

**CITY OF NAPLES
PURCHASING DIVISION
CITY HALL, 735 8TH STREET SOUTH
NAPLES, FLORIDA 34102
PH: 239-213-7100 FX: 239-213-7105**

ADDENDUM NUMBER 1

NOTIFICATION DATE:	SOLICITATION TITLE:	SOLICITATION NUMBER:	BID OPENING DATE & TIME:
01/28/2026	Construction Services for the Alleyway between Central and 1st Ave N - ITB	26-005	02/12/2026 2:00PM

**THE FOLLOWING INFORMATION IS HEREBY INCORPORATED INTO,
AND MADE AN OFFICIAL PART OF THE ABOVE REFERENCED BID.**

**Attachment A – Updated General Conditions – The General
Conditions attached herein replace the original in their entirety.**

###

IMPORTANT MESSAGE

PLEASE ACKNOWLEDGE RECEIPT OF THIS ADDENDUM ON THE BID COVER SHEET .

ATTACHMENT A- UPDATED GENERAL CONDITIONS

CITY OF NAPLES GENERAL CONDITIONS

TO ENSURE ACCEPTANCE OF THE PROPOSAL, PLEASE FOLLOW THESE INSTRUCTIONS. ANY AND ALL SPECIAL CONDITIONS IN THIS SOLICITATION SHALL HAVE PRECEDENCE OVER THESE GENERAL TERMS AND CONDITIONS.

1. **SEALED PROPOSAL:** All proposals must be submitted in a sealed envelope. The face of the envelope shall contain the proposal name and proposal number. Proposals not submitted on the attached proposal form shall be rejected. All proposals are subject to the conditions specified herein. Those which do not comply with these conditions are subject to rejection.
2. **DEFINITIONS:** Uses of the following terms may be interchangeable as referenced: “vendor, CONTRACTOR, supplier, proposer, company, parties, persons”, “purchase order, PO, contract, agreement”, “city, City of Naples, Naples, agency, owner, requestor, parties”, “bid, proposal, response, quote”.
3. **BID EXPENSES:** Bidders shall bear all costs and expenses incurred in developing, preparing, and submitting bids.
4. **EXECUTION OF PROPOSAL:** Proposal must contain a manual signature of authorized representative in the proposal section. Proposal must be typed or printed in ink. Use of erasable ink or pencil is not permitted. All corrections made by proposer to its proposal must be initialed.
5. **BID FORMATTING:** Vendor should type or electronically enter the information onto its bid submittal to prevent errors in the evaluation. Failure to enter the information accurately may result in bid disqualification and rejection. The City assumes no responsibility in trying to understand and process illegible submittals.
6. **NO PROPOSAL:** If vendor chooses to not submit a proposal, vendor shall respond to the Bid by returning the Statement of No Proposal explaining the reasons in the spaces provided.
7. **PROPOSAL OPENING:** All proposal openings shall be public and will occur on the date and at the time specified on the proposal form. It is the proposer's sole responsibility to ensure that the proposal is delivered and received by the City by the date identified on the proposal form. Proposals which for any reason are not delivered or received by the City by the time prescribed in the proposal form will not be considered. Submittals by telegram, telephone, or fax are not acceptable.
8. **WITHDRAWAL OF PROPOSALS:** Withdrawal of a proposal within sixty (60) days after the opening of proposals is subject to suspension or debarment in accordance with Section 2-668(2) of the City Code.

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9. PRICES, TERMS and PAYMENT: Inclusion of Prices as required by a request for proposal shall include all packing, handling, shipping charges and delivery to the destination shown herein. Proposer is encouraged to offer a cash discount for prompt invoice payment. Payment Terms of less than twenty (20) days will not be considered.

A. TAXES: The City of Naples does not pay Federal Excise and Sales taxes on direct purchases of tangible personal property. See exemption number on face of purchase order. This exemption does not apply to purchases of tangible personal property made by CONTRACTORS who use the tangible personal property in the performance of contracts for the improvement of City owned real property.

B. MISTAKES: Proposers are expected to examine the specifications, delivery schedule, proposal prices, extensions, and all instructions pertaining to supplies and services. Failure to do so will be at proposer's risk. In case of mistake in extension, the unit price will govern.

C. CONDITION AND PACKAGING: It is understood and agreed that any item offered or shipped as a result of this proposal shall be a new, current standard production model available at the time of this proposal. All containers shall be suitable for storage or shipment, and all prices shall include standard commercial packaging.

D. SAFETY STANDARDS: Unless otherwise stipulated in the proposal, all manufactured items and fabricated assemblies shall comply with applicable requirements of the Occupational Safety and Health Act, any standards there under, and any applicable Federal, State and Local laws/regulations.

E. UNDERWRITERS' LABORATORIES: Unless otherwise stipulated in the proposal, all manufactured items and fabricated assemblies shall carry U.L. approval and re-examination listing where such has been established.

F. PAYMENT: Payment will be made by the buyer after the items awarded to a vendor have been received, inspected, and found to comply with award specifications, free of damage or defect and properly invoiced. All invoices shall bear the purchase order number. Payment for partial shipments shall not be made unless specified in the proposal. Failure to follow these instructions may result in delay in processing invoices for payment. In addition, the purchase order number must appear on bills of lading, packages, cases, delivery lists and correspondence.

G. CREDIT CARD PAYMENT: The City of Naples may, at its discretion, use the VISA/MASTERCARD credit network as a payment option for goods and services purchased as a part of this contract. The City of Naples will not accept any additional surcharges (credit card transaction fees) as a result of using the City's credit card for transactions relating to this solicitation. Those transaction fees will be the responsibility of the vendor.

10. DELIVERY: Unless the actual date of delivery is specified (or if specified delivery

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cannot be met), vendor shall identify the number of days required to complete delivery in space provided, after receipt of the purchase order. Delivery time may become a basis for making an award (see Special Conditions). Delivery shall be within the normal working hours of the City Department, Monday through Friday, unless otherwise specified. Unless otherwise specified, all prices are to be Freight on Board Destination.

11. MANUFACTURERS' NAMES AND APPROVED EQUIVALENTS: Any manufacturers' names, trade names, brand names, information and/or catalog numbers listed in a specification are for information purposes only and not intended to limit competition. The proposer may offer any brand for which he is an authorized representative, which meets or exceeds the specification for any item(s) identified by the City in the request. If proposals are based on equivalent products, indicate on the proposal form the manufacturer's name and number. Proposer shall submit with his proposal: cuts, sketches, and descriptive literature, and/or complete specifications. References to literature submitted with a previous proposal will not satisfy this provision. The proposer shall also explain in detail the reason(s) why the proposed equivalent will meet the specifications and not be considered an exception thereto. Proposals which do not comply with these requirements are subject to rejection. Proposals lacking any written indication of an intent to quote an alternate brand will be received and considered in complete compliance with the specifications as listed on the proposal form.

12. ADDENDA AND INTERPRETATIONS: Any questions about the meaning of project plans, specs, or contract documents must be submitted in writing, not asked orally. Prospective bidders must request from the Purchasing and Contracts Manager such interpretations in writing. To be considered, such request must be received ten (10) calendar days prior to the bid opening. Request must reference the date of bid opening, bid title, and bid number. Failure to comply with this condition will result in bidders waiving their rights to dispute the proposal. Any and all interpretations and any supplemental instructions will be in the form of a written addenda which, if issued, will be posted on the City website and DemandStar.com not later than three (3) days prior to the opening of bids. Failure of any bidder to receive any such addenda or interpretation shall not relieve any bidder from any obligation under their bid as submitted. All addenda so issued shall become a part of the contract document. The City reserves the right, in its sole and absolute discretion, to issue written addenda in response to interpretation requests. The City has no responsibility or obligation to answer any questions or issue any addenda once the solicitation has been advertised.

13. CONFLICT OF INTEREST: All proposal awards are subject to Section 2-975 (e)(2) of the City of Naples Code of Ordinances ("Code"), which states: *"No covered person will solicit, have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his private*

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interests and in performance of their public duties or that would impede the full and faithful discharge of his or her public duties. Excluded from this provision are third parties engaged in providing contract services either to or for the City of Naples.”

- 15. CONE OF SILENCE:** "Cone of Silence" means a prohibition on any communication regarding a particular Request for Proposals (RFP), Request for Qualifications (RFQ), Invitation to Bid (ITB), or other competitive solicitation between:

Any person who seeks an award therefrom, including a potential vendor or vendor's representative; and

The City Council, City Attorney, and all City employees, and any non-employee appointed to evaluate or recommend selection in such procurement process.

The Cone of Silence shall not apply to communications with the Procurement Official to obtain clarification or information concerning the subject solicitation. Any such contact other than with the Procurement Official may be considered grounds for disqualification. The City shall not be responsible for oral interpretations given by any City employee or its representative. For purposes of this section, "vendor's representative" means an employee, partner, director, or officer of a potential vendor, or consultant, lobbyist, or actual or potential subcontractor or sub-consultant of a vendor, or any other individual acting through or on behalf of any person seeking an award.

- 16. ETHICS REQUIREMENT:** As required by City of Naples Code Section 2-975(h)(3), except as otherwise prohibited by law, all contracts executed between the City and a business entity shall a) prohibit the vendor from employing, or offering to employ any compensated public official or city employee who is substantially involved with the regulation, oversight or management of the contract or the transaction of business during the term, and for a period of two years after termination, of the contract; and b) provide for liquidated damages in favor of the City for violation of this subsection in the amount equal to the greater of: (i) the compensation received by the compensated public official or city employee from the vendor; and (ii) the amount equal to the total of the compensated public official's or City employee's last two years of gross compensation from the City.

- 17. E-VERIFY REQUIREMENT:** All contracts between the vendor and the City shall require the vendor to be obligated to comply with the provisions of Section 448.095, Florida Statutes "Employment Eligibility," as amended from time to time. This includes, but is not limited to, registration and use of the E-Verify System to verify the work authorization status of all newly hired employees and requiring any and all subcontractors to provide an affidavit to vendor attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. The vendor shall require any subcontractor to insert into any subcontracts the requirements of this section and shall be responsible for insuring compliance by all subcontractors. The Vendor shall agree to maintain a copy of such affidavit for the duration of the Agreement. Failure to comply will result in the termination of the Agreement as provided in Section 448.095, Florida Statutes, as amended; and the

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vendor will not be awarded a public contract for at least one (1) year after the date on which the contract was terminated. Vendor will also be liable for any additional costs to City incurred because of the termination of the CONTRACTOR.

The City shall upon a good faith belief that a vendor or its subcontractor has knowingly violated Section 448.09(1), Florida Statutes or the provisions of Section 448.095, Florida Statutes, terminate the contract, which shall not be considered a breach of contract and may be challenged pursuant to Section 448.095(5)(d), Florida Statutes. Vendor acknowledges that upon termination of the contract by the City for a violation of this Section, the vendor may not be awarded a public contract for at least one (1) year and that the Vendor is liable for any additional costs incurred by the City as a result of the termination. Vendor shall provide an affidavit of compliance with the E-Verify Requirement at the time a contract is executed.

18. AWARDS: As the best interest of the City may require, the City reserves the right to award(s) by individual item, group of items, all or none, divide the award or a combination thereof; to reject any and all proposals or waive any minor irregularity or technicality in proposals received.

19. ADDITIONAL QUANTITIES: For a period not exceeding ninety (90) days from the date of acceptance of this offer by the City, the right is reserved to acquire additional quantities up to but not exceeding those shown on the proposal at the prices proposed in this solicitation. If additional quantities are not acceptable, the proposal sheets must be noted "PROPOSAL IS FOR SPECIFIED QUANTITY ONLY." (THIS PARAGRAPH DOES NOT APPLY FOR A TERM CONTRACT.)

20. SERVICE AND WARRANTY: Unless otherwise specified, the proposer shall define any warranty service and replacements that will be provided as part of this contract. Proposers must explain on an attached sheet to what extent warranty and service facilities are provided.

The City of Naples will not accept any disclaimer of the warranties of merchantability and fitness for a particular purpose for the products offered. Proposals will clearly state any additional warranties and guarantees against defective materials and workmanship. A copy of the complete manufacturer's warranty statement is to be submitted with the proposal.

21. SAMPLES: Samples of items, when called for, must be furnished free of expense, and if not destroyed, may upon request, be returned at the proposer's expense. Each individual sample must be labeled with proposer's name, manufacturer's brand name and number, proposal number and item reference. Request for return of samples shall be accompanied by instructions which include shipping authorization and name of carrier and must be received with your proposal. If instructions are not received within this time, the commodities shall be disposed of by the City of Naples.

22. PROPOSAL PROTESTS: The City of Naples has formal protest procedures that

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are available upon request.

- 23. INSPECTION, ACCEPTANCE AND TITLE:** Inspection and acceptance will occur at the destination identified by the City, unless otherwise provided. Title, risk of loss, or damage to all items shall be the sole responsibility of the contract supplier until accepted by the ordering agency, unless loss or damage results from negligence by the contract supplier.
- 24. DISPUTES:** In case of any doubt or difference of opinion as to the items to be furnished hereunder, the decision of the City shall be final and binding on both parties.
- 25. GOVERNMENTAL RESTRICTIONS:** In the event any governmental restrictions may be imposed which would necessitate alteration of the material, quality, workmanship or performance of the items offered on this proposal prior to their delivery, it shall be the responsibility of the successful proposer to notify the buyer immediately, indicating in writing the specific regulation which required an alteration. The City reserves the right to accept any such alteration, including any price adjustments occasioned thereby, or to cancel the contract at no expense to the City.
- 26. LEGAL REQUIREMENTS:** Applicable provision of all Federal, State, county and local laws, and of all ordinances, rules, and regulations shall govern development submittal and evaluation of all proposals received in response hereto and shall govern any and all claims and disputes which may arise between person(s) submitting a proposal response hereto and the City of Naples by and through its officers, employees and authorized representatives, or any other person, natural or otherwise; and lack of knowledge by any proposer shall not constitute a cognizable defense against the legal effect thereof.
- 27. PATENTS AND ROYALTIES:** The proposer, without exception, shall indemnify and hold harmless the City of Naples and its employees from liability of any nature or kind, including but not limited to cost and expenses for or on account of any copyrighted, patented, or unpatented invention, process, or article manufactured or used in the performance of the contract, including its use by the City of Naples. If the proposer uses any design, device, or materials covered by letters, patent or copyright, it is mutually agreed and understood without exception that the proposal prices shall include all royalties or cost arising from the use of such design, device, or materials in any way involved in the work. The City reserves the right to reject any proposals that fail to include this information.
- 28. ADVERTISING:** In submitting a proposal, proposer agrees not to use the results there from as a part of any commercial advertising.
- 29. ASSIGNMENT:** Any Purchase Order issued pursuant to this solicitation and the monies which may become due hereunder are not assignable except with the prior written approval of the buyer.
- 30. LIABILITY:** The supplier shall hold and save the City of Naples, its officers, agents,

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and employees harmless from liability of any kind in the performance of this contract.

- 31. 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 proposal on a contract to provide any goods or services to a public entity, may not submit a proposal on a contract with a public entity for the construction or repair of a public building or public work, may not submit proposals on leases of real property to 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 Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendorlist pursuant to section 287.133, Florida Statutes, as amended.
- 32. DISCRIMINATION:** Pursuant to Subsection 287.134(2)(a), Florida Statutes, “an entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals or replies 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”.
- 33. COUNTY TAXES:** No proposal shall be accepted from and no contract will be awarded to any person, firm or corporation that is in arrears to Collier County, Florida or the City of Naples, Florida.
- 34. OFFER EXTENDED TO OTHER GOVERNMENTAL ENTITIES:** The City of Naples encourages and agrees to the proposer extending the pricing, terms and conditions of this solicitation or resultant contract to other governmental entities at the discretion of the proposer.

IF THE PROPOSAL IS FOR A TERM CONTRACT, THE FOLLOWING TERMS SHALL APPLY:

- 35. ELIGIBLE USERS:** All departments of the City of Naples are eligible to use this term contract. Such purchases shall be exempt from the competitive proposal requirements otherwise applying to their purchases.
- 36. PRICE ADJUSTMENTS:** Any price decrease effectuated during the contract period by reason of market change shall be passed on to City of Naples. Price increases are not acceptable.
- 37. CANCELLATION:** All contract obligations shall prevail for at least one hundred eighty (180) days after the effective date of the contract. After that period, for the protection of both parties, this contract may be cancelled in whole or in part by either

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party by giving thirty (30) days prior written notice to the other party.

- 38. RENEWAL:** Contract will be effective for a three (3) year term with an optional two (2) one (1) year renewals, if mutually agreed upon by the CITY and CONTRACTOR. Pursuant to the City of Naples Code of Ordinances, Sec.2-667(7)(e), the term of this contract may be extended by the parties for no more than two (2) years. Each renewal or extension shall be automatically extended for automatic and successive additional terms, unless either party gives written notice to the other not fewer than ninety (90) days prior to the expiration of the then current term. It is recognized that the terms "renewal" and "extension" once had a distinct meaning in the law; however, the intent of this section is that no contract whether continued by a renewal, extension, or a combination of the two, will result in a term of more than five years maximum without City Council approval.
- 39. ABNORMAL QUANTITIES:** While it is not anticipated, should any unusual or abnormal requirements arise, the City reserves the right to solicit separate proposals thereon.
- 40. FISCAL NON-FUNDING CLAUSE:** In the event sufficient funds are not budgeted for a new fiscal period, the City shall notify the CONTRACTOR of such occurrence and the contract shall terminate on the last day of the current fiscal year without penalty or expense to the City.

IF THIS PROPOSAL IS FOR PERFORMING A SERVICE, THE FOLLOWING CONDITIONS SHALL ALSO APPLY:

- 41. ALTERNATIVE PROPOSALS:** Proposers offering service delivery methods other than those permitted by the scope of work may submit a separate envelope clearly marked "ALTERNATIVE PROPOSAL". Alternative proposals will be deemed non-responsive and will not be considered for award. All such responses will, however, be examined prior to award. Such examination may result in cancellation of all proposals received to permit rewriting the scope of work to include the alternative method, or the alternative method may be considered for future requirements of the City of Naples.
- 42. PROPOSER INVESTIGATIONS:** Before submitting a proposal, each proposer shall make all investigations and examinations necessary to ascertain all site conditions and requirements affecting the full performance of the contract and to verify any representations made by the City of Naples upon which the proposer will rely. If the proposer receives an award as a result of its proposal submission, failure to have made such investigations and examinations will in no way relieve the proposer from its obligation to comply in every detail with all provisions and requirements of the contract documents, nor will a plea of ignorance of such conditions and requirements be accepted as a basis for any claim whatsoever by the CONTRACTOR for additional compensation.

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- 43. CERTIFICATES AND LICENSES:** The CONTRACTOR, at time of proposal, shall possess the correct occupational licenses, all professional licenses or other authorizations necessary to carry out and perform the work required by the City of Naples and Collier County for this project pursuant to all applicable Federal, State and Local Laws, Statutes, Ordinances, and rules and regulations of any kind.
- 44. CHANGE IN SCOPE OF WORK:** The City of Naples may order changes in the work consisting of additions, deletions or other revisions within the general scope of the contract. No claims may be made by the CONTRACTOR that the scope of the project or of the CONTRACTOR's services has been changed, requiring changes to the amount of compensation to the CONTRACTOR or other adjustments to the contract unless such changes or adjustments have been made by written amendment to the contract signed by the City of Naples and the CONTRACTOR. If the CONTRACTOR believes that any particular work is not within the scope of the project, is a material change, or will otherwise require more compensation to the CONTRACTOR, the CONTRACTOR must immediately notify the City in writing of this belief. If the City believes that the particular work is within the scope of the contract as written, the CONTRACTOR will be ordered to and shall continue with the work as changed and at the cost stated for the work within the scope.
- 45. CHANGE ORDERS:** The City may, by field directive, authorize minor variations from the requirements of the contract documents, which do not involve an adjustment in the contract price or the contract time and are consistent with the overall intent of the contract documents. Supplemental agreements, in the form of "change orders" shall be used to clarify the plans and specifications, to provide for unforeseen work or alterations in plans, to change the limits of construction to meet field conditions, to provide a safe and functional connection to an existing facility, to make the project functionally operational in accordance with the intent of the original contract, or to adjust the contract price or the contract time requirements. The City of Naples will not pay more than a total of ten percent (10%) on markup and overhead. Any supplemental agreement shall be approved by the City Manager, CONTRACTOR and the architect/engineer, if applicable, prior to the commencement of the modified work. The City Manager may only approve contract change orders not exceeding twenty-five percent (25%) of the original contract that were originally approved by City Council. The City Manger may approve change orders or contract modifications for contracts originally approved at \$50,000.00 or less provided that the cumulative contract amount does not exceed \$75,000.00 for change orders or modifications. (City Code Sec.2- 667(7)(a)(b).

The City reserves the right to make, at any time prior to or during the progress of the work, increases or decreases in the quantities of work as may be found necessary or desirable by the City. Compensation for changes in quantities shall be at the bid unit price for the specific item of work with no additional charges allowed for the change in quantity.

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All unit prices for items of work in the original contract shall be considered all-inclusive of expenses necessary to accomplish the work regardless of the unit of measure (e.g. Linear Foot, Cubic Yard, Square Yard, Ton, etc.) including but not limited to:

1. Material
2. Delivery
3. Direct Labor
4. Taxes
5. Rental rates
6. Fringe Benefits
7. Overhead
8. Profit
9. Markup

A change in quantities whether greater than or lower than the original bid quantity shall be treated as if the new quantity was part of the original quantity of work with respect to unit value. Upon approval of changed quantities the quantities shall be adjusted on the schedule of values to reflect the new total quantity of each item of work. Each proposal for a change order shall list both the reduction in quantity of deleted work and increased quantity of added work. The City of Naples will not pay more than a total of 10% on markup and overhead when establishing a negotiated fee for items not listed by unit price.

46. AWARDED CONTRACT: An awarded contract with hourly rates will determine any overtime that is authorized by the City and its Project Manager. Any authorized overtime rates will be based on the standard 1.5 times the indicated hourly rate. This multiplier will be used on any overtime hours being charged that have been mutually agreed upon by the CITY and CONTRACTOR.

47. RATE ADJUSTMENTS: Any adjustment to an awarded agreement that contains equipment and labor rates in the agreement shall be made in one or more of the following ways:

1. By agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;
2. By unit prices specified in the Contract or subsequently agreed upon;
3. By the costs attributable to the event or situation covered by the provision, plus appropriate profit or fee, all as specified in the Contract or subsequently agreed upon;
4. In such other manner as the parties may mutually agree; or
5. In the absence of agreement between the parties, by unilateral determination by the Agency procurement officer of the costs attributable to the event or situation covered by the provision, plus appropriate profit or fee, all as computed by the Agency procurement officer in accordance with generally accepted accounting principles.

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- 48. CONTRACTOR PERSONNEL:** The City of Naples shall, throughout the life of the contract, have the right of reasonable rejection and approval of staff or subcontractors assigned to the work by the CONTRACTOR. If the City reasonably rejects staff or subcontractors, the CONTRACTOR must provide replacement staff or subcontractors satisfactory to the City in a timely manner and at no additional cost to the City. The day-to-day supervision and control of the CONTRACTOR'S employees and subcontractors is the responsibility solely of the CONTRACTOR.
- 49. COST REIMBURSEMENT:** The CONTRACTOR agrees that all incidental costs, including allowances for profit and tools of the trade, must be included in the proposal rates. If an arrangement is made between the CONTRACTOR and the City to reimburse the CONTRACTOR for the cost of materials provided in the performance of the work, the CONTRACTOR shall be reimbursed in the following manner: The City shall reimburse the CONTRACTOR on completion and acceptance of each assigned job, only for those materials actually used in the performance of the work that is supported by invoices issued by the suppliers of the CONTRACTOR describing the quantity and cost of the materials purchased. No surcharge shall be added to the supplier's invoices or included in the CONTRACTOR'S invoice submitted to the City that would increase the dollar amount indicated on the supplier's invoice for the materials purchased for the assigned job.
- 50. EXCEPTIONS:** Proposers taking exception to any part or section of the solicitation shall indicate such exceptions on the proposal form. Failure to indicate any exception will be interpreted as the proposer's intent to comply fully with the requirements as written. Conditional or qualified proposals, unless specifically allowed, shall be subject to rejection in whole or in part.
- 51. FAILURE TO DELIVER:** In the event the CONTRACTOR fails to deliver services in accordance with the contract terms and conditions, the City, after due oral or written notice, may procure the services from other sources and hold the CONTRACTOR responsible for any resulting purchase and administrative costs. This remedy shall be in addition to any other remedies that the City may have.
- 52. FAILURE TO ENFORCE:** Failure by the City at any time to enforce the provisions of the contract shall not be construed as a waiver of any such provisions. Such failure to enforce shall not affect the validity of the contract or any part thereof or the right of the City to enforce any provision at any time in accordance with its terms.
- 53. FORCE MAJEURE:** The CONTRACTOR shall not be held responsible for failure to perform the duties and responsibilities imposed by the contract due to legal strikes, fires, riots, rebellions and acts of God beyond the control of the CONTRACTOR, unless otherwise specified in the contract.
- 54. INDEPENDENT CONTRACTOR:** The CONTRACTOR shall be legally considered

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an independent CONTRACTOR and neither the CONTRACTOR nor its employees shall, under any circumstances, be considered servants or agents of the City of Naples and the City of Naples shall be at no time legally responsible for any negligence or any wrongdoing by the CONTRACTOR, its servants or agents. The City of Naples shall not withhold from the contract payments to the CONTRACTOR any federal income taxes, Social Security tax, or any other amounts for benefits to the CONTRACTOR. Further, the City shall not provide to the CONTRACTOR any insurance coverage or other benefits, including Workers' Compensation normally provided by the City for its employees.

55. ORAL STATEMENTS: No oral statement of any person shall modify or otherwise affect the terms, conditions or specifications stated in this contract. All modifications to the contract must be made in writing by the City of Naples.

56. QUALIFICATIONS OF PROPOSERS: The proposer may be required, before the award of any contract, to show that it has the necessary facilities, ability, and financial resources to provide the service specified therein to the complete satisfaction of the City of Naples. The proposer may also be required to give a past history and references in order to satisfy the City in regard to the proposer's qualifications. The City may make reasonable investigations deemed necessary and proper to determine the ability of the proposer to perform the work, and the proposer shall furnish to the City all information for this purpose that may be requested. The City reserves the right to reject any proposal if the evidence submitted by, or investigation of, the proposer fails to satisfy the City that the proposer is properly qualified to carry out the obligations of the contract and to complete the work described therein. Evaluation of the proposer's qualifications shall include:

- The ability, capacity, skill, and financial resources to perform the work or service.
- The ability to perform the work service promptly or within the time specified, without delay.
- The character, integrity, reputation, judgment, experience, and efficiency of the proposer.
- The quality of performance of previous contracts or services.

57. QUALITY CONTROL: The CONTRACTOR shall institute and maintain throughout the contract period a properly documented quality control program designed to ensure that the services are provided at all times and in all respects in accordance with the contract. The program shall include providing daily supervision and conducting frequent inspections of the CONTRACTOR'S staff and ensuring that accurate records are maintained describing the disposition of all complaints. The records so created shall be open to inspection by the City.

58. RESPONSIBLE VENDOR DETERMINATION: Respondent is hereby notified that Section 287.05701, Florida Statutes, requires that the City may not request documentation of or consider a vendor's social, political, or ideological interests when determining if the vendor is a responsible vendor.

59. RECOVERY OF MONEY: Whenever, under the contract, any sum of money shall

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be recoverable from or payable by the CONTRACTOR to the City, the same amount may be deducted from any sum due to the CONTRACTOR under the contract or under any other contract between the CONTRACTOR and the City. The rights of the City are in addition and without prejudice to any other right the City may have to claim the amount of any loss or damage suffered by the City on account of the acts or omissions of the CONTRACTOR.

60. REQUIREMENTS CONTRACT: During the period of the contract, the CONTRACTOR shall provide all the services described in the contract. The CONTRACTOR understands and agrees that this is a requirements contract and that the City shall have no obligation to the CONTRACTOR if no services are required. Any quantities that are included in the scope of work reflect the current expectations of the City for the period of the contract. The amount is only an estimate and the CONTRACTOR understands and agrees that the City is under no obligation to the CONTRACTOR to buy any amount of services as a result of having provided this estimate or of having any typical or measurable requirement in the past. The CONTRACTOR further understands and agrees that the City may require services in excess of the estimated annual contract amount and that the quantity actually used whether in excess of, or less than, the estimated annual contract amount and that the quantity actually used shall not give rise to any claim for compensation other than the total of the unit prices in the contract for the quantity actually used.

61. TERMINATION FOR CONVENIENCE: The performance of work under the contract may be terminated by the City in whole or in part whenever the City determines that termination is in the City's best interest. Any such termination shall be affected by the delivery to the CONTRACTOR of a written notice of termination of at least seven (7) days before the date of termination, specifying the extent to which performance of the work under the contract is terminated and the date upon which such termination becomes effective. After receipt of a notice of termination, except as otherwise directed, the CONTRACTOR shall stop work on the date of the receipt of the notice or other date specified in the notice; place no further orders or subcontracts for materials, services or facilities except as necessary for completion of such portion of the work not terminated; terminate all vendors and subcontracts; and settle all outstanding liabilities and claims.

62. TERMINATION FOR DEFAULT: The City of Naples reserves the right to terminate the contract if the City determines that the CONTRACTOR has failed to perform satisfactorily the work required, as determined by the City. In the event the City decides to terminate the contract for failure to perform satisfactorily, the City shall give to the CONTRACTOR at least seven (7) days written notice before the termination takes effect. The seven-day period will begin upon the mailing of notice by the City. If the CONTRACTOR fails to cure the default within the seven (7) days specified in the notice and the contract is terminated for failure to perform satisfactorily, the CONTRACTOR shall be entitled to receive compensation for all reasonable, allocable and allowable contract services satisfactorily performed by

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the CONTRACTOR up to the date of termination that were accepted by the City prior to the termination. In the event the City terminates the contract because of the default of the CONTRACTOR, the CONTRACTOR shall be liable for all excess costs that the City is required to expend to complete the work under contract.

63. STATE AND FEDERAL EMPLOYMENT LAWS: CONTRACTORS providing service to the City are required to comply with all state and federal employment laws. This includes, but is not limited to, laws resulting from the Immigration and Reform and Control Act of 1986, wherein all employers are required to verify the identity and employment eligibility of all employees. The Department of Homeland Security, U.S. Citizenship and Immigration Services require employees and employers to complete Form I-9 and the employer must examine evidence of identity and employment eligibility within three (3) business days of the date employment begins. Non-compliant CONTRACTORS will be subject to contract sanctions, up to and including contract termination.

64. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION: “Debarment and Suspension” and 2 CFR 180 “OMB Guidelines to Agencies on Government wide Debarment and Suspension.” These rules require all CONTRACTORS using federal funds not be debarred or suspended from doing business with the Federal Government. This includes sub-recipients and lower-tier participant for covered transactions. Signing and submitting this document certified the organization and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency, and further have not within the preceding three-year period been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction.

65. 119.0701 F.S. CONTACT INFORMATION FOR CITY OF NAPLES' CUSTODIAN OF PUBLIC RECORDS, CITY CLERK'S OFFICE: If the CONTRACTOR has questions regarding the application of Chapter 119, Florida Statutes, to the CONTRACTOR'S duty to provide public records relating to this contract, contact the City of Naples' Custodian of Public records, the City Clerk at Telephone: 239-213- 1015; Email: PublicRecordsRequest@naplesgov.com; Address: 735 8th Street S., Naples, Florida 34102; Mailing address: same as street address.

66. FLORIDA PUBLIC RECORDS LAW: In accordance with Chapter 119, Florida Statutes, and, except as may be provided by other applicable State and Federal laws, all Proposers should be aware that sealed bids, proposals, or replies received by the City pursuant to a competitive solicitation thereto are in the public domain and are available for public inspection, review and copying. The Proposers are requested, however, to identify specifically any information contained in their bids/proposals which they consider confidential and/or proprietary, inclusive of trade

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secrets as defined in s. 812.081, Florida Statutes, and which they believe to be exempt from disclosure, citing specifically the applicable exempting law. All proposals received in response to any invitation to bid, request for proposals, or request for qualifications, will become the property of the City of Naples and will not be returned. In the event of an award, all documentation produced as part of the contract will become the exclusive property of the City. All materials that qualify for exemption from Chapter 119, Florida Statutes or other applicable law must be submitted in a separate envelope, clearly identified as "EXEMPT FROM PUBLIC DISCLOSURE" with your firm's name and the proposal number marked on the outside. The City will not accept bids/proposals when the entire proposal is labeled as exempt from public disclosure.

If the CONTRACTOR, vendor, firm, or proposer considers any portion of any documents, data, or records submitted to the City to be a confidential, proprietary, trade secret or otherwise not subject to disclosure pursuant to Chapter 119, Florida Statutes, the Florida Constitution or other authority, the CONTRACTOR, vendor, firm, or proposer must simultaneously provide the City Department with a separate redacted copy of the information it claims as Confidential and briefly describe in writing the grounds for claiming exemption from the public records law, including the specific statutory citation for such exemption. This redacted copy shall contain the Contract name and number and shall be clearly titled "Confidential." The redacted copy should only redact those portions of material that the CONTRACTOR claims is confidential, proprietary, trade secret or otherwise not subject to disclosure. If CONTRACTOR, vendor, firm, or proposer fails to submit a redacted copy of documents, data, or other records it claims is confidential, the City is authorized to produce all documents, data, and other records submitted to the City in answer to a public records request for these records.

Be aware that the designation of an item as exempt from public disclosure by a Proposer may be challenged in court by any person or entity. By designation of material in your proposal as exempt from public disclosure, Proposer agrees to defend the City of Naples (and its employees, agents and elected and appointed officials) against all claims and actions (whether or not a lawsuit is commenced) related to Proposer's designation of material as exempt from public disclosure and to hold harmless the City of Naples (and its employees, agents and elected and appointed officials) for any award to a plaintiff for damages, costs and attorneys' fees, and for costs and attorneys' fees incurred by the City by reason of any claim or action related to you designation of material as exempt from public disclosure.

Note: Proposer's References and Proposal Cost or Price will be deemed a public record, and if a claim of confidentiality is made, the City may deem the proposal non-responsive.

In accordance with Chapter 119.071(1)(b)2. of the Florida Statutes, sealed bids, proposals, or replies received by an agency pursuant to a competitive solicitation are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the agency provides notice of an intended decision or until 30 days after opening the bids, proposals, or final replies, whichever is earlier.

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In accordance with Chapter 119.071(1)(b)3. of the Florida Statutes, if an agency rejects all bids, proposals, or replies submitted in response to a competitive solicitation and the agency concurrently provides notice of its intent to reissue the competitive solicitation, the rejected bids, proposals, or replies remain exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the agency provides notice of an intended decision concerning the reissued competitive solicitation or until the agency withdraws the reissued competitive solicitation. A bid, proposal, or reply is not exempt for longer than 12 months after the initial agency notice rejecting all bids, proposals, or replies.

In accordance with Chapter 286.0113(2)(c)3. of the Florida Statutes, if the agency rejects all bids, proposals, or replies and concurrently provides notice of its intent to reissue a competitive solicitation, the recording and any records presented at the exempt meeting remain exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the agency provides notice of an intended decision concerning the reissued competitive solicitation or until the agency withdraws the reissued competitive solicitation. A recording and any records presented at an exempt meeting are not exempt for longer than 12 months after the initial agency notice rejecting all bids, proposals, or replies.

67. EQUAL EMPLOYMENT OPPORTUNITY CLAUSE: City of Naples, in accordance with the provisions of Title VII of the Civil Rights Act of 1964 (78 Stat. 252) and the Regulations of the Department of Commerce (15 CFR, Part 8) issued pursuant to such Act, hereby notifies all Proposers that it will ensure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit proposals in response to this advertisement and will not be discriminated against on the ground of race, color or national origin in consideration for an award.

68. RETAINAGE: City shall withhold retainage on the gross amount of each monthly progress payment in the amount of five percent (5%), as permitted by Section 255.078, F.S. The foregoing does not prohibit city from withholding retainage at a rate less than five percent (5%) of each monthly progress payment as otherwise allowable under Section 255.078, F.S. Any reduction in retainage below the maximum amount set forth in Section 255.078, F.S. shall be at the sole discretion of the city. Such retainage shall be accumulated and not released to contractor until final payment is due unless otherwise agreed to by the city in accordance with Section 255.078, F.S. or otherwise required pursuant to Section 218.735(7), F.S. Any interest earned on retainage shall accrue to the benefit of the city. Pursuant to Section 218.735(8)(f), F.S., if the total cost of the construction services is \$200,000 or less, then the 5% retainage requirement does not apply.

69. TARRIFF ADJUSTMENT. If contractor requests price increases due to tariff changes, contractor must provide detailed cost breakdowns, including the original tariff rates and the new imposed rates, supplier invoices, and other supporting documentation. contractor must complete the CITY's Escalation / De-Escalation Form, which is attached hereto and incorporated herein as **MATERIAL ESCALATION / DE-ESCALATION PRICING FORM**. The city reserves the right to

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audit supplier records to verify tariff-related costs. Any unverified or excessive increases shall not be accepted.

70. SUBSTANTIAL COMPLETION AND DEVELOPMENT OF THE PUNCH LIST:

Substantial Completion is as defined in the Defined Terms section of this Agreement. When the contractor believes Substantial Completion has been achieved, it shall certify in writing to the Project Manager that the Project is Substantially Complete in accordance with the Contract Documents and request the Project Manager to inspect the Work and to issue a Certificate of Substantial Completion. Prior to making such a request, the contractor must:

- a. Complete all Work necessary for the safe, proper and complete use or operation of the Project as intended, including: all regulatory agency requirements are satisfied, including occupancy permits; operating certificates and similar releases; all operational testing has successfully occurred; all required training has successfully occurred; all close-out documents (such as as-built drawings, certifications, warranties, guaranties, test reports test logs, operational manuals, etc.) have been provided by contractor and accepted by the city.
- b. Prepare a contractor-generated punch list (i.e., a list of all items required to render the Project complete, satisfactory, and acceptable, for submission with the request for inspection and issuance of a certificate of Substantial Completion), which shall include and list separately the estimated cost to complete each remaining unfinished item included on the list with an explanation as to the basis for those costs, substantiated by the Schedule of Values, subject to the city's final review and approval as stated below.
- c. Upon receipt of the request from the contractor, the Project Manager, assisted by the Professional, if any, and other city personnel, as appropriate, shall review the request, the Work and the contractor-generated punch list to determine whether the Work is ready for Substantial Completion inspection. If this review fails to support Substantial Completion inspection, the Project Manager shall so notify the contractor citing the reasons for rejection. If the Project Manager and Professional (if any) determine the Work is ready for Substantial Completion inspection, the following procedures will be followed:
 - i. The Project Manager will, within a reasonable time, schedule and conduct inspection(s) of the Work with the Professional (if any), other city personnel as required, and the contractor for the purpose of formally reviewing the status of completion of the Work, the readiness of the Project for use and the contractor-generated punch list. A copy of the contractor-generated punch list will be provided to all participants and any additional items noted during the inspection will be added to the list. The Project Manager, the Professional, their representatives and other city representatives will review the Work and the contractor-generated punch list to

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assure all deficiencies are noted on a final Punch List document (Punch List Form) ("Punch List"). The Punch List must include all items required to render the Project complete, satisfactory and acceptable. If Project Manager and contractor disagree on whether an item belongs on the Punch List, the Project Manager has the final say on whether the item is included or not. The Punch List shall be finalized and issued to the contractor by the city within the time frames indicated below.

- ii. If upon completion of the inspection(s) the city does not consider the Project Substantially Complete, the Project Manager will notify the contractor in writing giving reasons why the Project is not Substantially Complete.
- iii. Substantial Completion cannot occur until all conditions necessary for safe and proper use, occupancy, maintenance, and operations are in place.

THE CITY OF NAPLES IS AN EQUAL OPPORTUNITY EMPLOYER