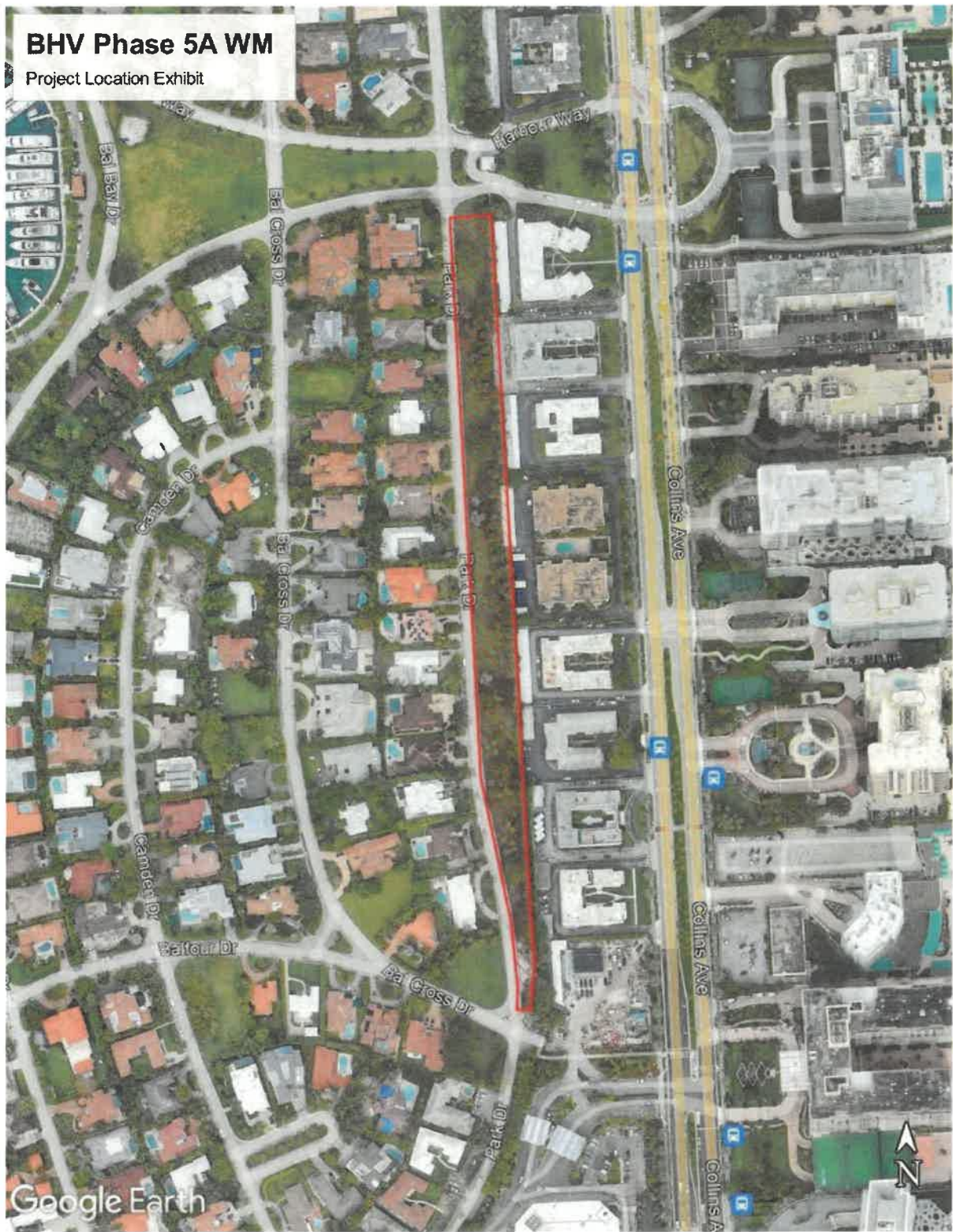
Deliverables	Time to Completion (in calendar days from NTP)
Due Diligence and Subsurface Utility Investigation	40
60% Deliverables	80
Permit Approvals	200
100% Deliverables	225
Construction Closeout	505

*Certain turnaround times are ultimately out of CGA's control, such as BHV reviews, permit reviews, and construction. However, they were estimated and are shown above based on past experience.

VIII. FEE SCHEDULE

Tasks	Subtotals
Task 1 – Due Diligence and Subsurface Utility Investigation	\$35,672.00
Task 2 – 60% Deliverables	\$20,685.00
Task 3 – Permitting	\$6,240.00
Task 4 – 100% Deliverables	\$7,270.00
Task 5 – Construction Services	\$57,700.00
Reimbursables (permitting allowance)	\$1,500.00
GRAND TOTAL	\$129,067.00

IX. PROJECT LOCATION EXHIBIT



AUTHORIZATION

Kindly sign and return this authorization at your earliest convenience. Calvin, Giordano & Associates, Inc. will proceed upon receipt of authorization.

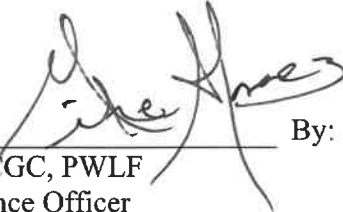

By: 	By: 
Mike Alvarez, CGC, PWLF Utility Compliance Officer Bal Harbour Village	David E Stambaugh David Stambaugh, PE, DBIA Vice President of Professional Services Calvin, Giordano & Associates, Inc.
Date: <u>3/31/2023</u>	Date: <u>03/31/2023</u>

Exhibit B-Notice to Proceed

BAL HARBOUR

- V I L L A G E -

JORGE M. GONZALEZ
VILLAGE MANAGER

Calvin Giordano & Associates
Attn: Chris Giordano
1800 Eller Dr., Suite 600
Fort Lauderdale, FL 33316

RE: Work Authorization No. 17-9868.75, Phase 5 A- Infrastructure Improvement

Dear Mr. Giordano,

Please consider this your official Notice to Proceed on the above referenced work/service. You are hereby authorized to proceed with the work as of _____. Contract time will begin to be counted on this day. The work shall be completed within the prescribed timeframe as specified in the contract documents.

The Village has appointed John Oldenburg as the Village's Representative who will be your single point of contact.

If you have any questions, please contact the Village Representative.

Sincerely,

Jorge M. Gonzalez
Village Manager

Cc: John Oldenburg, PPS Director
Michael Alvarez, Compliance Officer
Claudia Dixon, Chief Financial Officer

BAL HARBOUR

- V I L L A G E -

COUNCIL ITEM SUMMARY

Condensed Title:

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING THE FISCAL YEAR 2022-23 BUDGET; PROVIDING FOR EXPENDITURE OF FUNDS; PROVIDING FOR AMENDMENTS; PROVIDING FOR CARRYOVER OF FUNDS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Issue:

Should the Village Council approve the resolution amending the FY 2022-23 Budget?

The Bal Harbour Experience:

- | | | |
|---|--|---|
| <input checked="" type="checkbox"/> Beautiful Environment | <input checked="" type="checkbox"/> Safety | <input checked="" type="checkbox"/> Modernized Public Facilities/Infrastructure |
| <input checked="" type="checkbox"/> Destination & Amenities | <input checked="" type="checkbox"/> Unique & Elegant | <input checked="" type="checkbox"/> Resiliency & Sustainable Community |
| <input type="checkbox"/> Other: _____ | | |

Item Summary / Recommendation:

FY 2022 ended with a surplus revenue over expenditure in the General Fund \$13,900,450, in the Resort Tax Fund \$2,491,000 and the Security & Landscape Assessment Fund of 209,808. The Utility Fund ended with excess revenue over expenditures of \$600,806.

The current FYE's budget is amended to carryforward the unspent appropriations related to Capital Projects and Grants. In addition, reserves are set-aside from the General Fund to support the Village Council's Capital Improvement Program; as well as other Programs (i.e., IT and Fleet).

The action before you today is to amend the FYE 2023 Budget as well as to set-aside additional reserves as a result of the projected financial close-out of FYE 2022.

THE ADMINISTRATION RECOMMENDS APPROVAL OF THIS RESOLUTION.

Advisory Board Recommendation:

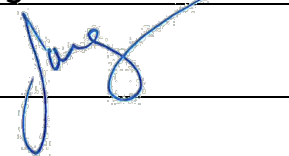
N/A

Financial Information:

	Amount	Account	Account #
	See Exhibit A		

Sign off:

	Chief Financial Officer	Village Manager
	Claudia Dixon	Jorge M. Gonzalez



BAL HARBOUR

- VILLAGE -

COUNCIL MEMORANDUM

TO: Honorable Mayor and Village Council

FROM: Jorge M. Gonzalez, Village Manager

DATE: April 18, 2023

SUBJECT: **A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING THE FISCAL YEAR 2022-23 BUDGET; PROVIDING FOR EXPENDITURE OF FUNDS; PROVIDING FOR AMENDMENTS; PROVIDING FOR CARRYOVER OF FUNDS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

ADMINISTRATIVE RECOMMENDATION

It is recommended the Village Council Approve the Resolution.

BACKGROUND

The annual budget serves as the foundation for the Village's financial planning and control. Departmental allocations are based on long range planning efforts in support of the Village's Operating and 5 Year Capital Budget by building on the foundation, we established together in the last several years and further cultivating the Bal Harbour experience. Village departments submit requests for appropriation to the Chief Financial Officer, these are incorporated with fixed annual inflationary costs to produce the preliminary base budget, prior to the presentation and setting of the preliminary millage by the Village Council in July of each year. The base budget is developed in collaboration with directors, these requests are used to assist the Village Manager in developing Proposed Budget which depending on current year resources and resource allocation priorities, may include enhancements to current service levels or capital allocations. The Council is required to hold two public hearing on the Proposed Budget and to enact an Approved Budget as prescribed by the State of Florida mandated process by the new fiscal year in October. The annual budget process commences at mid-year with the refining of current year projections, and carryforward requests.

The Village maintains budgetary controls for all of its funds except fiduciary and agency funds. The objective of these controls is to ensure compliance with legal provisions embodied in the annual budget adopted by the Village Council. Activities of the various funds are included in the annual budget and are maintained at the department/fund level. Staff at all levels are tasked with managing their budgets to ensure that we implement the approved strategies and initiatives within the approved levels authorized by the Village Council. All unspent appropriations related to Capital Projects and Grants are generally re-appropriated as part of the following year's budget.

Throughout the year I monitor progress of activities and expenditures and revenues to maintain fiscally prudent and conservative practices. At the year end, final decisions are made on how to allocate excess revenues over expenditures to strategically move forward on the long-term Village vision.

END OF YEAR FY 2022 - FUND PERFORMANCE SNAPSHOT

As a result of a disciplined approach to resource allocation, careful management practices and conservative fiscal policies, Bal Harbour Village continues to maintain a very strong financial position in all of our funds, all while implementing an ambitious capital plan. Not unlike all organizations within the public or private sector, this year we were challenged by unprecedented inflationary pressures, global supply chain impacts and recruiting and retention challenges the availability of Contract Labor. Notwithstanding, I am proud to report that on a budgetary basis the fiscal year 2021-22 (FY 2022) closes with a significant positive position in each our funds as further described below.

GENERAL FUND

The General Fund ended FY 2022 with a surplus of total revenues in excess of total expenditures of \$13,900,450. This was in large part due to \$18,056,228 in Developer contributions received from the Bal Harbour Shops pursuant to our amended Development Agreement for the New Village Hall Capital Project; \$828,563 increase in licenses and permits; offset by planned capital outlay costs of which the Waterfront park expenditures was approximately \$9,928,189.

The following tables reflect the General Fund Activity for FYE 2022 as a whole; as well as the Non-capital vs Capital activity.

General Fund					
Total	FY Adopted 2022 Budget	FY Final 2022 Budget	FY 2022 Actual	Net Final Budget less Actual	% Difference
<i>revenue</i>	21,376,745	25,341,942	39,800,491	14,458,549	57.1%
<i>expenditure</i>	21,906,745	43,002,525	25,900,039	17,102,486	39.8%
<i>use of fund balance</i>	530,000	17,660,583	-	17,660,583	100.0%
<i>revenue in excess of expenditure</i>			13,900,452		

When reviewing the General Fund, excluding Capital Improvement Project revenue and expenditures, the net surplus is approximately \$4.6 million. This is in large part due to revenues exceeding budget by approximately 8.7%. This is primarily the result of

amending the Building Department fee schedule last summer, which resulted in increased revenue that was not originally budgeted. Other revenue lines performed better than budget as well. On the expenditure side, we continue to manage conservatively and control expenses wherever possible, vacancy savings, pension cost and other related savings contributed to the expenditure line.

General Fund					
Non-Capital Related	FY Adopted 2022 Budget	FY Final 2022 Budget	FY 2022 Actual	Net Final Budget less Actual	% Difference
revenue	17,471,516	17,866,216	19,418,484	1,552,268	8.7%
expenditure	17,471,516	17,866,216	14,803,790	3,062,426	17.2%
revenue in excess of expenditure			4,614,694		

The Village's capital improvement projects are well underway as the final budget was \$25,187,695 in capital expenditures, which most notably included funding for the Bal Harbour Waterfront Park Project. Capital related expenditures totaled \$11,096,250, which is \$14,061,445 lower than the Final Budget. Spending for FYE 2022 primarily relates to the Waterfront Project which is projected to be completed soon. These projects were partially funded by developer contributions, grants and commercial rental income from the Truist parcel. In accordance with our financial policies, unspent capital appropriations for ongoing projects are re-appropriated as part of the following year's budget. In accordance with our financial policies, unspent capital appropriation is re-appropriated as part of the following year's budget.

General Fund					
Capital Project Related	FY Adopted 2022 Budget	FY Final 2022 Budget	FY 2022 Actual	Net Final Budget less Actual	% Difference
revenue*	3,905,228	7,475,725	20,382,006	12,906,281	172.7%
expenditure	4,435,228	25,157,695	11,096,250	14,061,445	55.9%
use of fund balance	(530,000)	(17,681,970)	-	(17,681,970)	100.0%
revenue in excess of expenditure			9,285,756		

(*) Actual revenue amount includes \$18,056,228 in Developer contributions received for the New Village Hall Capital Project.

RESORT TAX FUND

The Resort Tax Fund ended the fiscal year with an all-time record year of \$6,043,637 in revenue collections, and \$3,552,637 in expenditures, generating revenue in excess of expenditures for the fund in the amount of \$2,491,000. Revenue collected was \$1,860,038 more than budgeted or 45.5% and expenditures incurred is \$736,428 less than budgeted or 17.2%.

As you are aware, the Resort Tax is the one of the most volatile revenue streams we have. As a fiscal policy, we budget revenue extremely conservatively to ensure that we do not face a circumstance where a material event such as a hurricane or other emergency occurs late in the fiscal year and adversely impacts our finances with no time to recover. At the same time, this strategy helps build the Resort Tax Fund Reserve which is used for capital or other one-time, non-recurring investments in the future years.

Resort Tax Fund	FY Adopted 2022 Budget	FY Final 2022 Budget	FY 2022 Actual	Net Final Budget less Actual	% Difference
<i>revenue</i>	4,183,599	4,183,599	6,043,637	1,860,038	44.5%
<i>expenditure</i>	4,183,599	4,289,065	3,552,637	736,428	17.2%
<i>use of fund balance</i>	-	105,466	-	(105,466)	-100.0%
<i>revenue in excess of expenditure</i>			2,491,000		

SECURITY & LANDSCAPE ASSESSMENT FUND

The Security & Landscape Assessment Fund ended the fiscal year with \$1,036,781 in revenue collections, and \$826,973 in expenditures, generating revenue in excess of expenditures for the fund in the amount of \$209,808.

Security & Landscape Assessment Fund	FY Adopted 2022 Budget	FY Final 2022 Budget	FY 2022 Actual	Net Final Budget less Actual	% Difference
<i>revenue</i>	982,434	982,434	1,036,781	54,347	5.5%
<i>expenditure</i>	982,434	1,546,270	826,973	719,297	46.5%
<i>use of fund balance</i>	-	563,836	-	(563,836)	-100.0%
<i>revenue in excess of expenditure</i>			209,808		

WATER & SEWER UTILITY FUND

The Water & Sewer Utility Fund ended the year on a GAAP basis with a surplus of total revenue in excess of expenditures of \$608,806.

The following tables are presented on a budgetary basis. The Water & Sewer Utility Fund ended the year on a budgetary basis with \$4,758,330 of Non-capital revenue which is \$74,449 less than the Adopted Budget; and \$4,157,524 on a budgetary basis in non-capital project related expenditures, which is \$866,281 lower than the Adopted Budget. In total, the non-capital project on a budgetary basis related revenue in excess of expenditure is \$600,806.

Capital projects consisted primarily of the Utility Master Plan Capital Project. Combined expenditures for these projects on a budgetary basis totaled \$5,790,945, which is \$1,575,772 lower than the Adopted Budget. In accordance with our financial policies,

unspent capital appropriation is re-appropriated as part of the following year's budget. The capital expenditures were partially funded by the 2020 Utility Revenue Note proceeds.

Water & Sewer Utility Fund				
Non-Capital Related	FY Adopted 2022 Budget	FY 2022 Actual	Net Budget less Actual	% Difference
<i>revenue</i>	4,832,779	4,758,330	(74,449)	-1.5%
<i>expenditure</i>	5,023,805	4,157,524	866,281	17.2%
<i>use of fund balance</i>	191,026	-	191,026	100.0%
<i>revenue in excess of expenditure</i>		600,806		
Capital Project Related	FY Adopted 2022 Budget	FY 2022 Actual	Net Budget less Actual	% Difference
<i>expenditure (2)</i>	5,790,945	4,215,173	1,575,772	27.2%
<i>use of fund balance</i>	5,790,945	-	5,790,945	100.0%
<i>revenue in excess of expenditure*</i>		(4,215,173)		
Total	FY Adopted 2022 Budget	FY 2022 Actual	Net Budget less Actual	% Difference
<i>revenue</i>	4,832,779	4,758,330	(74,449)	-1.5%
<i>expenditure</i>	10,814,750	8,372,697	2,442,053	22.6%
<i>use of fund balance</i>	5,981,971	-	5,981,971	100.0%
<i>revenue in excess of expenditure (1)</i>		(3,614,367)		
<i>revenue in excess of expenditure (GAAP)* = (1) + (2)</i>		600,806		

(*) - funded partially through the remaining revenue bond proceeds as well as by the 2020 Utility Revenue Note proceeds.

YEAR END CARRY FORWARD

With the close of FY 2014, I proposed, and the Village Council established the prudent practice of programming one-half of excess revenue at year end toward fund balance to grow our reserves, with a goal of maintaining a sizeable fund balance; and the other half would be designated toward a capital reserve fund balance for future capital projects. In recent years, we have designated larger portions to capital reserve than required to build available funds for the CIP program projects.

GENERAL FUND

I am proposing to allocate \$5,144,362 in surplus General Fund resources to fund anticipated projects and/or expenditures through the remainder of FY 2022-23. The below chart explains the proposed use for surplus funds, the carryforward of capital funds, and the designation of excess funds to our fund balances pursuant to our financial policies.

At the Village Council retreat in March of 2022, I presented the current and future needs for the Stormwater funds. The creation of a Stormwater Utility Fund and a special assessment were reviewed but not accepted at that time. In lieu of an assessment, a Storm reserve was established as a part of the FYE 2021 close-out. I am again recommending an additional designation of \$1,250,000 to this account. In addition, I recommend a reserve for the Building Department of \$215,000. Given the strong and stable financial position of the General Fund, this year and given the approval of the Village Council's Capital Improvement Program as a part of the FYE 2023 budget process, I propose we allocate \$1,839,681 of the excess General Fund surplus at year-end towards the Capital Projects Reserve. The remaining \$1,839,681 in surplus should be allocated to the Undesignated Fund Balance.

General Fund	
Revenue less Expenditure	\$ 13,900,450
Addition to Reserve (Capital projects and Other) per Policy	(1,151,145)
FY 2022 Budgeted Use of Reserve	280,000
Restriction of Village Hall Developer Proceeds (less Amounts Appropriated)	(14,956,273)
Carryforward FY 2021 Unspent Capital Related Appropriations	18,543,013
	16,616,045
Future Funding / Anticipated Reimbursements (Grant and Other)	2,589,762
	19,205,807
Carryforward FY 2022 Unspent Capital Related Appropriations to FY 2023	(14,061,445)
Remaining Balance	\$ 5,144,362
Addition to Stormwater R&R Capital Reserve (new)	1,250,000
Addition to Building Reserve	215,000
Addition to Capital Reserve	1,839,681
Undesignated Fund Balance	1,839,681
Remaining Balance	\$ -

RESORT TAX FUND

The excess revenue over expenditures this year of \$2,491,000, brings the Resort Tax Fund - Fund Balance to \$10,729,838 as of FYE 2022. The Village's capital improvement projects are well underway. As reflected in the 5-Year Capital Improvement Plan the Jetty/96th Street-end project is planned to be partially funded by the Resort Tax Fund. In line with that plan, I propose to designate the previously identified \$4,000,000; along with an additional \$1,283,950 of the current year surplus revenues in excess of expenditures. The remaining surplus (net of the carryforward for unspent capital related appropriations to FY 2023) will fall to undesignated fund balance which will now be \$5,377,684.

Resort Tax Fund	
Revenue less Expenditure	\$ 2,491,000
Carryforward FY 2022 Unspent Capital Related Appropriations to FY 2023	76,900
Remaining Balance	2,567,900
Addition to Capital Reserve	1,283,950
Undesignated Fund Balance	1,283,950
Remaining Balance	\$ -

SECURITY & LANDSCAPE ASSESSMENT FUND

In accordance with financial policies the unspent capital appropriation of \$545,500 will be re-appropriated as part of the following year's budget. The remainder will be added to the Security & Landscape Assessment fund balance.

WATER & SEWER UTILITY FUND

In accordance with financial policies the unspent capital appropriation (budgetary basis) of \$1,575,772 will be re-appropriated as part of the following year's budget.

THE BAL HARBOUR EXPERIENCE

This action is aligned with the Village's mission through The Bal Harbour Experience. Every element of the Bal Harbour Experience is funded in part through General Fund resources and therefore are supported by this item.

CONCLUSION

FY 2022 will close with an overall positive performance for all funds. The action recommended in this item are consistent with our established financial policies and continue our fiscally prudent practice and care with the use of public funds. Approval of this item will allow us to continue to develop and implement our ambitious capital program while delivering the level of service our community has grown to expect.

Attachments:

1. Exhibit A - Budget Summary

RESOLUTION NO. 2023-____

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING THE FISCAL YEAR 2022-23 BUDGET; PROVIDING FOR EXPENDITURE OF FUNDS; PROVIDING FOR AMENDMENTS; PROVIDING FOR CARRYOVER OF FUNDS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Bal Harbour Village (the "Village") is a municipality located in Miami-Dade County, Florida; and

WHEREAS, the FY 2022-23 Budget (the "Budget") was adopted on September 28, 2022, after public hearings as required by Section 200.065, Florida Statutes; and

WHEREAS, the Village Council desires to amend the Budget as provided herein.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. That the above recitals are true and correct and are incorporated herein by this reference.

Section 2. Budget Amendment. That the Budget is hereby amended (the "Amended Budget") as provided in the attached Exhibit "A", and such Amended Budget shall become effective immediately upon adoption and shall be applied retroactively as provided in Section 7 below.

Section 3. Expenditure of funds. That the Village Manager or his/her designee is authorized to expend or contract for expenditures of such funds as are necessary for the operation of the Village government in accordance with the Amended Budget, Village Charter, Village Code and Council authorizations, as applicable, including those funds from the Village's prior fiscal year (Fiscal Year 2022-23) which were not expended during that prior fiscal year and were carried over and may be used and expended during the Fiscal Year 2022-23. The Village Manager may transfer any unencumbered line item allocation of funds, or any portion thereof, to another line item classification within the same department.

Section 4. Amendments. That the Amended Budget may be further amended as provided by Sec. 166.241, Florida Statutes.

Section 5. Conflicts. That all sections or parts of sections of Village Resolutions that conflict with this Resolution are repealed to the extent of such conflict.

Section 6. Severability. That the provisions of this Resolution are deemed to be severable, and if any section, sentence, clause or phrase of this Resolution shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of the Resolution, but they shall remain in effect, it being the legislative intent that this Resolution shall stand notwithstanding the invalidity of any part.

Section 7. Effective Date. That this Resolution shall be effective immediately upon adoption, and shall be applied retroactively from and after October 1, 2022.

PASSED AND ADOPTED this 18th day of April, 2023.



Mayor Jeffrey P. Freimark

ATTEST:

Dwight S. Danie, Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Village Attorney
Weiss Serota Helfman Cole & Bierman P.L.

**Resolution Exhibit A: Revenue & Expenditure Authority by Fund
Total Revenue & Expenditure**

Rounded to '00s

	Original Appropriation	Amended Appropriation	PY Unspent Capital Carryforward	Appropriation through Mid-Year Amendment
General Fund				
Revenue	\$ 33,626,100	\$ 35,175,800	\$ 14,061,500	\$ 49,237,300
Expenditure				
Legislative	419,400	419,400	-	419,400
Administration	1,549,000	1,549,000	-	1,549,000
Finance	881,600	881,600	-	881,600
General Government	1,875,700	1,875,700	-	1,875,700
Law Enforcement	8,344,100	8,419,100	316,000	8,735,100
Building and Permitting	1,686,400	1,686,400	156,400	1,842,800
Public Works & Beautification	5,147,300	5,147,300	1,676,200	6,823,500
Recreation, Arts & Culture	1,123,300	1,123,300	-	1,123,300
Information Technology	543,000	543,000	35,800	578,800
Capital Program	11,648,800	13,123,400	11,877,100	25,000,500
Legal Support Services	407,500	407,500	-	407,500
General Fund Total	\$ 33,626,100	\$ 35,175,700	\$ 14,061,500	\$ 49,237,200
Water & Wastewater Utility Fund				
Revenue	\$ 7,465,600	7,465,600	\$ 1,575,800	\$ 9,041,400
Expenditure				
Utility Operations	5,330,500	5,330,500	-	5,330,500
Capital Projects	2,135,100	2,135,100	1,575,800	3,710,900
Water & Wastewater Utility Fund Total	\$ 7,465,600	\$ 7,465,600	\$ 1,575,800	\$ 9,041,400
Resort Tax Fund				
Revenue	\$ 9,069,500	\$ 9,171,500	\$ 76,900	\$ 9,248,400
Expenditures				
Tourism & Marketing	1,831,200	1,831,200	76,900	1,908,100
Beautification/Greenspace	2,006,400	2,006,400	-	2,006,400
Law Enforcement	170,600	272,500	-	272,500
Recreation, Arts & Culture	811,300	811,300	-	811,300
Capital Program	4,250,000	4,415,000	-	4,415,000
Resort Tax Fund Total	\$ 9,069,500	\$ 4,415,000	\$ 76,900	\$ 9,413,300
Landscape & Security Assessment Fund				
Revenue	\$ 2,472,800	\$ 2,533,900	\$ 545,500	\$ 3,079,400
Expenditures				
Landscape & Security Assessment Area	2,472,800	2,533,900	545,500	3,079,400
Landscape & Security Assessment Fund	\$ 2,472,800	\$ 5,067,800	\$ 1,091,000	\$ 6,158,800

BAL HARBOUR

- V I L L A G E -

DISCUSSION ITEM

TO: Jorge M. Gonzalez, Village Manager

FROM: Seth E. Salver, Vice Mayor

DATE: April 18, 2023

SUBJECT: **Discussion Regarding Facilitation of a Condominium Owner Rights and Responsibilities Workshop**

Please place an item on the April 18, 2023 Village Council Meeting Agenda for a discussion regarding facilitation of a condominium owner rights and responsibilities workshop.

Thank you.

BAL HARBOUR

- V I L L A G E -

MEMORANDUM

TO: Honorable Mayor and Council

FROM: Dwight S. Danie, Village Clerk *OSD*

DATE: April 11, 2023

RE: Lobbyist Registration Report

Name of Lobbyist	Principal Represented	Date Registered
John Shubin	Mathew Whitman Lazenby	01/11/23
Ian DeMello	Mathew Whitman Lazenby	01/11/23
Carter McDowell	Carlton Terrace Owner, LLC	01/10/23
Keith Poliakoff	Bellini Condominium Association	01/17/23
Nicholas Noto	Carlton Terrace Owner, LLC	01/17/23
Richard Dewitt	Bellini Condominium Association	01/17/23
Mathew W. Lazenby	Bal Harbour Shops, LLC	01/31/23
Caroline Travis	Bal Harbour Shops, LLC	01/31/23
Ivor Nik Massey	Bal Harbour Shops, LLC	01/31/23
Sandy Goldfarb	Bal Harbour Civic Association	03/01/23
Neca Logan	Bal Harbour Civic Association	03/01/23

BAL HARBOUR

- VILLAGE -

MEMORANDUM

TO: Honorable Mayor and Council

FROM: Susan L. Trevarthen *SLT*

DATE: April 10, 2023

RE: Monthly Report of Village Attorney for March 2023 Activities

Here is the monthly report on the Village Attorney's activities. While we attend to Village business and confer with Village officials continuously, this report highlights specific tasks and projects for the month. Please contact me or Robert Meyers if you have any questions about this report.

Retainer Services

Within the fixed fee retainer in March, we reviewed, advised and prepared documents for all agenda items for the March Council meeting. We conferred with staff on various matters, and we attended the weekly staff meetings, and the monthly agenda review and after action meetings. We began preparation for the April Council meeting.

Specific additional matters included:

- We conferred with staff concerning park use issue in anticipation of drafting an ordinance.
- We reviewed and analyzed correspondence on enforcement of MS₄ permits, and had extensive additional staff meetings, drafting, analysis, and coordination for the water quality and erosion control ordinance.
- We conferred with staff regarding interpretation of demolition provisions, and reviewed and drafted correspondence on applicable time limits.
- We reviewed and analyzed a fine arts advisory agreement.
- We analyzed purchasing issues related to traffic study.
- We reviewed and revised a Hotwire agreement to include Village Park facility.
- We conferred with staff, and reviewed and analyzed the ballot information website and cover page concerning special election question to ensure compliance with state law.
- We reviewed and attended to issues for permit records and request for deposition.
- We continued our review, conducted further research and conferred with staff regarding adoption of mutual aid agreements and MOUs.
- We reviewed the service agreement for the Police Department promotional examination consultant.
- We reviewed correspondence and conferred with staff regarding find version of dockage agreement with Village of Indian Creek.
- We attended statewide conference on legal updates to the release of accident reports.

Additional Services

On the *Bellini* matter, we reviewed prepared strategy memorandum, met with counsel, and reviewed the petition, response, reply and related Code provisions in preparation for oral argument. We prepared for and attended oral argument, and drafted an update to Council regarding it.

