
Company Submitting Bid

INVITATION TO BID



ITB NO: B-16-154

TITLE: Purchase of Snow for Annual Event

ADVERTISEMENT: Tuesday, September 13, 2016

**MANDATORY PRE-BID
CONFERENCE AND SITE VISITS:** None

DUE DATE: Tuesday, September 20, 2016 **TIME:** 2:00 PM

SUBMIT TO: TOWN OF DAVIE
Angie Salinas
6591 Orange Drive
Davie, FL. 33314

REVIEW MEETING: None

COUNCIL APPROVAL: None

BONDS: None

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Special Events Division
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**SECTION 1.0 GENERAL TERMS AND
CONDITIONS**

1.1 DEFINITIONS

When used in Contract Documents (defined below) or in related documents, the following terms shall have the meanings given below:

Addendum: A modification of the Plans, Specifications or other Contract Documents distributed to prospective Bidders prior to the opening of Bids.

Advertisement for Bids: The public notice inviting the submission of Bids for the work.

Bid: The written offer of a Bidder to perform the work or service.

Bid Bond: A bond executed by a Bidder and its Surety in the attached form guaranteeing that the Bidder, if awarded the Contract will execute the same and will timely furnish the required Performance Bond, Payment Bond, and evidence of Insurance.

Bidder: Any individual, firm, partnership or corporation submitting a Bid in accordance with the Instructions to Bidders.

Bid Documents: Bid Guarantee or bid deposit. The Advertisement for Bids, Instructions to Bidders, Bid Form, Bid Bond, Contract, Performance Bond, Payment Bond, General Conditions, Special Provisions, Technical Specifications and Plans, together with all Addenda.

Bid Form: The form on which Bids are submitted.

Calendar Day: Every day shown on the calendar.

Change Order: A written agreement executed by the Town, the Contractor and the Contractor's Surety, covering modifications to the Contract recommended by the Project Administrator and approved by the Town Administrator and/or Town Council.

Contract: The written agreement between the Town and the Contractor for performance of the Work in accordance with the requirements of the Contract Documents and for the payment of the agreed consideration.

Contract Documents: The Instructions to Bidders, Bid Form, Bid Bond, Contract, Performance Bond, Payment Bond, General Conditions, Special Provisions, Supplemental Provisions, Technical Specifications and Plans, together with all Addenda, Change Orders, Schedules and Shop Drawings.

Contract Administrator: Town of Davie Town Administrator or his designee or duly authorized representative designated to manage the Contract.

Contractor: The individual, firm, partnership, corporation or joint venture whose Bid is accepted and who enters into a Contract with the Town of Davie and who is liable for the acceptable performance of the work and for the payment of all legal debts pertaining to the Work.

Contract Date: The date on which the Agreement is effective.

Contract Time: The number of days allowed for completion of the work. The Contract Time will be stipulated in the Bid Form, unless extended by a Change Order. All contract time shall be measured in calendar days.

Town: A political subdivision, Incorporated Town within Broward County of the State of Florida, whose governing body is a Town Council consisting of a Mayor, Vice Mayor and three Town Council members.

Town Administrator: The Administrator of the Town of Davie, Florida.

Days: Reference made to Days shall mean consecutive calendar days.

Deliverables: All documentation and any items of any nature submitted by the Contractor to the Towns Project Manager for review and approval in writing

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pursuant to the terms of the Agreement.

Lessee: Any individual, partnership or corporation having a tenant relationship with the Town of Davie.

Liquidated Damages: The amount that the Contractor accepts, as stipulated in the Bid Form, which will be deducted from the Contract Sum for each Calendar day of delay due to a Non-excusable Delay to be determined by the Town's Contract Manager.

Notice To Proceed (NTP): The written communication issued by the Town to the Contractor directing the Contractor to begin contract work and establishing the date of commencement of the work.

Owner: The term Owner as used in this Contract shall mean the Town of Davie.

Performance and Payment Bonds: Bonds executed by the Contractor and his Surety, on the attached forms, assuring that the Contractor will, in good faith, perform and guarantee the work in full conformity with the terms of the Contract Documents and will promptly pay all persons supplying the Contractor with labor, materials, or supplies, used directly or indirectly by the Contractor in the prosecution of the Work.

Plans: The drawings or reproductions thereof, prepared and sealed by the Architect/Engineer, which show the locations, character, dimensions and details of the work to be done and which are part of the Contract Documents.

Project: The construction and services required by the Contract Documents, which includes all labor, materials, equipment, and services to be provided by the Contractor to fulfill the Contractor's obligations.

Project Cost: The sum of the construction costs, allowances for contingencies, the total cost of design professional and related services provided by consultant, and allowances for such other items as charges of all other professionals and consultants.

Project Manager: The duly authorized representative designated to manage the

Project.

Scope of Service: Document which details the work to be performed by the Contractor.

Subcontractor or Sub consultant: Any person, entity, firm or corporation, other than the employees of the Contractor, who furnishes labor and/or materials, in connection with the Work, whether directly or indirectly, on behalf of and/or under the direction of the Contractor and whether or not in privity of Contract with the Contractor.

The words "**Work**", "**Services**", "**Program**", or "**Project**": All matters and things required to be done by the Contractor in accordance with the provisions of the Contract.

The words "**Directed**", "**Required**", "**Permitted**", "**Ordered**", "**Designated**", "**Selected**", "**Prescribed**", or words of like import to mean respectively, the direction, requirement, permission, order, designation, selection or prescription of the Town's Project Manager or; and similarly the words "approved", "acceptable", "satisfactory", "equal", "necessary", or words of like import to mean respectively, approved by, or acceptable or satisfactory to, equal or necessary in the opinion of the Town's Project Manager. In resolving disputes and in all respects the Town Administrator's decision shall be final.

1.2 VENDOR NOTIFICATION

It is the policy of the Town to encourage full and open competition among all available qualified vendors. All vendors regularly engaged in the type of work specified in the Bid Solicitation are encouraged to submit bids. Vendors may enroll with the Town to be included on an email list for goods and services which can be found at www.davie-fl.gov

1.3 LOCAL PREFERENCE

Definitions

Local Davie Vendor-a "local Davie vendor" shall mean a person or business entity which has maintained a permanent place of business with full-time employees within the Town limits for a minimum of six months prior to the date of issuance of a bid or proposal

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solicitation. The permanent place of business may not be a post office box or a residence. The business location must actually distribute goods or services from that location. In addition, the business must have a current business tax receipt from the Town of Davie and have an address that the U.S. Postal Service recognizes as being a Davie address to be eligible.

Local Broward County Vendor- a "local Davie vendor" shall mean a person or business entity which has maintained a permanent place of business with full-time employees within the Broward County limits for a minimum of six months prior to the date of issuance of a bid or proposal solicitation. The permanent place of business may not be a post office box or a residence. The business location must actually distribute goods or services from that location. In addition, the business must have a current business tax receipt from the Broward County or the city within Broward County where the business resides and have an address that the U.S. Postal Service recognizes as being a Broward County address to be eligible.

Bid- A bid shall be any competitive solicitation by specification officially posted by the Town of Davie Purchasing staff on the Town's website where the award is determined by price.

Proposal- A proposal shall be any competitive solicitation by Request for Proposal (RFP) officially posted by the Town of Davie purchasing staff on the Town's website where the award is determined by qualifications.

Process

a) Competitive Bid- For bid evaluation purposes, vendors that meet the definition of "local Davie vendor" as detailed above shall be given a 5% evaluation credit. This shall mean that if a "local Davie vendor" submits a bid/quote that is within 5% of the lowest price if that lowest price is submitted by a non-Broward County vendor or within 2.5% of the lowest price if that lowest price is submitted by a Broward County vendor, the "local Davie vendor" shall have an option to submit another bid which is at least 1% lower than the lowest responsive bid/quote. If the "local Davie vendor" submits a bid which is at least 1% lower than that lowest responsive bid/quote, then the award will go to the "local Davie vendor". If not, the award will be made to the vendor that submits the lowest

responsive bid/quote. If the lowest responsive and responsible bidder IS a "local Davie vendor", the award will be made to that vendor and no other bidders will be given an opportunity to submit additional bids as described herein.

For bid evaluation purposes, vendors that meet the definition of "local Broward County vendor" as detailed above shall be given a 2.5% evaluation credit. This shall mean that if a "local Broward County vendor" submits a bid/quote that is within 2.5% of the lowest price submitted by any non-Broward County vendor, the "local Broward County vendor" shall have an option to submit another bid which is at least 1% lower than the lowest responsive bid/quote. If the "local Broward County vendor" submits a bid which is at least 1% lower than that lowest responsive bid/quote, then the award will go to the "local Broward County vendor". If not, the award will be made to the vendor that submits the lowest responsive bid/quote. If the lowest responsive and responsible bidder IS a "local Davie vendor", the award will be made to that vendor and no other bidders will be given an opportunity to submit additional bids as described herein.

If there is a "local Davie vendor" and a "local Broward County vendor" participating in the same bid solicitation and both vendors qualify to submit a second bid as detailed above, the "local Davie vendor" will be given first option. If the "local Davie vendor" cannot beat the lowest bid received by at least 1%, an opportunity will be given to the "local Broward County vendor". If the "local Broward County vendor" cannot beat the lowest bid by at least 1%, then the bid will be awarded to the lowest bidder regardless of geographic location of the business.

If multiple "local Davie vendors" submit bids/quotes which are within 5% of the lowest bid/quote if that bid/quote is from a non-Broward County bidder, or within 2.5% of the lowest bid/quote if that bid/quote is from a local Broward County bidder, then all vendors will be asked to submit a "best and final offer (BAFO)". The award will be made to the "local Davie vendor" submitting the lowest BAFO providing that that BAFO is at least 1% lower than the lowest bid/quote received in the original solicitation. If no "local Davie vendor" can beat the lowest bid/quote by at least 1%, then the process will be repeated with all "local Broward County vendors" who have submitted a bid/quote which is within 2.5% of the lowest bid/quote. If no "local Davie vendor" and no "local Broward County

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vendor” can submit a BAFO that is at least 1% lower than the lowest bid/quote submitted in the original solicitation, the award will be made to the lowest responsive bidder regardless of geographic location of the business.

b) Competitive Proposal- For evaluation purposes, “local Davie vendor” and “local Broward County vendor” shall be a criterion for award in any Request For Proposal unless specifically exempted by the Town Administrator or the Town Council.

c) Exceptions

1. No “local vendor” preference will be included in any competitive solicitation where the Town is the lead agency for the Southeast Florida Cooperative Purchasing Group.

2. Utilization of a State or other agency contract.

3. State or Federal law prohibits the use of local preference.

4. The work is funded in whole or in part by a governmental entity where the laws, rules, regulations or policies prohibit the use of local preferences.

5. Sole source or single source purchases.

6. The “local vendor” is either non-responsive or non-responsible.

7. All bids submitted exceed the budget amount for the project.

8. Emergency purchases.

9. The Town Administrator and/or the Town Council may exempt any competitive solicitation from the local vendor preference.

1.4 BIDDERS RESPONSIBILITIES

Bidders are required to submit their proposals upon the following express conditions:

A. Bidders shall thoroughly examine the drawings, specifications, schedules, instructions and all other contract documents.

B. Bidders shall make all investigations necessary to thoroughly inform themselves regarding plant and facilities for delivery of material and equipment as required by the bid conditions. No plea of ignorance, by the bidder, of conditions that exist or that may hereafter exist as a result of failure or omission on the part of the bidder to make the necessary examinations and investigations, or failure to fulfill in every detail the requirements of the contract documents, will be accepted as a basis for varying the requirements of the Town or the compensation due the bidder.

C. Bidders are advised that all Town contracts are subject to all legal requirements provided for in the Town of Davie Purchasing Code and applicable County Ordinances, State Statutes and Federal Statutes.

1.5 PREPARATION OF BIDS

Bids will be prepared in accordance with the following:

A. Our enclosed Bid Proposal Form is to be used in submitting your bid. NO OTHER FORM WILL BE ACCEPTED.

B. All information required by the bid form shall be furnished. The bidder shall sign each continuation sheet (where indicated) on which an entry is made.

C. Unit prices shall be shown and where there is an error in extension of prices, the unit price shall govern.

D. Alternate bids will not be considered unless authorized in the Invitation to Bid document.

E. Proposed delivery time must be shown in calendar days, which shall include weekends and holidays.

The Town of Davie is exempt from payment to its vendors of State of Florida sales tax and, therefore, such taxes should not be figured into the bid. However, this exemption does not transmit

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to suppliers to the Town in their (supplier) purchases of goods or services, used in work or goods supplied to the Town. Contractors are responsible for any taxes, sales or otherwise, levied on their purchases, subcontracts, employment, etc. An exemption certificate will be signed where applicable, upon request. The Town will pay no sales tax.

envelope.

1.6 DESCRIPTION OF SUPPLIES

A. Any manufacturer's names, trade names, brand names, or catalog numbers used in these applications are for the purpose of describing and establishing minimum requirements or level of quality, standards of performance, and design required, and are in no way intended to prohibit the bidding of other manufacturers' items of equal material, unless specifications state "NO SUBSTITUTIONS."

B. Bids must be submitted on the forms furnished. E-mailed and facsimile bids will not be considered. Bids shall be dated and time stamped prior to bid opening. Bidders shall have sole responsibility of insuring delivery of bids on time and to the proper location.

C. Bidders requesting a copy of the bid tabulation shall include a stamped, self-addressed envelope. OR can request a copy be e-mailed to them.

D. Bids should be submitted in duplicate. Submit one original and one copy. Please include in your proposal package a CD or flash drive containing a PDF file of the entire original submission.

B. Bidders must indicate any variances to the specifications, terms, and conditions, no matter how slight. If variations are not stated in the Proposal, it shall be construed that the bid fully complies with the Specifications, Terms and Conditions.

C. Bidders are required to state exactly what they intend to furnish; otherwise they shall be required to furnish the items as specified.

D. Bidders will submit, with their proposal, necessary data (factory information sheets, specifications, brochures, etc.) to evaluate and determine the quality of the item(s) they are bidding.

E. The Town shall be the sole judge of equality and its decision shall be final.

1.8 ADDENDA

The Purchasing Division may issue an addendum in response to any inquiry received, prior to Bid opening, which changes, adds to or clarifies the terms, provisions or requirements of the solicitation. The Bidder should not rely on any representation, statement or explanation, whether written or verbal, other than those made in this Bid solicitation document or in any addenda issued. Where there appears to be a conflict between this Bid solicitation and any addenda, the last addendum issued shall prevail. It is the Bidder's responsibility to ensure receipt of all addenda and any accompanying documents. Bidder(s) shall acknowledge receipt of any formal Addenda by signing the addendum and including it with their Bid. Failure to include signed formal Addenda in its Bid shall deem its Bid non-responsive provided, however, that the Town may waive this requirement in its best interest.

1.7 SUBMISSION OF BIDS

A. Bids and Addenda thereto shall be enclosed in sealed envelopes addressed to the Town of Davie Purchasing Department, 6591 Orange Drive Davie, Florida 33314. The name and address of the bidder, the bid number, the date and hour of the bid opening, and the bid name shall be placed on the outside of the

1.9 REJECTION OF BIDS

The Town reserves the right to reject any or all proposals prior to award. Reasonable efforts will be made to either award the contract or reject all proposals within one hundred and twenty (120) calendar days after proposals opening date.

1.10 WITHDRAWAL OF BIDS

A. Bids may not be withdrawn and shall

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be deemed enforceable for a period of 120 days after the time set for the bid opening.

- B. Bids may be withdrawn prior to the time set for the bid opening. Such request must be in writing.
- C. The Town will permanently retain as liquidated damages the bid deposit furnished by any bidder who requests to withdraw a bid after the bid opening.

All invoices should be sent to: Town of Davie, Finance Department, 6591 Orange Drive, Davie, Florida 33314. In accordance with Florida State Statutes, Chapter 218, payment will be made within 45 days after receipt of services and a proper invoice. The Town cannot make advance payments, make deposits in advance of receipt of goods, or pay C.O.D. Bidders should state any payment discount in the space provided on the proposal form.

1.15 DISCOUNTS

1.11 LATE BIDS OR MODIFICATIONS

Only bids or proposals received as of opening date and time will be considered timely. Bids and modifications received after the time set for the bid opening will be rejected as late.

- A. Bidders may offer a cash discount for prompt payment; however, such discounts shall NOT be considered in determining the lowest net cost for bid evaluation purposes. Bidders are encouraged to reflect cash discounts in the unit prices quoted.

1.12 CONFLICTS WITHIN THE BID SOLICITATION

Where there appears to be a conflict between the General Terms and Conditions, Special Conditions, the Technical Specifications, the Bid Submittal Section, or any addendum issued, the order of precedence shall be the last addendum issued, the Bid Submittal Section, the Technical Specifications, the Special Conditions, and then the General Terms and Conditions.

- B. In connection with any discount offered, time will be computed from the date of receipt of supplies or services or from the date a correct invoice is received, whichever is the later date. Payment is deemed to be made on the date of mailing of the check.

1.16 COMPETENCY OF BIDDERS

1.13 CLARIFICATION OR OBJECTION TO BID SPECIFICATIONS

If any person contemplating submitting a bid for this contract is in doubt as to the true meaning of the specifications or other bid documents or any part thereof, he/she may submit to the Procurement Manager on or before five (5) days prior to scheduled opening, a request for clarification. All such requests for clarification shall be made in writing and the person submitting the request will be responsible for its prompt delivery. Any interpretation of the bid, if made, will be made only by Addendum duly issued. The Town will not be responsible for any other explanation or interpretation of the proposed bid made or given prior to the award of the contract. Any objection to the specifications and requirements as set forth in this bid must be filed in writing with the Procurement Manager five (5) days prior to the scheduled opening.

- A. Pre-award inspection of the Bidder's facility may be made prior to the award of contract. Bids will be considered only from firms which are regularly engaged in the business of providing the goods and/or services as described in this Bid(s); have a record of performance for a reasonable period of time; and have sufficient financial support, equipment and organization to ensure that they can satisfactorily deliver the material and/or services if awarded a Contract under the terms and conditions herein stated. The terms "equipment and organization" as used herein shall be construed to mean a fully equipped and well established company in line with the best business practices in the industry and as determined by the proper authorities of the Town.

1.14 INVOICING/PAYMENT

- B. The Town may consider any evidence available to it of the financial, technical and other qualifications and abilities of a Bidder, including past performance

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(experience) in making the award in the best interest of the Town. In all cases the Town of Davie shall have no liability to any contractor for any costs or expense incurred in connection with this bid or otherwise.

require the Contractor to remove any employee it deems careless, incompetent, insubordinate or otherwise objectionable and whose presence on Town property is not in the best interest of the Town.

Each employee at all times shall have and display in plain view proper identification. The names of the employee and the company shall be displayed on the front of the employee's shirt.

1.17 NOTICE REQUIREMENTS UNDER THE AGREEMENT

All notices required or permitted under the Agreement shall be in writing and shall be deemed sufficiently served if delivered by Registered or Certified Mail, with return receipt requested; or delivered personally; or delivered via fax or e-mail (if provided below) and followed with delivery of hard copy; and in any case addressed as follows:

To the Town

Project Manager: Jeff Pohlman
Town of Davie
Attention: Parks and Recreation Department
Phone: 954-797-1163
Fax:
E-mail: jpohlman@davie-fl.gov

To the Procurement Department:
Angie Salinas
Buyer
Purchasing Division
6591 Orange Drive
Davie, FL 33314
Phone: (954) 797-1062 Fax: (954) 797-1049
Email: asalinas@davie-fl.gov

To the Contractor

Notices will be sent to the contractor at the physical address, e-mail address, fax numbers and to the person listed in the Contractor's proposal, as applicable.

Either party may at any time designate a different address and/or contact person by giving notice as provided above to the other party. Such notices shall be deemed given upon receipt by the addressee.

1.18 EMPLOYEES

All employees of the Contractor shall be considered to be at all times the sole employees of the Contractor, under the Contractor's sole direction, and not employees or agents of the Town of Davie. The Contractor shall supply competent and physically capable employees and the Town is authorized to

1.19 AWARD OF BID

- A. The Review Committee or Department will make a recommendation based upon the lowest responsive and responsible bidder whose bid conforms to the Invitation for Bids and is most advantageous to the Town. If lowest fails to comply, then the second will be called upon, and so on.
- B. The Town reserves the right to accept and award item by item, and/or by group, or in the aggregate, unless the bidder qualifies his bid by specified limitations.
- C. One or more Contractors may be designated as approved Primary or Secondary Vendor(s) for the delivery of material and/or services from this contract through the effective period of the award. In any situation where obtaining services from the Primary Vendor (s) is not in the best interest of the Town, or the vendor cannot deliver material and/or services within 24 hours of date required, or on an emergency basis, staff may obtain services from the Secondary Vendor (s).
- D. Successful Bidder shall be notified in writing of award.
- E. Delivery of materials and/or services shall be performed upon receipt by successful bidder of a numbered, signed purchase order.

1.20 BID PROTESTS

The Town shall provide notice of its intent to award or reject to all bidders by posting such notice on the Town's website within two (2)

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working days after the posted review committee meeting.

If a vendor feels that they have been treated unfairly with regards to the results of a solicitation, or the resulting recommendation for award, they may protest the Town's action as follows:

1. The vendor must submit a letter to the Procurement Manager detailing the nature of the protest along with two (2) cashier's checks within three (3) working days of the notice of intent to award. The first check will be in the amount of \$500 (hereinafter called "the administrative fee"). The second check will be in the amount of 1% of the bid amount (hereinafter called "the protest bond"). The Town's notices of intent to award are posted on the Town of Davie website.
2. If the Procurement Manager receives a bid protest letter along with the administrative fee and the protest bond as described above, the bid award process will be suspended and the protest will be referred to the Bid Protest Committee. However, if the project is needed to protect the health, safety, and/or welfare of the residents of the Town of Davie, the award of the project will proceed without interruption. The Bid Protest Committee shall consist of three (3) Town of Davie staff member to be selected by the Town Administrator. The Procurement Manager and the employee that wrote the recommendation for award may not sit as a member of the Bid Protest Committee. However, the Procurement Manager and the staff member that wrote the recommendation for award shall be present at the hearing of the Bid Protest Committee to answer any questions pertaining to the bid process or the evaluation process.
3. The Bid Protest Committee shall schedule a hearing within ten (10) working days of receipt of the protest letter. All parties having an interest in the outcome will be notified of the date and time of the hearing. If the bid protest is denied, the vendor will forfeit the protest bond. If the protest is upheld, the protest bond will be returned to the vendor. The administrative fee shall be non-refundable in all cases.
4. If the Bid Protest Committee denies the protest, the aggrieved vendor may appeal his/her case to the Davie Town Council. In order to appeal, the vendor must notify the Town Administrator within three (3) working

days of the Bid Protest Committee's ruling. Upon notification, the Town Administrator will schedule the appeal as an agenda item on the next available Town Council agenda. All bidders will be notified of the agenda date.

5. Once the bid protest is resolved, the Town will proceed with the bid award. Except as exempted in 2 above.

1.21 AGREEMENT

An agreement shall be sent to the awarded bidder to be signed, witnessed, and returned to the Town for execution. The Town will provide a copy of the fully executed agreement to the awarded bidder.

1.22 DISQUALIFICATION OF BIDDERS

A bidder may be disqualified temporarily or permanently and his/her bid(s) rejected for:

- A. Poor performance or default, in the Town's opinion, on previous contracts with the Town.
- B. Poor performance or default, in the Town's opinion, on previous contracts with other public entities.
- C. Insufficient financial or company size, in the Town's opinion, to perform the requirements of the contract.

1.23 SUBCONTRACTING

Unless otherwise specified in this Bid Solicitation, the successful Bidder shall not subcontract any portion of the work without the prior written consent of the Town. The ability to subcontract may be further limited by the Special Conditions. Subcontracting without the prior consent of the Town may result in termination of the contract for default.

1.24 ASSIGNMENT

The successful Bidder shall not assign, transfer, hypothecate, or otherwise dispose of this contract, including any rights, title or interest therein, or its power to execute such contract to any person, company or

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corporation without the prior written consent of the Town and Town's approval.

1.25 FRAUD AND MISREPRESENTATION

Any individual, corporation or other entity that attempts to meet its contractual obligations with the Town through fraud, misrepresentation or material misstatement, may be debarred from doing business with the Town. The Town as further sanction may terminate or cancel any other contracts with such individual, corporation or entity. Such individual or entity shall be responsible for all direct or indirect costs associated with termination or cancellation, including attorney's fees.

1.26 COLLUSION

The bidder, by affixing his signature to this proposal, agrees to the following: "Bidder certifies that his/her bid is made without previous understanding, agreement, or connection with any person, firm or corporation, making a bid for the same items, or the initiating Town department, and is in all respects fair, without outside control, collusion, fraud, or otherwise illegal action."

1.27 MAINTAINING BID STATUS

To be retained on the active bidders list, bidder MUST respond to this Invitation to Bid. To protect your status as an active bidder, please complete and return the last page of the bid proposal form indicating reason for "No Bid" at this time. Three (3) consecutive failures to respond to bid invitations could result in automatic removal from the bidders list.

1.28 PATENTS AND COPYRIGHTS

It shall be understood and agreed that by the submission of a proposal, the bidder, if awarded a contract, shall save harmless and fully indemnify the Town and any of its officers or agents from any and all damages that may, at any time, be imposed or claimed for infringement of any patent right, trademark, or copyright, of any person or persons, association, or corporation, as the result of the use of such articles by the Town, or any of its officers, agents, or employees, and of which articles the contractor is not the patentee, assignee, licensee, or owner, or lawfully entitled to sell same.

1.29 PUBLIC RECORDS LAW

Pursuant to Florida Statute 119.07, public records may be inspected and examined by anyone desiring to do so, at a reasonable time, under reasonable conditions, and under supervision by the custodian of the public record. Sealed Bids and Proposals become subject to this statute, notwithstanding bidders' or proposers' requests to the contrary, at the time the Town provides notice of a decision or intended decision, or 30 days after bid or proposal opening, whichever is earlier.

Financial statements submitted in response to a request by the Town are confidential, and exempt from disclosure. Data processing software obtained under a licensing agreement which prohibits its disclosure is also exempt.

Bidders are hereby notified and agree that all information submitted as part of, or in support of bid submittals will be available for public inspection after opening of bids in compliance with Chapter 119 of the Florida Statutes. The bidder shall not submit any information in response to this invitation which the bidder considers to be a trade secret, proprietary or confidential. The submission of any information to the Town in connection with this invitation shall be deemed conclusively to be a waiver of any trade secret or other protection, which would otherwise be available to the bidder. In the event that the bidder submits information to the Town in violation of this restriction, either inadvertently or intentionally and clearly identifies that information in the bid as protected or confidential, the Town shall endeavor to redact and return that information to the bidder as quickly as possible, and if appropriate, evaluate the balance of the bid. The redaction or return of information pursuant to this clause may render a bid non-responsive.

1.30 INFORMATION

Further information, if desired, may be obtained from the Procurement Manager, 6951 Orange Drive Davie, Florida 33314, Telephone (954) 797-1016.

Questions or requests for clarification of the specifications shall be in writing and received by the Procurement Management Division at least five days prior to the date and time of the bid opening. They may be mailed or faxed to (954) 797-1049 or emailed to purchasing@davie-fl.gov

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1.31 REQUEST FOR PROPOSAL

Should these "General Conditions" be used in the specifications for a Request for Proposal, every reference to a bid shall be and mean the same as proposal.

1.32 EXCEPTIONS TO PROPOSAL

The bidder must clearly indicate any exceptions they wish to take to any of the terms in this Proposal, and outline what, if any, alternative is being offered. All exceptions and alternatives shall be included and clearly delineated, in writing, in the Proposal. The Town, at its sole and absolute discretion, may accept or reject any or all exceptions and alternatives. In cases in which exceptions and alternatives are rejected, the Town shall require the Bidder to comply with the particular term and/or condition of the ITB to which the Bidder took exception to (as said term and/or condition was originally set forth on the ITB.)

1.33 INDEMNIFICATION AND HOLD HARMLESS AGREEMENT

The contractor shall indemnify and hold harmless the Town its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorney's fees and costs of defense, which the Town or its officers, employees, agents, or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of the agreement by the contractor or its employees, agents, servants, partners, principals or subcontractors. The awarded bidder shall pay all claims and losses in connection therewith, and shall investigate and defend all claims, suits, or actions of any kind or nature in the name of the Town, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may be incurred thereon. The contractor expressly understands and agrees that any insurance protection required by this contract or otherwise provided by the contractor shall in no way limit the responsibility to indemnify, keep and save harmless and defend the Town or its officers, employees, agents, and instrumentalities as herein provided. The above indemnification provisions shall survive the expiration or termination of this contract.

1.34 COPELAND "ANTI-KICKBACK"

Contractor and all subcontractors will comply with the Copeland Anti-Kickback Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3).

1.35 CONFLICT OF LAW

If and when this contract is disputed, and should it be necessary to litigate, the substantive and procedural laws of the State of Florida shall govern the outcome of such litigation. This shall apply notwithstanding such factors which include, but are not limited to, place where contract is entered into, place where accident arises and not withstanding application of conflicts of law principles.

1.36 INTERPRETATION OF THE APPROXIMATE QUANTITIES

The bidder's attention is called to the fact that the estimate of quantities to be furnished under the specifications is approximate only and not guaranteed. The Town does not assume any responsibility that the final quantities shall remain in strict accordance with the estimated quantities, nor shall the Bidder plead misunderstanding or deception because of such estimate of quantities.

1.37 QUANTITIES

The Town specifically reserves the right to accept all or any part of the bid, to split the award, to increase or decrease the quantity to meet additional or reduced requirements of the Town, without such change affecting the contract unit price set forth in the proposal form by the bidder.

1.38 DELIVERY, INSPECTION & TITLE

Prices quoted and deliveries are to be FOB Destination and unloaded, unless otherwise specified in the Invitation for Bids, and made during regular business hours. Inspection and acceptance will be destination unless otherwise provided. Title to/or risk of loss or damage to all items shall be the responsibility of the successful bidder until acceptance by the Town unless loss or damage results from negligence by the Town. If the materials or services supplied to the Town are found to be defective or to not conform to specifications, the Town reserves the right to cancel the order upon written notice to the contractor and return product at bidder's expense.

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1.39 WARRANTY

Unless otherwise specified, all items proposed by the bidder shall include a warranty covering services, parts and/or labor for a specified period of time. The bidder shall submit information on both manufacturer and dealer warranties, where applicable, with the bid proposal. All goods furnished shall be fully guaranteed by the successful Bidder against factory defects and workmanship. At no expense to the Town, the successful Bidder shall correct any and all apparent and latent defects that may occur within the manufacturer's standard warranty. The Special Conditions of the Bid solicitation may supersede the manufacturer's standard warranty.

1.40 CLAIMS

Successful bidder(s) will be responsible for making any and all claims against carriers for missing or damaged items.

1.41 CONTRACT RENEWAL

Any contract or agreement executed in conjunction with the award of a bid may be renewed for additional twelve month periods if agreed to in writing by both parties.

1.42 MODIFICATION OF CONTRACT

The contract may be modified by mutual consent, in writing through the issuance of a modification to the contract, purchase order, change order or award sheet, as appropriate.

1.43 SAFETY DATA SHEET (SDS)

Under the terms of the Florida Right-to-Know Law (Chapter 442, Florida Statutes), all suppliers of products deemed to be toxic in substance, as indicated in the State of Florida Substance List, are required to submit a Safety Data Sheet (SDS) for each substance as a condition of the award of the bid by the Town.

1.44 CONDITION OF MATERIALS AND PACKAGING

All equipment, materials, supplies, and components supplied under this bid must be new and unused, free from defects, and shall be the latest manufacturer's models unless otherwise specified. No others will be accepted under the terms and intent of this bid. All containers shall be new and suitable for

storage or shipment, and bid price shall include standard commercial packaging. Any exceptions to this provision shall be detailed on the proposal page under exceptions to specifications.

1.45 SAMPLES

Samples, when required, must be submitted within the time specified at no expense to the Town. If not destroyed or used up during testing, samples will be returned upon request at the bidder's expense. Each individual sample must be labeled with bidder's name and manufacturer's brand name and number.

1.46 PUBLIC ENTITY CRIMES

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

1.47 DISCRIMINATION

Any entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide goods or services to a public entity, may not submit a bid on a contract with a public entity for construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not award or perform work as a contractor, supplier, subcontractor, or consultant under contract with any public entity, and may not transact business with any public entity.

1.48 DRUG-FREE WORKPLACE PROGRAM

Bidders are required to maintain and enforce a Drug-Free Workplace Program for the duration of the agreement and any extensions thereof. Bidders shall complete and submit a copy of the attached form and a copy of the program with their bid.

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1.49 SOLICITATION, GIVING, AND ACCEPTANCE OF GIFTS POLICY

Bidders shall sign and submit this attached form indicating understanding and compliance with the Town's and State's policies prohibiting solicitation and acceptance of gifts by public officers, employees, or candidates.

Failure to submit this signed form will result in your bid being declared non-responsive; provided, however, that the low bidder may be given the opportunity to submit the form to the Town within five calendar days after notification by the Town, if this is determined to be in the best interest of the Town.

1.50 PURCHASING AGREEMENTS WITH OTHER GOVERNMENT AGENCIES

It is hereby made part of this Invitation to Bid that the submission of any bid response to this advertised request constitutes a bid made under the same terms and conditions, for the same price, to other government agencies if agreeable by the bidder and the government agency.

At the option of the vendor/contractor, the use of the contract resulting from this solicitation may be extended to other governmental agencies, including the State of Florida, its agencies, political subdivisions, counties, and cities.

Each governmental agency allowed by the vendor/contractor to use this contract shall do so independently of any other governmental entity. Each agency shall be responsible for its own purchases and shall be liable only for goods or services ordered, received, and accepted. No agency receives any liability by virtue of this bid and subsequent contract award.

1.51 ACCESS TO RECORDS

The Town reserves the right to require the Contractor to submit to an audit. The Contractor shall provide access to all of its records which relate directly or indirectly to the Agreement at its place of business during regular business hours. The Contractor shall retain all records pertaining to the Agreement and upon request make them available to the Town for three years following expiration of the Agreement. The Contractor agrees to provide such assistance as may be necessary

to facilitate the review or audit by the Town to ensure compliance with applicable accounting and financial standards at no cost to the Town.

1.52 RESERVED

1.53 INSURANCE REQUIREMENTS

The Contractor shall maintain and carry in full force during the Term the insurance required herein. Upon Town's notification, the Contractor shall furnish to the Procurement Management Division, Certificates of Insurance that indicate that insurance coverage has been obtained which meets the requirements as outlined below:

1. Worker's Compensation Insurance for all employees of the Contractor as required by Florida Statute 440. Should the Contractor be exempt from this Statute, the Contractor and each employee shall hold the Town harmless from any injury incurred during performance of the Contract. The exempt contractor shall also submit a written statement detailing the number of employees and that they are not required to carry Worker's Compensation insurance, and do not anticipate hiring any additional employees during the term of this contract or a copy of a Certificate of Exemption.
2. General Liability Insurance on a comprehensive basis in an amount not less than \$1,000,000 per person, \$2,000,000 per occurrence for bodily injury and property damage. **Town of Davie must be shown as an additional insured with respect to this coverage. The mailing address of Town of Davie 6591 Orange Drive Davie, Florida 33314, as the certificate holder, must appear on the certificate of insurance.**
3. Automobile Liability Insurance covering all owned, non-owned, and hired vehicles used in connection with the Services, in an amount not less than \$1,000,000 per person and \$2,000,000 per occurrence. **Town of Davie must be shown as an additional insured with respect to this coverage. The mailing address of Town of Davie 6591 Orange Drive, Davie, Florida 33314, as the certificate holder, must appear on the**

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certificate of insurance.

The insurance coverage required shall include those classifications, as listed in standard liability insurance manuals, which most nearly reflect the operation of the Contractor. All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida with the following qualifications:

The company must be rated no less than "B" as to management, and no less than "Class V" as to financial strength, according to the latest edition of Best's Insurance Guide published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the Town's Risk Management Division.

Certificates of Insurance must indicate that for any cancellation of coverage before the expiration date, the issuing insurance carrier will endeavor to mail thirty (30) day written advance notice to the certificate holder. In addition, the Contractor hereby agrees not to modify the insurance coverage without thirty (30) days written advance notice to the Town.

NOTE: TOWN OF DAVIE CONTRACT NUMBER AND TITLE MUST APPEAR ON EACH CERTIFICATE OF INSURANCE.

Compliance with the foregoing requirements shall not relieve the Contractor of this liability and obligation under this section or under any other section in the Agreement.

Award of this Contract is contingent upon the receipt of the insurance documents, as required, within fifteen (15) calendar days after Town notification to Contractor to comply before the award is made. If the insurance certificate is received within the specified time frame but not in the manner prescribed in the Agreement, the Contractor shall be verbally notified of such deficiency and shall have an additional five (5) calendar days to submit a corrected certificate to the Town. If the Contractor fails to submit the required insurance documents in the manner prescribed in the Agreement within twenty (20) calendar days after Town notification to comply, the Contractor shall be in default of the contractual terms and conditions and award of the Contract will be rescinded,

unless such time frame for submission has been extended by the Town.

The Contractor shall be responsible for assuring that the insurance certificates required in conjunction with this Section remain in force for the duration of the contractual period of the Contract, including any and all option years or extension periods that may be granted by the Town. If insurance certificates are scheduled to expire during the contractual period, the Contractor shall be responsible for submitting new or renewed insurance certificates to the Town at a minimum of thirty (30) calendar days in advance of such expiration. In the event that expired certificates are not replaced with new or renewed certificates which cover the contractual period, the Town shall suspend the Contract until such time as the new or renewed certificates are received by the Town in the manner prescribed herein; provided, however, that this suspended period does not exceed thirty (30) calendar days. Thereafter, the Town may, at its sole discretion, terminate this contract.

1.54 TOWN WEBSITE

Bids, addenda, Intent to Awards, and other information is available on the Purchasing Division's "Purchasing" page, which can be found at: www.davie-fl.gov

1.55 DISCLAIMER

The Town of Davie may, in its sole and absolute discretion, accept or reject, in whole or in part, for any reason whatsoever any or all Bids; re-advertise this Bid; postpone or cancel at any time this Bid process; or, waive any formalities of or irregularities in the bidding process. Bids that are not submitted on time and/or do not conform to the Town of Davie's requirements will not be considered. After all bids are analyzed, organization(s) submitting bids that appear, solely in the opinion of the Town of Davie, to be the most competitive, shall be submitted to the Town of Davie's Town Council, and the final selection will be made shortly thereafter with a timetable set solely by the Town of Davie. The selection by the Town of Davie shall be based on the bid, which is, in the sole opinion of the Town Council of the Town of Davie, in the best interest of the Town of Davie. The issuance of this bid constitutes only an invitation to make presentations to the Town of Davie. The Town of Davie reserves the

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right to determine, at its sole discretion, the lowest responsive and responsible bidder. In all cases the Town of Davie shall have no liability to any contractor for any costs or expense incurred in connection with this bid or otherwise.

1.56 CONFIDENTIALITY

As a political subdivision, the Town of Davie is subject to the Florida Sunshine Act and Public Records Law. By submitting a Bid, Contractor acknowledges that the materials submitted with the Bid and the results of the Town of Davie's evaluation are open to public inspection upon proper request. Contractor should take special note of this as it relates to proprietary information that might be included in its Bid.

1.57 ORDER OF PRECEDENCE

If there is a conflict between or among the provisions of the Agreement, the order of precedence is as follows:

- A. The terms and conditions of the agreement
- B. The Town of Davie's RFP and any associated addenda and attachments thereof, and
- C. The Contractor's Proposal.

1.58 NATURE OF THE AGREEMENT

The Agreement incorporates and includes all negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained in the Agreement. The parties agree that there are no commitments, agreements, or understandings concerning the subject matter of the Agreement that are not contained in the Agreement, and that the Agreement contains the entire agreement between the parties as to all matters contained herein. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that any oral representations or modifications concerning the Agreement shall be of no force or effect, and that the Agreement may be modified, altered or amended only by a written amendment duly executed by both parties hereto or their authorized representatives.

The Contractor shall provide the services set forth in the Scope of Services, and render full and prompt cooperation with the Town in all aspects of the Services performed hereunder.

The Contractor acknowledges that the Agreement requires the performance of all things necessary for or incidental to the effective and complete performance of all Work and Services under this Contract. All things not expressly mentioned in the Agreement but necessary to carrying out its intent are required by the Agreement, and the Contractor shall perform the same as though they were specifically mentioned, described and delineated.

The Contractor shall furnish all labor, materials, tools, supplies, and other items required to perform the Work and Services that are necessary for the completion of this Contract. All Work and Services shall be accomplished at the direction of and to the satisfaction of the Town's Project Administrator.

The Contractor acknowledges that the Town shall be responsible for making all policy decisions regarding the Scope of Services. The Contractor agrees to provide input on policy issues in the form of recommendations.

The Contractor agrees to implement any and all changes in providing Services hereunder as a result of a policy change implemented by the Town. The Contractor agrees to act in an expeditious and fiscally sound manner in providing the Town with input regarding the time and cost to implement said changes and in executing the activities required to implement said changes.

1.59 PAYMENT FOR SERVICES/AMOUNT OBLIGATED

The Contractor warrants that it has reviewed the Town's requirements and has asked such questions and conducted such other inquiries as the Contractor deemed necessary in order to determine the price the Contractor will charge to provide the Work and Services to be performed under this Contract. The compensation for all Work and Services performed under this Contract, including all costs associated with such Work and Services, shall be in the total amount submitted on the Bid Form. The Town shall have no obligation to pay the Contractor any additional sum(s) in excess of this amount,

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except for a change and/or modification to the Contract which is approved and executed in writing by the Town and the Contractor.

All Services undertaken by the Contractor before Town's approval of this Contract shall be at the Contractor's risk and expense.

1.60 PRICING

Prices shall remain firm and fixed for the term of the Contract, including any option or extension periods; however, the Contractor may offer incentive discounts to the Town at any time during the Contract term, including any renewal or extension thereof.

1.61 GUARANTEE

The Contractor shall be responsible for technically deficient designs, reports, or studies due to his errors and omissions, and shall promptly correct or replace all such deficient work due to his errors and omissions without cost to Town upon the request of the Town for five years after the date of acceptance of the project by the Town, which are judged to have been in error by a court of competent jurisdiction. Contractor shall also be responsible for the cost of correcting deficient construction which was built from technically deficient designs. Payment in full by the Town for work performed does not constitute a waiver of this guarantee.

1.62 MANNER OF PERFORMANCE

A. The Contractor shall provide the Services described herein in a competent and professional manner satisfactory to the Town in accordance with the terms and conditions of the Agreement. The Town shall be entitled to a satisfactory performance of all Services described herein and to full and prompt cooperation by the Contractor in all aspects of the Services. At the request of the Town, the Contractor shall promptly remove from the project any Contractor's employee, subcontractor, or any other person performing Services hereunder. The Contractor agrees that such removal of any of its employees does not require the termination or demotion of any employee by the Contractor.

B. The Contractor agrees to defend, hold harmless and indemnify the Town and shall be liable and responsible for any

and all claims, suits, actions, damages and costs (including attorney's fees and court costs) made against the Town, occurring on account of, arising from or in connection with the removal and replacement of any Contractor's personnel performing services hereunder at the behest of the Town. Removal and replacement of any Contractor's personnel as used in this Article shall not require the termination and or demotion of such Contractor's personnel.

- C. The Contractor agrees that at all times it will employ, maintain and assign to the performance of the Services a sufficient number of competent and qualified professionals and other personnel to meet the requirements to which reference is hereinafter made. The Contractor agrees to adjust its personnel staffing levels or to replace any of its personnel upon reasonable request from the Town, should the Town make a determination, in its sole discretion, that said personnel staffing is inappropriate or that any individual is not performing in a manner consistent with the requirements for such a position.
- D. The Contractor warrants and represents that its personnel have the proper skill, training, background, knowledge, experience, rights, authorizations, integrity, character and licenses as necessary to perform the Services described herein, in a competent and professional manner.
- E. The Contractor shall at all times cooperate with the Town and coordinate its respective work efforts to most effectively and efficiently maintain the progress in performing the Services.
- F. The Contractor shall comply with all provisions of all federal, state and local laws, statutes, ordinances, and regulations that are applicable to the performance of the Agreement.

1.63 INDEPENDENT CONTRACTOR RELATIONSHIP

The Contractor is, and shall be, in the performance of all work services and activities under the Agreement, an independent contractor, and not an employee, agent or

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servant of the Town. All persons engaged in any of the work or services performed pursuant to the Agreement shall at all times, and in all places, be subject to the Contractor's sole direction, supervision and control. The Contractor shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the Contractor's relationship and the relationship of its employees to the Town shall be that of an independent contractor and not as employees and agents of the Town.

The Contractor does not have the power or authority to bind the Town in any promise, agreement or representation other than specifically provided for in the Agreement.

1.64 AUTHORITY OF THE TOWN'S PROJECT ADMINISTRATOR

- A. The Contractor hereby acknowledges that the Town's Project Administrator will determine in the first instance all questions of any nature whatsoever arising out of, under, or in connection with, or in any way related to or on account of, the Agreement including without limitations: questions as to the value, acceptability and fitness of the Services; questions as to either party's fulfillment of its obligations under the Contract; negligence, fraud or misrepresentation before or subsequent to acceptance of the Proposal; questions as to the interpretation of the Scope of Services; and claims for damages, compensation and losses.
- B. The Contractor shall be bound by all determinations or orders and shall promptly obey and follow every order of the Project Manger, including the withdrawal or modification of any previous order and regardless of whether the Contractor agrees with the Project Manger's determination or order. Where orders are given orally, they will be issued in writing by the Project Manager as soon thereafter as is practicable.
- C. The Contractor must, in the final instance, seek to resolve every difference concerning the Agreement with the Project Manager. In the event that the Contractor and the Project Managerr are unable to resolve their difference, the Contractor may initiate a dispute in accordance with the

procedures set forth in the section below. Exhaustion of these procedures shall be a condition precedent to any lawsuit permitted hereunder.

- D. In the event of such dispute, the parties to the Agreement authorize the Town Administrator or designee, who may not be the Project Manager or anyone associated with this Project, acting personally, to decide all questions arising out of, under, or in connection with, or in any way related to or on account of the Agreement (including but not limited to claims in the nature of breach of contract, fraud or misrepresentation arising either before or subsequent to execution hereof) and the decision of each with respect to matters within the Town Administrator's purview as set forth above shall be conclusive, final and binding on parties. Any such dispute shall be brought, if at all, before the Town Administrator within 10 days of the occurrence, event or act out of which the dispute arises.

The Town Administrator may base this decision on such assistance as may be desirable, including advice of experts, but in any event shall base the decision on an independent and objective determination of whether Contractor's performance or any Deliverable meets the requirements of the Agreement and any specifications with respect thereto set forth herein. The effect of any decision shall not be impaired or waived by any negotiations or settlements or offers made in connection with the dispute, whether or not the Town Administrator participated therein, or by any prior decision of others, which prior decision shall be deemed subject to review, or by any termination or cancellation of the Agreement. All such disputes shall be submitted in writing by the Contractor to the Town Administrator for a decision, together with all evidence and other pertinent information in regard to such questions, in order that a fair and impartial decision may be made. The parties agree that whenever the Town Administrator is entitled to exercise discretion or judgment or to make a determination or form an opinion pursuant to the provisions of this Article, such action shall be deemed fair and impartial when exercised or taken. The

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Town Administrator shall render a decision in writing and deliver a copy of the same to the Contractor. Except as such remedies may be limited or waived elsewhere in the Agreement, Contractor reserves the right to pursue any remedies available under law after exhausting the provisions of this Article.

1.65 MUTUAL OBLIGATIONS

- A. The Agreement, including attachments and appendices to the Agreement, shall constitute the entire Agreement between the parties with respect hereto and supersedes all previous communications and representations or agreements, whether written or oral, with respect to the subject matter hereto unless acknowledged in writing by the duly authorized representatives of both parties.
- B. Nothing in the Agreement shall be construed for the benefit, intended or otherwise, of any third party that is not a parent or subsidiary of a party or otherwise related (by virtue of ownership control or statutory control) to a party.
- C. In those situations where the Agreement imposes an indemnity or defense obligation on the Contractor, the Town may, at its expense, elect to participate in the defense if the Town should so choose. Furthermore, the Town may at its own expense defend or settle any such claims if the Contractor fails to diligently defend such claims, and thereafter seek indemnity for costs and attorney's fees from the Contractor.

1.66 QUALITY ASSURANCE/QUALITY ASSURANCE RECORD KEEPING

The Contractor shall maintain, and shall require that its subcontractors and suppliers maintain, complete and accurate records to substantiate compliance with the requirements set forth in the Scope of Services. The Contractor and its subcontractors and suppliers shall retain such records, and all other documents relevant to the Services furnished under the Agreement for a period of three (3) years from the expiration date of the Agreement and any extension thereof.

1.67 AUDITS

The Town, or its duly authorized representatives or governmental agencies shall, until the expiration of three (3) years after the expiration of the Agreement and any extension thereof, have access to and the right to examine and reproduce any of the Contractor's books, documents, papers and records and those of its subcontractors and suppliers which apply to all matters of the Town as needed. Such records shall conform to Generally Accepted Accounting Principles requirements, as applicable, and shall only address those transactions related to the Agreement.

The Contractor agrees to grant access to the Town's Auditor to all financial and performance-related records, property, and equipment purchased in whole or in part with government funds. The Contractor agrees to maintain an accounting system that provides accounting records that are supported with adequate documentation, and adequate procedures for determining the allowability and allocability of costs.

1.68 SUBSTITUTION OF PERSONNEL

In the event the Contractor wishes to substitute personnel for the key personnel identified by the Contractor's Proposal, the Contractor must notify the Town in writing and request written approval for the substitution at least ten (10) business days prior to effecting such substitution.

1.69 SUBCONTRACTUAL RELATIONS

- A. If the Contractor will cause any part of the Agreement to be performed by a subcontractor, the provisions of this Contract will apply to such subcontractor and its officers, agents and employees in all respects as if it and they were employees of the Contractor; and the Contractor will not be in any manner thereby discharged from its obligations and liabilities hereunder, but will be liable hereunder for all acts and negligence of the subcontractor, its officers, agents, and employees, as if they were employees of the Contractor. The services performed by the subcontractor will be subject to the provisions hereof as if performed directly by the Contractor.

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- B. The Contractor, before making any subcontract for any portion of the services, will state in writing to the Town the name of the proposed subcontractor, the portion of the Services which the subcontractor is to do, the place of business of such subcontractor, and such other information as the Town may require. The Town will have the right to require the Contractor not to award any subcontract to a person, firm or corporation disapproved by the Town.
- C. Before entering into any subcontract hereunder, the Contractor will inform the subcontractor fully and completely of all provisions and requirements of the Agreement relating either directly or indirectly to the Services to be performed. Such Services performed by such subcontractor will strictly comply with the requirements of this Contract.
- D. In order to qualify as a subcontractor satisfactory to the Town, in addition to the other requirements herein provided, the subcontractor must be prepared to prove to the satisfaction of the Town that it has the necessary facilities, skill and experience, and ample financial resources to perform the Services in a satisfactory manner. To be considered skilled and experienced, the subcontractor must show to the satisfaction of the Town that it has satisfactorily performed services of the same general type which is required to be performed under the Agreement.
- E. The Town shall have the right to withdraw its consent to a subcontract if it appears to the Town that the subcontract will delay, prevent, or otherwise impair the performance of the Contractor's obligations under the Agreement. All subcontractors are required to protect the confidentiality of the Town and Town's proprietary and confidential information. Contractor shall furnish to the Town copies of all subcontracts between Contractor and subcontractors and suppliers hereunder. Within each such subcontract, there shall be a clause for the benefit of the Town permitting the Town to request completion of performance by the subcontractor of its obligations under the subcontract, in the event the Town finds the Contractor in breach of its obligations, and the option to pay the subcontractor directly for the performance by such subcontractor. Notwithstanding, the foregoing shall neither convey nor imply any obligation or liability on the part of the Town to any subcontractor hereunder as more fully described herein.
- 1.70 ASSUMPTION, PROJECTIONS, ESTIMATES AND EXPLANATIONS**
- The Contractor understands and agrees that any assumptions, parameters, projections, estimates and explanations presented by the Town were provided to the Contractor for evaluation purposes only. However, since these assumptions, parameters, projections, estimates and explanations represent predictions of future events, the Town makes no representations or guarantees, the Town shall not be responsible for the accuracy of the assumptions presented, the Town shall not be responsible for conclusions to be drawn there from, and any assumptions, parameters, projections, estimates and explanations shall not form the basis of any claim by the Contractor. The Contractor accepts all risks associated with using this information.
- 1.71 SEVERABILITY**
- If the Agreement contains any provision found to be unlawful, the same shall be deemed to be of no effect and shall be deemed stricken from the Agreement without affecting the binding force of the Agreement as it shall remain after omitting such provision.
- 1.72 TERMINATION FOR CONVENIENCE AND SUSPENSION OF WORK**
- A. The Town may terminate the Agreement if an individual or corporation or other entity attempts to meet its contractual obligation with the Town through fraud, misrepresentation or material misstatement.
- B. The Town may, as a further sanction, terminate or cancel any other contract(s) that such individual or corporation or other entity has with the Town. Such individual, corporation or other entity shall be responsible for all direct and indirect costs associated with such

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termination or cancellation, including attorney's fees.

C. Contractor acknowledges and agrees that ten dollars (\$10.00) of the compensation to be paid by the Town, the receipt and adequacy of which is hereby acknowledged by Contractor is given specific consideration to Contractor for Town's right to terminate this Agreement for convenience.

D. The Town, through its Town Administrator, and for its convenience and without cause, terminate the Contract at any time during the term by giving written notice to consultant of such termination; which shall become effective within fifteen (15) days following receipt by the Contractor of such notice. If the Contract is terminated for convenience by the Town, the Contractor shall be paid for any services satisfactorily performed up to the date of termination; following which the Town shall be discharged from any and all liabilities, duties, and terms arising out, or by virtue of, this Contract.

E. The foregoing notwithstanding, any individual, corporation or other entity which attempts to meet its contractual obligations with the Town through fraud, misrepresentation or material misstatement may be debarred from Town contracting in accordance with the Town debarment procedures. The Contractor may be subject to debarment for failure to perform and all other reasons set forth in Town's Purchasing Policies and Procedures Manual.

In addition to cancellation or termination as otherwise provided in the Agreement, the Town may at any time, in its sole discretion, with or without cause, terminate the Agreement by written notice to the Contractor and in such event:

F. The Contractor shall, upon receipt of such notice, unless otherwise directed by the Town:

1. Stop work on the date specified in the notice ("the Effective Termination Date");
2. Take such action as may be necessary for the protection and preservation of the Town's

materials and property;

3. Cancel orders;

4. Assign to the Town and deliver to any location designated by the Town any non-cancelable orders for Deliverables that are not capable of use except in the performance of the Agreement and which have been specifically developed for the sole purpose of the Agreement and not incorporated in the Services;

5. Take no action which will increase the amounts payable by the Town under the Agreement.

G. In the event that the Town exercises its right to terminate the Agreement pursuant to this Article the Contractor will be compensated as stated in the payment Articles, herein, for the:

1. Portion of the Services completed in accordance with the Agreement up to the Effective Termination Date; and

2. Non-cancelable Deliverables that are not capable of use except in the performance of the Agreement and which have been specifically developed for the sole purpose of the Agreement but not incorporated in the Services.

H. All compensation pursuant to this Article is subject to audit.

1.73 EVENT OF DEFAULT

A. An Event of Default shall mean a breach of the Agreement by the Contractor. Without limiting the generality of the foregoing and in addition to those instances referred to herein as a breach, an Event of Default, shall include the following:

1. The Contractor has not delivered Deliverables on a

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- timely basis;
2. The Contractor has refused or failed, except in any case for which an extension of time is provided, to supply enough properly skilled staff personnel;
 3. The Contractor has failed to make prompt payment to subcontractors or suppliers for any Services;
 4. The Contractor has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of the Contractor's creditors, or the Contractor has taken advantage of any insolvency statute or debtor/creditor law or if the Contractor's affairs have been put in the hands of a receiver;
 5. The Contractor has failed to obtain the approval of the Town where required by the Agreement;
 6. The Contractor has failed to provide "adequate assurances" as required under subsection "B" below; and
 7. The Contractor has failed in the representation of any warranties stated herein.
- B. When, in the opinion of the Town, reasonable grounds for uncertainty exist with respect to the Contractor's ability to perform the Services or any portion thereof, the Town may request that the Contractor, within the time frame set forth in the Town's request, provide adequate assurances to the Town, in writing, of the Contractor's ability to perform in accordance with terms of the Agreement. Until the Town receives such assurances the Town may request an adjustment to the compensation received by the Contractor for portions of the Services which the Contractor has not performed. In the event that the Contractor fails to provide to the

Town the requested assurances within the prescribed time frame, the Town may:

1. Treat such failure as a repudiation of the Agreement;
2. Resort to any remedy for breach provided herein or at law, including but not limited to, taking over the performance of the Services or any part thereof either by itself or through others.

- C. In the event the Town shall terminate the Agreement for default, the Town or its designated representatives may immediately take possession of all applicable equipment, materials, products, documentation, reports and data.

1.74 REMEDIES IN THE EVENT OF DEFAULT

If an Event of Default occurs, the Contractor shall be liable for all damages resulting from the default, including but not limited to:

- A. Lost revenues;
- B. The difference between the cost associated with procuring Services hereunder and the amount actually expended by the Town for procurement of Services, including procurement and administrative costs; and,
- C. Such other direct damages.

The Contractor shall also remain liable for any liabilities and claims related to the Contractor's default. The Town may also bring any suit or proceeding for specific performance or for an injunction.

1.75 PATENT AND COPYRIGHT INDEMNIFICATION

- A. The Contractor warrants that all Deliverables furnished hereunder, including but not limited to: services, equipment programs, documentation, software, analyses, applications, methods, ways, processes, and the like, do not infringe upon or violate any patent, copyrights, service marks, trade secret,

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or any other third party proprietary rights.

- B. The Contractor shall be liable and responsible for any and all claims made against the Town for infringement of patents, copyrights, service marks, trade secrets or any other third party proprietary rights, by the use or supplying of any programs, documentation, software, analyses, applications, methods, ways, processes, and the like, in the course of performance or completion of, or in any way connected with, the Work, or the Town's continued use of the Deliverables furnished hereunder. Accordingly, the Contractor at its own expense, including the payment of attorney's fees, shall indemnify, and hold harmless the Town and defend any action brought against the Town with respect to any claim, demand, and cause of action, debt, or liability.
- C. In the event any Deliverable or anything provided to the Town hereunder, or a portion thereof is held to constitute an infringement and its use is or may be enjoined, the Contractor shall have the obligation, at the Town's option, to (i) modify, or require that the applicable subcontractor or supplier modify, the alleged infringing item(s) at the Contractor's expense, without impairing in any respect the functionality or performance of the item(s), or (ii) procure for the Town, at the Contractor's expense, the rights provided under the Agreement to use the item(s).
- D. The Contractor shall be solely responsible for determining and informing the Town whether a prospective supplier or subcontractor is a party to any litigation involving patent or copyright infringement, service mark, trademark, violation, or proprietary rights claims or is subject to any injunction which may prohibit it from providing any Deliverable hereunder. The Contractor shall enter into agreements with all suppliers and subcontractors at the Contractor's own risk. The Town may reject any Deliverable that it believes to be the subject of any such litigation or injunction, or if, in the Town's judgment, use thereof would delay the Work or be unlawful.

- E. The Contractor shall not infringe any copyright, trademark, service mark, trade secrets, patent rights, or other intellectual property rights in the performance of the Work.

1.76 PROPRIETARY INFORMATION

As a political subdivision of the State of Florida, the Town of Davie is subject to the provisions of Florida's Public Records Law.

The Contractor acknowledges that all computer software in the Town's possession may constitute or contain information or materials which the Town has agreed to protect as proprietary information from disclosure or unauthorized use and may also constitute or contain information or materials which the Town has developed at its own expense, the disclosure of which could harm the Town's proprietary interest therein.

During the term of the contract, the Contractor will not use directly or indirectly for itself or for others, or publish or disclose to any third party, or remove from the Town's property, any computer programs, data compilations, or other software which the Town has developed, has used or is using, is holding for use, or which are otherwise in the possession of the Town (hereinafter "Computer Software"). All third-party license agreements must also be honored by the contractors and their employees, except as authorized by the Town and, if the Computer Software has been leased or purchased by the Town, all third party license agreements must also be honored by the contractors' employees with the approval of the lessor or Contractors thereof. This includes mainframe, minis, telecommunications, personal computers and any and all information technology software.

The Contractor will report to the Town any information discovered or which is disclosed to the Contractor which may relate to the improper use, publication, disclosure or removal from the Town's property of any information technology software and hardware and will take such steps as are within the Contractor's authority to prevent improper use, disclosure or removal.

1.77 PROPRIETARY RIGHTS

- A. The Contractor hereby acknowledges and agrees that the Town retains all rights, title and interests in and to all

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materials, data, documentation and copies thereof furnished by the Town to the Contractor hereunder or furnished by the Contractor to the Town and/or created by the Contractor for delivery to the Town, even if unfinished or in process, as a result of the Services the Contractor performs in connection with the Agreement, including all copyright and other proprietary rights therein, which the Contractor as well as its employees, agents, subcontractors and suppliers may use only in connection with the performance of Services under the Agreement. The Contractor shall not, without the prior written consent of the Town, use such documentation on any other project in which the Contractor or its employees, agents, subcontractors or suppliers are or may become engaged. Submission or distribution by the Contractor to meet official regulatory requirements or for other purposes in connection with the performance of Services under the Agreement shall not be construed as publication in derogation of the Town's copyrights or other proprietary rights.

- B. All rights, title and interest in and to certain inventions, ideas, designs and methods, specifications and other documentation related thereto developed by the Contractor and its subcontractors specifically for the Town, hereinafter referred to as "Developed Works" shall become the property of the Town.
- C. Accordingly, neither the Contractor nor its employees, agents, subcontractors or suppliers shall have any proprietary interest in such Developed Works. The Developed Works may not be utilized, reproduced or distributed by or on behalf of the Contractor, or any employee, agent, subcontractor or supplier thereof, without the prior written consent of the Town, except as required for the Contractor's performance hereunder.
- D. Except as otherwise provided in subsections a, b, and c above, or elsewhere herein, the Contractor and its subcontractors and suppliers hereunder shall retain all proprietary rights in and to all licensed software provided hereunder, that have not been customized to satisfy the performance criteria set forth in the Scope of Services. Notwithstanding the

foregoing, the Contractor hereby grants, and shall require that its subcontractors and suppliers grant, if the Town so desires, a perpetual, irrevocable and unrestricted right and license to use, duplicate, disclose and/or permit any other person(s) or entity(ies) to use all such licensed software and the associated specifications, technical data and other documentation for the operations of the Town or entities controlling, controlled by, under common control with, or affiliated with the Town, or organizations which may hereafter be formed by or become affiliated with the Town. Such license specifically includes, but is not limited to,

- E. the right of the Town to use and/or disclose, in whole or in part, the technical documentation and licensed software, including any source code provided hereunder, to any person or entity outside the Town for such person's or entity's use in furnishing any and/or all of the Deliverables provided hereunder exclusively for the Town or entities controlling, controlled by, under common control with, or affiliated with the Town, or organizations which may hereafter be formed by or become affiliated with the Town. No such licensed software, specifications, data, documentation or related information shall be deemed to have been given in confidence and any statement or legend to the contrary shall be void and of no effect.

1.78 ETHICS.

In accordance with Section 2-327 of the Town's Code requires that the town shall not purchase any goods or services from any person who is actively employed by the Town of Davie or from any business or entity of which the employee or the employee's spouse or child is an agent, officer, partner, director or proprietor or in which they have a material interest or discretionary authority. Any such individual or business shall be disqualified from participating in any bidding activity for purchases by the town unless specifically authorized by action of the town council. Furthermore all bidders are subject to follow the SECTION 1-19 OF THE BROWARD COUNTY CODE.

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1.79 LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS

Contractor agrees to comply, subject to applicable professional standards, with the provisions of any and all applicable Federal, State, County and Town orders, statutes, ordinances, rules and regulations which may pertain to the Services required under the Agreement, including but not limited to:

- A. Equal Employment Opportunity (EEO), in compliance with Executive Order 11246 as amended and applicable to this Contract.
- B. Occupational Safety and Health Act (OSHA) as applicable to this contract.
- C. Environmental Protection Agency (EPA), as applicable to this Contract.
- D.
- E. All contractors and subcontractors performing work in connection with this Contract shall provide equal opportunity for employment because of race, religion, color, age, sex, national origin, sexual preference, disability or marital status. The aforesaid provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in a conspicuous place available for employees and applicants for employment, such notices as may be required by the Dade County Fair Housing and Employment Commission, or other authority having jurisdiction over the Work setting forth the provisions of the nondiscrimination law.
- F. "Conflicts of Interest" Section 1-19 of the County Code, and Ordinance 2011-19.
- G. Florida Building Code (FBC).
- H. Notwithstanding any other provision of the Agreement, Contractor shall not be required pursuant to the Agreement to take any action or abstain from taking any action if such action or abstention would, in the good faith determination of the Contractor, constitute a violation of any law or regulation to which Contractor is subject, including, but not limited to,

laws and regulations requiring that Contractor conduct its operations in a safe and sound manner.

1.80 NONDISCRIMINATION

During the performance of this Contract, Contractor agrees to not discriminate against any employee or applicant for employment because of race, religion, color, sex, handicap, marital status, age or national origin, and will take affirmative action to ensure that they are afforded equal employment opportunities without discrimination. Such action shall be taken with reference to, but not be limited to, recruitment, employment, termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on-the-job training. By entering into this Contract with the Town, the Contractor attests that it is not in violation of the Americans with Disabilities Act of 1990 (and related Acts). If the Contractor or any owner, subsidiary or other firm affiliated with or related to the Contractor is found by the responsible enforcement agency or the Town to be in violation of the Act, such violation shall render this Contract void. This Contract shall be void if the Contractor submits a false affidavit or the Contractor violates the Act during the term of this Contract, even if the Contractor was not in violation at the time it submitted its affidavit.

1.81 CONFLICT OF INTEREST

The Contractor represents that:

- A. No officer, director, employee, agent, or other consultant of the Town or a member of the immediate family or household of the aforesaid has directly or indirectly received or been promised any form of benefit, payment or compensation, whether tangible or intangible, in connection with the grant of the Agreement.
- B. There are no undisclosed persons or entities interested with the Contractor in the Agreement. The Agreement is entered into by the Contractor without any connection with any other entity or person making a proposal for the same purpose, and without collusion, fraud or conflict of interest. No elected or appointed officer or official, director, employee, agent or other consultant of

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the Town, or of the State of Florida (including elected and appointed members of the legislative and executive branches of government), or member of the immediate family or household of any of the aforesaid:

1. Is interested on behalf of or through the Contractor directly or indirectly in any manner whatsoever in the execution or the performance of the Agreement, or in the services, supplies or work, to which the Agreement relates or in any portion of the revenues; or
 2. Is an employee, agent, advisor, or consultant to the Contractor or to the best of the Contractor's knowledge, any subcontractor or supplier to the Contractor.
- C. Neither the Contractor nor any officer, director, employee, agent, parent, subsidiary, or affiliate of the Contractor shall have an interest which is in conflict with the Contractor's faithful performance of its obligations under the Agreement; provided that the Town, in its sole discretion, may consent in writing to such a relationship, and provided the Contractor provides the Town with a written notice, in advance, which identifies all the individuals and entities involved and sets forth in detail the nature of the relationship and why it is in the Town's best interest to consent to such relationship.
- D. The provisions of this Article are supplemental to, not in lieu of, all applicable laws with respect to conflict of interest. In the event there is a difference between the standards applicable under the Agreement and those provided by statute, the stricter standard shall apply.
- E. In the event Contractor has no prior knowledge of a conflict of interest as set forth above and acquires information which may indicate that there may be an actual or apparent violation of any of the above, Contractor shall promptly bring such information to the attention of the Town's Project Administrator. Contractor shall thereafter cooperate with the Town's review and investigation of such information, and comply with the instructions Contractor receives from the

Project Administrator in regard to remedying the situation.

1.82 PRESS RELEASE OR OTHER PUBLIC COMMUNICATION

Under no circumstances shall the Contractor, its employees, agents, subcontractors and suppliers, without the express written consent of the Town:

- A. Issue or permit to be issued any press release, advertisement or literature of any kind which refers to the Town, or the Work being performed hereunder, unless the Contractor first obtains the written approval of the Town. Such approval may be withheld if for any reason the Town believes that the publication of such information would be harmful to the public interest or is in any way undesirable; and
- B. Communicate in any way with any contractor, department, board, agency, council or other organization or any person whether governmental or private in connection with the Services to be performed hereunder except upon prior written approval and instruction of the Town; and
- C. Represent, directly or indirectly, that any product or service provided by the Contractor or such parties has been approved or endorsed by the Town, except as may be required by law.

1.83 BANKRUPTCY

The Town reserves the right to terminate this contract if, during the term of any contract the Contractor has with the Town, the Contractor becomes involved as a debtor in a bankruptcy proceeding, or becomes involved in a reorganization, dissolution, or liquidation proceeding, or if a trustee or receiver is appointed over all or a substantial portion of the property of the Contractor under federal bankruptcy law or any state insolvency law.

1.84 GOVERNING LAW

This Contract, including appendices, and all matters relating to this Contract (whether in contract, statute, tort (such as negligence), or otherwise) shall be governed by, and construed in accordance with, the laws of the State of Florida.

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1.85 SURVIVAL

The parties acknowledge that any of the obligations in the Agreement will survive the term, termination and cancellation hereof. Accordingly, the respective obligations of the Contractor and the Town under the Agreement, which by nature would continue beyond the termination, cancellation or expiration thereof, shall survive termination, cancellation or expiration hereof.

1.86 CANCELLATION FOR UNAPPROPRIATED FUNDS

The obligation of the Town for payment to a Contractor is limited to the availability of funds appropriated in a current fiscal period, and continuation of the contract into a subsequent fiscal period is subject to appropriation of funds, unless otherwise authorized by law.

1.87 ASBESTOS STATEMENT

All material supplied must be 100% asbestos free. Bidder, by virtue of bidding, certifies that if awarded any portion of the ITB he will supply only material or equipment that is 100% asbestos free.

1.88 VERBAL INSTRUCTIONS PROCEDURE

No negotiations, decisions, or actions shall be initiated or executed by the Contractor as a result of any discussions with any Town employee. Only those communications which are in writing from an authorized Town representative may be considered. Only written communications from Contractors, which are assigned by a person designated as authorized to bind the Contractor, will be recognized by the Town as duly authorized expressions on behalf of Contractors.

1.89 COST ADJUSTMENTS

The cost for all items as quoted herein shall remain firm for the first five years of the contract. Costs for subsequent years and any extension term years shall be subject to an adjustment only if increases occur in the industry. However, unless very unusual and significant changes have occurred in the industry, such increases shall not exceed 3% per year or, whichever is less, the latest yearly percentage increase in the All Urban Consumers Price Index (CPU-U) (National) as published by the Bureau of Labor

Statistics, U.S. Dept. of Labor. The yearly increase or decrease in the CPI shall be that latest index published and available ninety (90) days prior to the end of the contract year then in effect compared to the index for the same month one year prior. Any requested cost increase shall be fully documented and submitted to the Town at least ninety (90) days prior to the contract anniversary date. Any approved cost adjustments shall become effective upon the anniversary date of the contract. In the event the CPI or industry costs decline, the Town shall have the right to receive from the Contractor reduction in costs that reflect such cost changes in the industry. The Town may, after examination, refuse to accept the adjusted costs if they are not properly documented, increases are considered to be excessive, or decreases are considered to be insufficient. In the event the Town does not wish to accept the adjusted costs and the matter cannot be resolved to the satisfaction of the Town, the contract can be cancelled by the Town upon giving thirty (30) days written notice to the Contractor.

1.90 PROHIBITION OF INTEREST

No contract will be awarded to a bidding firm who has Town elected officials, officers or employees affiliated with it, unless the bidding firm has fully complied with current Florida State Statutes and Town Ordinances relating to this issue. Bidders must disclose any such affiliation. Failure to disclose any such affiliation will result in disqualification of the Bidder or termination of the agreement, removal of the Bidder from the Town's bidder lists, and prohibition from engaging in any business with the Town.

1.91 NO CONTINGENT FEES

Vendor warrants that it has not employed or retained any company or person other than a bona fide employee working solely for the Vendor to solicit or secure the Agreement, and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the Vendor any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of the Agreement. For the breach or infraction of this provision, the Town shall have the right to terminate the Agreement without liability at its discretion, to deduct from the contract price, or otherwise recover the

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- full amount of such fee, commission, percentage, gift or consideration.
- 1.92 E-VERIFY**
- Contractor acknowledges that the Town may be utilizing the Contractor's services for a project that is funded in whole or in part by State funds pursuant to a contract between the Town and a State agency. Contractor shall be responsible for complying with the E-Verify requirements in the contract and using the U.S. Department of Homeland Security's E-Verify system to verify the employment of all new employees hired by Contractor during the Agreement term. The Contractor is also responsible for e-verifying its subcontractors, if any, pursuant to any agreement between the Town and a State Agency, and reporting to the Town any required information. Contractor acknowledges that the terms of this paragraph are material terms, the breach of any of which shall constitute a default under the Agreement.
- 1.93 FORCE MAJEURE**
- The Agreement which is awarded to the successful proposer may provide that the performance of any act by the Town or Contractor hereunder may be delayed or suspended at any time while, but only so long as, either party is hindered in or prevented from performance by acts of God, the elements, war, rebellion, strikes, lockouts or any cause beyond the reasonable control of such party, provided however, the Town shall have the right to provide substitute service from third parties or Town forces and in such event the Town shall withhold payment due Contractor for such period of time. If the condition of force majeure exceeds a period of 14 days the Town may, at its option and discretion, cancel or renegotiate the Agreement.
- 1.94 BUDGETARY CONSTRAINTS**
- In the event the Town is required to reduce contract costs due to budgetary constraints, all services specified in this document may be subject to a permanent or temporary reduction in budget. In such an event, the total cost for the affected service shall be reduced as required. The Contractor shall also be provided with a minimum 30-day notice prior to any such reduction in budget.
- 1.95 ANNEXATION**
- Contractor agrees to extend all terms, conditions and pricing in the Agreement and any amendments thereto, to any areas annexed into the Town.
- 1.96 LITIGATION VENUE**
- The parties waive the privilege of venue and agree that all litigation between them in the state courts shall take place in Broward County, Florida and that all litigation between them in the federal courts shall take place in the Southern District of Florida.
- 1.97 SOVEREIGN IMMUNITY**
- Nothing in the Agreement shall be interpreted or construed to mean that the Town waives its common law sovereign immunity or the limits on liability set forth in Section 768.28, Florida Statute.

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The Town of Davie is seeking informal bids for the purchase of **Snow for the Town of Davie annual event.**

Description

- Provide 20 tons of ground cover snow for annual holiday event to be held on December 10, 2016.
- Snow will be blown on the ground in the south side of the Bergeron Rodeo Grounds under the two designated tents provided by the Town of Davie
- Snow must be blown and trucks removed by 5:45pm on the same day.
- The successful bidder will be awarded a one (1) year term contract.
- Contract may be extended for two (2) one year periods by mutual written agreement of both the parties

Delivery

Delivery on December 10, 2016

Deliver To: Town of Davie
Bergeron Rodeo Grounds of Davie, Florida
4271 Orange Drive
Davie, Florida 33314

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PRICING PAGE

Bidding Company: _____

Description	Price
20 tons of ground cover Snow (including labor & delivery)	\$ _____
Total Bid Amount	\$ _____

To be delivered on December 10, 2016
Must be blown & trucks removed by 5:45pm

Our company does ____ does not ____ accept the Town of Davie VISA credit card as a form of payment

Executed by (signature): _____

Print Name: _____

Company: _____

Address: _____

Phone: _____ Fax: _____

Email: _____

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ATTACHMENT "A"

NON-COLLUSIVE AFFIDAVIT

STATE OF _____
COUNTY OF _____

_____ being first duly sworn deposes and says that:

BIDDER is the
(Owner, Partner, Officer, Representative or Agent)

BIDDER is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;

Such Bid is genuine and is not a collusive or sham Bid;

Neither the said BIDDER nor any of its officers, partners, owners, agents, representative, employees or parties in interest, including this affidavit, have in any way colluded, conspired, connived or agreed, directly or indirectly, with any other BIDDER, firm or person to submit a collusive or sham Bid in connection with the Contract for which the attached Bid has been submitted; or to refrain from bidding in connection with such Contract; or have in any manner, directly or indirectly, sought by agreement or collusion, or communications, or conference with any BIDDER, firm, or person to fix the price or prices in the attached Bid or any other BIDDER, or to fix any overhead, profit, or cost element of the Bid Price or the Bid Price of any other BIDDER, or to secure through any collusion conspiracy, connivance, or unlawful agreement any advantage against (Recipient), or any person interested in the proposed Contract;

The price of items quoted in the attached Bid are fair and proper and are not tainted by collusion, conspiracy, connivance, or unlawful agreement on the part of the BIDDER or any other of its agents, representatives, owners, employees or parties in interest, including this affidavit.

By _____

Subscribed and sworn to before me this _____ day of _____, 20____.

Notary Public (Signature)
My Commission Expires: _____

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ATTACHMENT "B"



**TOWN OF DAVIE
E-VERIFY FORM**

Bid No: _____

Project Description: _____

Vendor/Consultant 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 Vendor/Consultant to perform employment duties within Florida during the term of the contract; and
- (b) all persons (including SUBCONTRACTORS/SUBVENDORS) assigned by Vendor/Consultant to perform work pursuant to the contract with the Department. The Vendor/Consultant 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 Town of Davie.

Company/Firm: _____

Authorized Signature: _____

Print Name

Title: _____

Date: _____

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ATTACHMENT “C”

CONFIRMATION OF DRUG-FREE WORKPLACE

In order to have a drug-free workplace program, a business shall:

Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibitions.

Inform employees about the dangers of drug abuse in the workplace, the business’s policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.

Give each employee engaged in providing the commodities or Contractual services that are under Bid a copy of the statement specified in subsection (1).

In the statement specified in subsection (1), notify the employee that, as a condition of working on the commodities or Contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States or any State, for a violation occurring in the workplace no later than five (5) days after the conviction.

Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee’s community by, any employee who is so convicted.

Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

A signed copy of your Drug-Free Workplace Policy must be attached to this signed copy and submitted with the Bid Documents.

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

Proposers Signature

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ATTACHMENT "D"

EMPLOYEE BACKGROUND VERIFICATION AFFIDAVIT

I, _____, Company_____.

Attest that all personnel used in the performance of this work have had a criminal background check, and have no criminal offenses, a negative drug test result, and are legally documented to work in the United States.

The Town of Davie requests copies of the criminal back ground checks and drug test results.

Proposer's Signature_____

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ATTACHMENT "E"

**Town of Davie
Vendor/Bidder Disclosure**

I, _____, being first duly sworn state that:
The full legal name and business address of the person(s) or entity contracting with the Town of Davie ("Town") are as follows (Post Office addresses are not acceptable):

Name of Individual, Firm, or Organization: _____

Address: _____

FEIN _____

State and date of incorporation _____

OWNERSHIP DISCLOSURE AFFIDAVIT

1. If the contract or business transaction is with a corporation, the full legal name and business address shall be provided for each officer and director and each stockholder who directly or indirectly holds five percent (5%) or more of the corporation's stock. If the contract or business transaction is with a trust, the full name and address shall be provided for each trustee and each beneficiary. All such names and address are as follows (Post Office addresses are not acceptable):

Full Legal Name	Address	Ownership
_____	_____	_____%
_____	_____	_____%
_____	_____	_____%

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_____ %

2. The full legal names and business addresses of any other individual (other than subcontractors, suppliers, laborers, and lenders) who have, or will have, any legal, equitable, or beneficial interest in the contract or business transaction with the Town are as follows (Post Office addresses are not acceptable):

Full Legal Name

Address

_____	_____
_____	_____
_____	_____
_____	_____

By: _____
Signature of Affiant

Date: _____

Print Name

SUBSCRIBED AND SWORN TO or affirmed before me this _____ day of _____ 20 __, by _____, he/she is personally known to me or has presented _____ as identification.

Notary Public, State of Florida at Large

Print or Stamp of Notary

Serial Number

My Commission Expires : _____

**Town of Davie
Parks, Recreation & Cultural Arts Department
Special Events Division
Purchase of Snow for Annual Event
B-16-154**



**Town of Davie
Local Vendor Preference**

Affidavit of Eligibility

Complete all areas below. Incomplete forms may be rejected.

_____ My business is located within the Town of Davie.

LEGAL NAME OF FIRM: _____

Physical address:

Phone number _____ Fax number _____

Email address _____

Has the business name changed since it was opened in Davie? Yes _____ No _____

If Yes please provide the previous business name: _____

Taxpayer Identification Number: _____

Date your business was established in Town of Davie: _____

Business license: License number: _____ Date issued: _____

_____ A copy of my Business Tax Receipt is attached.

I employ _____ (insert a number) full time employees.

If your business is a Broward County business but not located within the Town of Davie please fill out the information on the next page.

**Town of Davie
Parks, Recreation & Cultural Arts Department
Special Events Division
Purchase of Snow for Annual Event
B-16-154**



**Town of Davie
Local Vendor Preference
Broward County Vendor**

Affidavit of Eligibility

Complete all areas below. Incomplete forms may be rejected.

_____ My business is located within Broward County but not in the Town of Davie.

LEGAL NAME OF FIRM: _____

Physical address:

Phone number _____ Fax number _____

Email address _____

Has the business name changed since it was opened in Broward County? Yes _____ No _____

If Yes please provide the previous business name: _____

Taxpayer Identification Number: _____

Date your business was established in Broward County: _____

Business license: License number: _____ Date issued: _____

_____ A copy of my Business Tax Receipt is attached.

I employ _____ (insert a number) full time employees.

The undersigned states that the forgoing statements are true and correct. The undersigned also acknowledges that any person, firm, corporation or entity intentionally submitting false information to the Town in an attempt

**Town of Davie
Parks, Recreation & Cultural Arts Department
Special Events Division
Purchase of Snow for Annual Event
B-16-154**

to qualify for local preference shall be prohibited from bidding on Town of Davie products and services for a period of one (1) year.

Authorized Signature: _____ Date: _____

Printed Name & Title: _____

Form W-9 (Rev. October 2007) Department of the Treasury Internal Revenue Service	Request for Taxpayer Identification Number and Certification	Give form to the requester. Do not send to the IRS.
--	---	--

Print or type See Specific Instructions on page 2.	Name (as shown on your income tax return)	
	Business name, if different from above	
	Check appropriate box: <input type="checkbox"/> Individual/Sole proprietor <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Limited liability company. Enter the tax classification (D=disregarded entity, C=corporation, P=partnership) ◆ <input type="checkbox"/> Exempt payee <input type="checkbox"/> Other (see instructions) ◆	
	Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
	City, state, and ZIP code	
List account number(s) here (optional)		

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

	Social security number : : : : : :
	or
	Employer identification number : : : : : :

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. citizen or other U.S. person (defined below).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here	Signature of U.S. person ◆	Date ◆
------------------	----------------------------	--------

General Instructions
 Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA. Use Form W-9 only if you are a U.S. person (including a resident

Town of Davie
Parks, Recreation & Cultural Arts Department
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alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
 - An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,

- The U.S. grantor or other owner of a grantor trust and not the trust, and
- The U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person, do not use Form W-9. Instead, use the appropriate Form W-8 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity not subject to backup withholding, give the requester the appropriate completed Form W-8.

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),
3. The IRS tells the requester that you furnished an incorrect TIN,

4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or

5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the instructions below and the separate Instructions for the Requester of Form W-9.

Also see *Special rules for partnerships* on page 1.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Name

If you are an individual, you must generally enter the name shown on your income tax return. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

Sole proprietor. Enter your individual name as shown on your income tax return on the "Name" line. You may enter your business, trade, or "doing business as (DBA)" name on the "Business name" line.

Limited liability company (LLC). Check the "Limited liability company" box only and enter the appropriate code for the tax classification ("D" for disregarded entity, "C" for corporation, "P" for partnership) in the space provided.

For a single-member LLC (including a foreign LLC with a domestic owner) that is disregarded as an entity separate from its owner under Regulations section 301.7701-3, enter the owner's name on the "Name" line. Enter the LLC's name on the "Business name" line.

For an LLC classified as a partnership or a corporation, enter the LLC's name on the "Name" line and any business, trade, or DBA name on the "Business name" line.

Other entities. Enter your business name as shown on required federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name" line.

Note. You are requested to check the appropriate box for your status (individual/sole proprietor, corporation, etc.).

Exempt Payee

If you are exempt from backup withholding, enter your name as described above and check the appropriate box for your status, then check the "Exempt payee" box in the line following the business name, sign and date the form.

Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends.

Note. If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

The following payees are exempt from backup withholding:

1. An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2),
 2. The United States or any of its agencies or instrumentalities,
 3. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities,
 4. A foreign government or any of its political subdivisions, agencies, or instrumentalities, or
 5. An international organization or any of its agencies or instrumentalities.
- Other payees that may be exempt from backup withholding include:
6. A corporation,
 7. A foreign central bank of issue,
 8. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States,
 9. A futures commission merchant registered with the Commodity Futures Trading Commission,
 10. A real estate investment trust,
 11. An entity registered at all times during the tax year under the Investment Company Act of 1940,
 12. A common trust fund operated by a bank under section 584(a),
 13. A financial institution,
 14. A middleman known in the investment community as a nominee or custodian, or
 15. A trust exempt from tax under section 664 or described in section 4947.

The chart below shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 15.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 9
Broker transactions	Exempt payees 1 through 13. Also, a person registered under the Investment Advisers Act of 1940 who regularly acts as a broker
Barter exchange transactions and patronage dividends	Exempt payees 1 through 5
Payments over \$600 required to be reported and direct sales over \$5,000	Generally, exempt payees 1 through 7

¹ See Form 1099-MISC, Miscellaneous Income, and its instructions.

² However, the following payments made to a corporation (including gross proceeds paid to an attorney under section 6045(f), even if the attorney is a corporation) and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, and payments for services paid by a federal executive agency.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited liability company (LLC)* on page 2), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note. See the chart on page 4 for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration office or get this form online at www.ssa.gov. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/businesses and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting www.irs.gov or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note. Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded domestic entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 4, and 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). Exempt payees, see *Exempt Payee* on page 2.

Signature requirements. Complete the certification as indicated in 1 through 5 below.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor ²
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee ¹
b. So-called trust account that is not a legal or valid trust under state law	The actual owner ¹
5. Sole proprietorship or disregarded entity owned by an individual	The owner ³
For this type of account:	Give name and EIN of:
6. Disregarded entity not owned by an individual	The owner
7. A valid trust, estate, or pension trust	Legal entity ⁴
8. Corporate or LLC electing corporate status on Form 8832	The corporation
9. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
10. Partnership or multi-member LLC	The partnership
11. A broker or registered nominee	The broker or nominee
12. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity

Secure Your Tax Records from Identity Theft

Identity theft occurs when someone uses your personal information such as your name, social security number (SSN), or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

Call the IRS at 1-800-829-1040 if you think your identity has been used inappropriately for tax purposes.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes.

Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to phishing@irs.gov. You may also report misuse of the IRS name, logo, or other IRS personal property to the Treasury Inspector General for Tax Administration at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at: spam@uce.gov or contact them at www.consumer.gov/idtheft or 1-877-IDTHEFT(438-4338).

Visit the IRS website at www.irs.gov to learn more about identity theft and how to reduce your risk.

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ You must show your individual name and you may also enter your business or "DBA" name on the second name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

⁴ List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships* on page 1.

Note. If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons who must file information returns with the IRS to report interest, dividends, and certain other income paid to you, mortgage interest you paid, the acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA, or Archer MSA or HSA. The IRS uses the numbers for identification purposes and to help verify the accuracy of your tax return. The IRS may also provide this information to the Department of Justice for civil and criminal litigation, and to cities, states, the District of Columbia, and U.S. possessions to carry out their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

You must provide your TIN whether or not you are required to file a tax return. Payers must generally withhold 28% of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to a payer. Certain penalties may also appl

LOBBYING INTEREST

Respondents should refer to Sec. 2-57 of the attached form for complete definition of terms.

I, _____ representing _____
declare that I have read the attached form and that (check one):

_____ My company is not interested in lobbying either staff or elected officials on any subject associated with this Request for Proposal (RFP)

_____ My company is interested in lobbying either staff or elected officials on matters associated with this Request for Proposal (RFP). I understand that in order to lobby, I must fill out the attached form and submit it to the Town Clerk’s Office along with a registration fee of \$50.00.

Title of RFP: _____

Bidder Name: _____

Address: _____

Phone Number: _____

Fax Number: _____

e-mail Address: _____

Signature: _____

Print Name: _____

LOBBYING INTEREST

Respondents should refer to Sec. 2-57 of the attached form for complete definition of terms.

I, _____ representing _____ declare that I have read the attached form and that (check one):

_____ My company is not interested in lobbying either staff or elected officials on any subject associated with this Request For Proposal (RFP)

_____ My company is interested in lobbying either staff or elected officials on matters associated with this Request For Proposal (RFP). I understand that in order to lobby, I must fill out the attached form and submit it to the Town Clerk's Office along with a registration fee of \$50.00.

Title of RFP: _____

Bidder Name: _____

Address: _____

Phone Number: _____

Fax Number: _____

Email Address: _____

Signature: _____

Print Name: _____

ORDINANCE NO. 2012-17

AN ORDINANCE OF IBE TOWN OF DAVIE, FLORIDA, AMENDING CHAPTER 2, ARTICLE IV OF THE TOWN OF DAVIE CODE OF ORDINANCES TO COMPLY WITH PROVISIONS OF THE BROWARD COUNTY CODE OF ETHICS FOR ELECTED OFFICIALS BY REVISING DEFINITIONS, PROVIDING FOR DISCLOSURES, PROVIDING FOR A REGISTRATION FEE, PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Davie determines and declares that open and responsible operation of municipal government requires that the fullest opportunity be afforded to the people to petition and freely express to their elected and appointed officials, their opinions on legislation and other actions and issues; and

WHEREAS, in order to preserve and maintain the integrity of the governmental decision making process, it is necessary that the identity and activities of certain persons who engage in efforts to influence Councilmember's either by direct communication to such officials or by solicitation of others to engage in such efforts be publicly and regularly disclosed; and

WHEREAS, the Broward County Commission enacted an ethics code for elected officials that became effective on January 2, 2012 which provides definitions for lobbyists, and lobbying activities; and

WHEREAS, the Ethics Code for Elected Officials also requires that lobbyists register with the municipality prior to engaging in lobbying activity; and

WHEREAS, the Town of Davie desires to amend Chapter 2, Article IV of the Code of Ordinances to incorporate definitions and lobbyist registration requirements as outlined in the Broward County Ethics Code for Elected Officials; and

WHEREAS, the Town of Davie seeks to recoup the costs of registering lobbyists and maintaining the disclosure requirements as set forth in the Ethics Code for Elected Officials by establishing a fee.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION L That Chapter 2 of the Code of the Town of Davie is hereby amended by adding thereto Article IV to read as follows:

ARTICLE IV. REGISTRATION OF LOBBYISTS

Sec. 2-56 INTENT AND PURPOSE.

The Town Council of the Town of Davie detemlines and declares that, to maintain the integrity of the government decision making process, the Town of Davie Councilmember’s, Staff and residents have a legitimate need to know certain information about the activities of "lobbyists", as defined in this ordinance. The Town Council also finds that "lobbying", as defined in this ordinance, is a legitimate form of free speech, which is frequently an important and necessary part of the legislative process. As such, this ordinance seeks to impose the least burden which is reasonably necessary on lobbyists, in order to satisfy this public need for information.

Sec. 2-57 DEFINITIONS.

(a) "Candidate" means an individual who is conducting a campaign for a elected office in the Town of Davie, Florida.

(b) "Campaign" means the election process for any elected Municipal Official whether opposed or not and whether a special or regular election, beginning with the date of officially filing for office with the Town Clerk and ending with the last day of voting which finally determines the outcome of the election.

(c) "Covered Individual" means (i) any member of the Town of Davie Council (ii) any member of a final decision-making body under the Town of Davie (iii) any individual directly appointed to a Town employment position by the Town Council, (iv) any individual serving on a contractual basis as the Town Attorney or Town Administrator, when such individual is acting in his or her official capacity; (v) any member of a selection, evaluation, or procurement committee that ranks or makes recommendations to the Town Council regarding a municipal procurement; (vi) any employee, any official, or any member of a committee of the Town that has authority to make a final decision regarding a public procurement; and (vii) the head of any department, division, or office of the Town who makes final recommendations to the Town Council regarding items that will be decided by the final decision-making authority. For purposes of the prohibition on lobbying under section (c)(2) below, "Covered Individual" also includes members of other local governmental entities within Broward County, including authorities, quasi-judicial boards, appointed boards, and commissions.

(d) "Economic consideration" means something of actual monetary value.

(e) *Elected Official means* any member of the Town of Davie Town Council and any Municipal Official as defined below.

(f) "Immediate family" means either a father, mother, sister, brother, child, spouse or person residing in the same residential unit.

(g) "Legislation" means any ordinance, resolution, or proposal of any kind which is the subject of present or prospective action by the Town Council.

(f) ~~Removed~~

(h) "Lobbying" or "Lobbying Activities" means a communication, by any means, from a lobbyist to a covered individual regarding any item that will foreseeable be decided by a final decision-making authority, which communication seeks to influence, convince, or persuade the covered individual to support or oppose the item.

~~(g) "Lobbyist" means a person who is employed or receives payment, or who contracts for economic consideration, for the purpose of lobbying, or a person who is principally employed for the purpose of influencing governmental affairs by another person or governmental entity to lobby on behalf of that other person or governmental entity. An employee of the principal is not a "lobbyist" unless the employee is principally employed for the purpose of influencing governmental affairs. "Principally employed for the purpose of influencing governmental affairs" means that one of the principal or most significant responsibilities of the employee to the employer is overseeing the employer's various relationships with government or representing the employer in its contacts with government. The following persons are excluded from the definition of "Lobbyist":~~

- ~~1. Persons who are solely responding to the direct inquiry of a Town Official.~~
2. Town Officials acting in the course of official Town business.

"Lobbyist" means a person who is retained, with or without compensation, for the purpose of lobbying, or a person who is employed by another person or entity, on a full-time or part-time basis, principally to lobby on behalf of that other person or entity. "Lobbyist" does not include a person who is:

- a. An Elected Official, employee, or appointee of Broward County or of any municipality within Broward County communicating in his or her official capacity.
- b. An individual who communicates on his or her own behalf, or on behalf of a person or entity employing the individual on a full-time or part-time basis, unless the individual is principally employed by that person or entity to lobby.
- c. Any employee, officer, or board member of a homeowners' association, condominium association, or neighborhood association when addressing, in his or her capacity as an employee, officer, or board member of such association, an issue impacting the association or its members; or
- d. Any employee, an officer, or a board member of a nonprofit public interest entity (e.g., Sierra Club, NAACP, ACLU) when addressing an issue impacting a constituent of that entity.

G) "Municipal Official" means any individual serving as a member of the governing body of a municipality within Broward County or serving as a municipal mayor within Broward County.

(k) "Ordinance" means the Town of Davie, Florida, Ordinance for the Registration of Lobbyists.

(l) "Person" means any individual, business, corporation, association, partnership, governmental agency or other association recognized as a legal entity pursuant to Florida law.

- (m) "Principal" means the person for or upon whose behalf the lobbyist is lobbying .
- (n) "Registration" means providing the information required by this ordinance, in writing, annually, and in Supplements and Amendments, as may be required. "Register "means to provide a registration in such a manner.
- (o) "Town" means the Town of Davie, Florida.

Sec. 2-58 REGISTRATION.

(a) Prior to engaging in lobbying activities, every lobbyist shall register with the Town by filing with the Town Clerk the following information in writing:

(1) The name, address and telephone number of the lobbyist is required on every, amended, and supplemental registration. The "address" must be a physical address (e.g. not a Post Office Box) where the lobbyist either resides or customarily does business .

(2) The nature and extent of any business, professional or familial relationship which the lobbyist, or any member of the lobbyist's immediately family, has had with any Municipal Official, or member of the immediate family of any Municipal Official within the period of time commencing twenty-four (24) months prior to registration and extending through the date of registration. No disclosure would be required of any such relationship existing prior to the effective date of this ordinance.

(3) The nature and extent of any involvement, activity or assistance, whether paid or voluntary, by any lobbyist, or any member of the lobbyist 's immediate family, with the current or the most recent campaign of any current elected Municipal Official, or current candidate for Town Council.

(4) Name, address and phone number of the lobbyist's principal(s), if known at the time of registration. The "address" must be a physical address (e.g. not a Post Office Box) where the principal either resides or customarily does business.

(5) The general and specific matters upon which the lobbyist intends to lobby, if known at the time of registration.

(b) There shall be ae a fee in the amount of \$50 (Fifty Dollars) charged by the Town, for each principal represented and by each any lobbyist. Such fee shall cover the cost of registering and maintaining a database of lobbyists as required by the Broward County Code of Ethics for Elected Officials. Said fee may be amended as needed by resolution.

(c) The registration information, and any supplement or amendment shall be filed in the Town Clerk's office. The registration must be signed by the lobbyist and attested to under penalty of perjury. The Town Clerk may approve a form of registration consistent with this ordinance, which shall be used in all cases, except where unavailable.

(d) Registration will be yearly, running from October 1st to September 30th of each year, and shall be renewed for each year during which lobbying activities are to take place. Only one annual registration form is required, per principal, per lobbyist.. However, if any of the information required in the registration form is new or changed (for example, a new principal, as defined by this ordinance, or a

new specific subject of lobbying), then the Lobbyist must supplement or amend the registration before additional lobbying.

(e) Notwithstanding any provision to the contrary in this Ordinance, no lobbyist shall be required to register only because the lobbyist has spoken at any public hearing or public meeting of the Town of Davie.

Sec. 2-59. CONDUCT OF PRINCIPALS AND OF TOWN COUNCIL.

(a) Any principal who retains a lobbyist(s) in the Town shall take reasonable measures to supervise and monitor its lobbyist(s) to insure compliance with this Ordinance.

(b) Any Councilmember who has actual knowledge and recollection of a lobbyist who fails to register as required in this Ordinance, or of a lobbyist who makes a material misrepresentation in Registration shall disclose same in writing to the Town Clerk as soon as reasonably practical. Failure to make such disclosure shall subject the Councilmember to a penalty as provided for in Section 2-61(a). Nothing in this section shall require any inquiry by any Councilmember to ascertain the compliance by any person with this Ordinance, nor does this section imply that any Councilmember is required to remember all of his or her past dealings with lobbyists.

Sec. 2-60. GENERAL CONSTRUCTION.

(a) Examples and section headings are provided for clarity and for purposes of illustration only. Examples are not intended to imply that the illustration is the sole or exclusive possibility.

(b) All language and terms in this ordinance shall be construed according to the definitions contained in the ordinance. If there is no explicit definition in this ordinance, then the language or term shall be construed according to the ordinary legal meaning in Florida; or if there is no ordinary legal meaning in Florida, then according to the ordinary and reasonable meaning to residents of the Town.

(c) Lobbyist registrations must be true and accurate for matters of which the lobbyist has actual knowledge, or which the lobbyist may ascertain through reasonably diligent inquiry.

Sec. 2-61. PENALTIES.

| A "Penalty" in this ordinance means the penalties specified in the Town of Davie Code of Ordinances, Section 1-9 ("General penalty; continuing violations"); or in the event said Section 1-9 is repealed or superseded, the general penalty specified by Town of Davie Code of Ordinances for violations of the Town of Davie Code of Ordinances. However, notwithstanding any language to the contrary in the general Code provisions for penalties, the maximum penalty for violation of this Lobbyist ordinance shall not exceed five hundred dollars (\$500.00). This ordinance shall be enforced by issuance of a notice to appear in County Court as authorized by Section 162.22, Florida Statutes, as it may be amended from time to time.

| Any lobbyist who fails to register or willfully violates this ordinance shall be subject to a penalty, as provided in subsection (a) above; and additionally shall be subject to imposition by the Town Council of a prohibition of further lobbying in the Town for up to one year.

| Any Councilmember or Principal who knowingly and willfully directs or permits a lobbyist to violate this ordinance shall be subject to a penalty as provided in subsection 2-61(a).

SECTION 2. All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 3. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance.

SECTION 4. This Ordinance shall take effect sixty (60) days after its passage and adoption.

PASSED ON FIRST READING THIS 1ST DAY OF AUGUST, 2012.

PASSED ON SECOND READING THIS 15TH DAY AUGUST 2012.

Judy Paul
MAYOR/COUNCILMEMBER

f/

ATTEST.

[Signature]

Asst. TOWN CLERK

APPROVED THIS DAY

TOWN OF DAVIE LOBBYIST'S REGISTRATION STATEMENT AND OATH

Registration will be annual, from October 1st to September 30th, and shall be renewed for each year during which lobbying activities are to take place. Only one annual registration form is required. If, however, any of the information required on the registration form is new or changed (for example, a new principal, as defined by Section 2-57 of Ordinance 2012-17, or a new specific subject of lobbying), the Lobbyist must then supplement or amend the registration before additional lobbying. (Ordinance 2012-17, Section 2-58(d))

LOBBYIST INFORMATION (Ordinance 2012-17, Section 2-58(a)(1))

Name _____

Address _____

{ must be a physical address (e.g. not a Post Office Box) where the lobbyist resides or customarily does business)

City _____ State _____ Zip _____ Telephone _____

Explain the nature and extent of any business, professional or familial relationship which the lobbyist, or any member of the lobbyist's immediate family, has had with any Town official, or member of the immediate family of any Town official within the period of time commencing twenty-four (24) months prior to registration.

Explain the nature and extent of any involvement, activity or assistance, whether paid or voluntary, by any lobbyist, or any member of the lobbyist's immediate family, with the current or the most recent campaign of any current elected Town official, or current candidate for Town Council. (2012-017, Section 2-58(a)(3))

LOBBYIST'S PRINCIPAL(S) INFORMATION (Ordinance 2012-17, Section 2-58(a)(4))

Name _____

Address _____
(must be a physical address (e.g. not a Post Office Box) where the principal resides or customarily does business)

City _____ State _____ Zip _____

Telephone _____

Explain the general and specific matters upon which the lobbyist intends to lobby, if known at the time of registration. *H not* known at time of filing, the registration must be supplemented when the matter is determined. (Ordinance 2012-017,Section 2-58(a)(5))

I hereby acknowledge that I have received a copy of Ordinance 2012-17, concerning registration of lobbyists and acknowledge that any violation of this Ordinance shall result in penalties as stated in said Ordinance. I further acknowledge that this form must be accompanied by payment in the amount of \$50 for each principal represented and by each lobbyist. (Ordinance 2012-17,Section 2-58(b))

I hereby attest and affirm under penalty of perjury, that the facts contained herein are true and correct. Further, I understand that I am required to notify the Town Clerk, in writing, of any changes to the information contained herein and that I am required to complete a lobbyist statement for each new principal or subject matter which occurs throughout the year.

Signature of Lobbyist

STATE OF FLORIDA) _____
) SS:
COUNTY OF)

Sworn to and subscribed before me this _____ day of _____ 20__ by _____ who is personally known to me or who has produced _____ as identification.

My Commission expires _____

Name _____ Signature _____

**Town of Davie
Parks and Recreation Department
Purchase of a Wibit Slope
B-16-123**

ATTACHMENT "G"
SIGNATURE PAGE

The undersigned attests to their authority to submit this proposal and to bind the firm(s) herein named to perform as per agreement. Further, by signature, the undersigned attests to the following:

1. The Proposer is sufficiently experienced and competent to perform all of the work required of the Proposer in the Contract;
2. The facts stated in the Proposers response pursuant to Request for Proposals, instructions to Proposer and Specifications are true and correct in all respects;
3. The Proposer has read and complied with, and submits their proposal agreeing to all of the requirements, terms and conditions as set forth in the Request for Proposals.

7. Proposer understands that all information listed above may be checked by the TOWN and Proposer authorizes all entities or persons listed above to answer any and all questions. Proposer hereby indemnifies the TOWN and the persons and entitles listed above and holds them harmless from any claim arising from such authorization or the exercise thereof, including the dissemination of information pursuant thereto.

Submitted by the Proposer on this ____ day of _____, 2016.

Company_____

Signature_____

END OF CONTRACT