Company Submitting Bid

INVITATION TO BID

CONTRACT COPY

ITB NO:	2012-15
TITLE:	SODIUM HYPOCHLORITE
ADVERTISEMENT:	JUNE 25, 2012
BIDS DUE:	2:00 PM ON JULY 13, 2012
SUBMIT TO:	CITY OF NORTH MIAMI BEACH PROCUREMENT MANAGEMENT DIVISION. Attn: Brian K. O'Connor 17011 NORTH EAST 19th AVENUE, ROOM 315 NORTH MIAMI BEACH, FLORIDA 33162
REVIEW COMMITTEE MEETING:	3:00 PM ON JULY 18, 2012

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SECTION 2.0 SPECIAL CONDITIONS

2.1 SOUTHEAST FLORIDA GOVERNMENTAL PURCHASING COOPERATIVE

TO OUR PROSPECTIVE CONTRACTORS:
The attached Invitation for Bid or Request for Proposal represents a cooperative procurement for the Southeast Florida Governmental Purchasing Cooperative.

For the past several years, approximately forty-three (43) government entities have participated in Cooperative Purchasing in Southeast Florida. The Southeast Florida Governmental Purchasing Cooperative was formed in an effort to provide cost savings and cost avoidances to all entities by utilizing the buying power of combined requirements for common, basic items. The Government Agencies participating in this particular procurement and their respective delivery locations are listed in the attached document.

Southeast Florida Governmental Purchasing Cooperative Procurement Operational Procedures:

- All questions concerning this procurement should be addressed to the issuing agency, hereinafter referred to as the "lead agency". All responses are to be returned in accordance with the instructions contained in the attached document. Any difficulty with participating agencies referenced in this award must be brought to the attention of the lead agency.
- Each participating governmental entity will be responsible for awarding the contract, issuing its own purchase orders, and for order placement. Each entity will require separate billings, be responsible for payment to the Contractor(s) awarded this contract, and issue its own tax exemption certificates as required by the Contractor.
- The Contract/purchase order terms of each entity will prevail for the individual participating entity. Invoicing instructions, delivery locations and insurance requirements will be in accordance with the respective agency requirements.
- Any reference in the documents to a single entity or location will, in fact, be understood as referring to all participating entities referenced in the documents and cover letter unless specifically noted otherwise.
- The awarded Contractor(s) shall be responsible for advising the lead agency of those participants who fail to place orders as a result of this award during the contract period.
- The Contractor(s) shall furnish the Lead Agency a detailed Summary of Sales semi-annually during the contract period. Sales Summary shall include contract number(s), contractor's name, the total of each commodity sold during the reporting period and the total dollar amount of purchases by commodity.
- Municipalities and other governmental entities which are not members of the Southeast Florida Governmental Purchasing Cooperative are strictly prohibited from utilizing any contract or purchase order resulting from this bid award. However, other Southeast Florida Governmental Purchasing Cooperative members may participate in their contract for new usage, during the contract term, or in any contract extension term, if approved by the lead agency. New Southeast Florida Governmental Purchasing Cooperative members may participate in any contract on acceptance and approval by the lead agency.
- None of the participating governmental entities shall be deemed or construed to be a party to any contract executed by and between any other governmental entity and the Contractor(s) as a result of this procurement action.

"WORKING TOGETHER TO REDUCE COSTS"

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: 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: Everyday shown on the calendar.

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

Contract: The written agreement between the City 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 Manager: North Miami Beach's City Manager 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 City of North Miami Beach 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.

City: A political subdivision, Incorporated City within Miami-Dade County of the State of Florida, whose governing body is a City Council consisting of a Mayor, Vice Mayor and five City Council members.

City Manager: The Manager of the City of North Miami Beach, 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 City's Project Manager for review and approval in writing pursuant to the terms of this Agreement.

Lessee: Any individual, partnership or corporation having a tenant relationship with the City of North Miami Beach.

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 City's Contract Administrator.

Notice To Proceed (NTP): The written communication issued by the City 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 City of North Miami Beach, but it excludes the regulatory departments of Development Services, Building Safety, Planning & Zoning, Development and Regulation (Building and Zoning); City Utilities, Departments of Miami Dade County, Department of Environmental Resources Management (DERM); Public Works, Water & Sewer, and Fire Department or their successors.

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 City's Project Manager; 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 City's Project Manager. In resolving disputes and in all respects the City Manager's decision shall be final.

1.2 INSTRUCTIONS TO BIDDERS

It is the policy of the City 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 City to be included on a mailing list for selected categories of goods and services. To be eligible for award of a contract (including small purchase orders), Bidders must complete a Vendor Application. For information and to apply as a vendor, please visit our website at **www.citynmb.com** to download an application and submit it to Procurement Management Division, 17011 NE 19 Avenue, Suite 315 North Miami Beach, Florida 33162. To get document, specifications and updates go to **www.citynmb.com.**

1.3 CONE OF SILENCE AND REQUEST FOR ADDITIONAL INFORMATION

"Cone of Silence," as used herein, means a prohibition on any communication regarding a particular Request for Proposal ("RFP"), Request for Qualification ("RFQ") or bid.

Pursuant to Section 2-11.1(t) of the County Code, all Bid solicitations, once advertised and until an award recommendation has been forwarded to the appropriate authority are under the "Cone of Silence". Any communication or inquiries, except for clarification of process or procedure already contained in the solicitation, are to be made in writing to the attention of the Chief Procurement Officer. Such inquiries or request for information shall be submitted to the Chief Procurement Officer and

shall contain the requester's name, address, and telephone number. If transmitted by facsimile, the request should also include a cover sheet with Bidder's facsimile number. The request may also be electronically mailed to bids@citynmb.com or mailed to Procurement Management Division, 17011 NE 19 Avenue, Suite 315, North Miami Beach, Florida 33162.

During Cone of Silence the following is prohibited: Any communication regarding this bid between a potential vendor, service provider, bidder, lobbyist, or consultant and the City's professional staff including, but not limited to City Council, the City Manager and his or her staff. All communication regarding this bid should be sent in writing only to the Procurement Management Division at **bids@citynmb.com.**

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 City or the compensation due the bidder.

C. Bidders are advised that all City contracts are subject to all legal requirements provided for in the City of North Miami Beach 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 City of North Miami Beach 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 to suppliers to the City in their (supplier) purchases of goods or services, used in work or goods supplied to the City. 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 City will pay no sales tax.

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. 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 City shall be the sole judge of equality and its decision shall be final.

1.7 SUBMISSION OF BIDS

A. Bids and Addenda thereto shall be enclosed in sealed envelopes addressed to the Chief Procurement Officer, Brian K. O'Connor, City of North Miami Beach, 17011 NE 19 Avenue, Room 315, North Miami Beach, Florida 33162. 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 envelope.

B. Bids must be submitted on the forms furnished. E-mailed and facsimile bids will not be considered. Bids, however, may be modified by telegraphic notice provided such notice is received prior to the time and date set for the bid opening. Bids shall be dated and time stamped in Room 315 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.

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 copy of the entire original submission and an excel file containing bid prices. You can download bid page in excel format at www.citynmb.com.

1.8 ADDENDA

The Procurement Management 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 City may waive this requirement in its best interest.

1.9 REJECTION OF BIDS

The City may reject a bid if:

A. The Bidder fails to acknowledge receipt of an addendum, or if

B. The Bidder misstates or conceals any material fact in the bid, or if

C. The bid does not strictly conform to the law or requirements of bid, or if

D. The bid is conditional, except that the bidder may qualify his bid for acceptance by the City on an "all or none" basis, group basis, or a "low item" basis. An "all or none" basis bid must include all items upon which bids are invited.

E. The City is under a pre- lawsuit claim or current litigation with the bidder/proposer.

The City may reject all bids whenever it is deemed in the best interest of the City to do so, and may reject any part of a bid unless the bid has been qualified as provided in paragraph D above.

1.10 WITHDRAWAL OF BIDS

A. Bids may not be withdrawn and shall be deem 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 City will permanently retain as liquidated damages the bid deposit furnished by any bidder who requests to withdraw a bid after the bid opening.

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.

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.

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 Chief Procurement Officer on or before three 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. A copy of such Addendum will be mailed or delivered to each person receiving an Invitation for Bids. The City 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 Chief Procurement Officer on or before ten days prior to scheduled opening.

1.14 INVOICING/PAYMENT

All invoices should be sent to: City of North Miami Beach, Finance Department, 17011 NE 19 Avenue, 3rd Floor, North Miami Beach, Florida 33162. In accordance with Florida State Statutes, Chapter 218, payment will be made within 45 days after receipt of services and a proper invoice. The City 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

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.

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

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 City.

B. The City may consider any evidence available to it of the financial, technical and other qualifications and abilities of a Bidder, including past performance (experience) in making the award in the best interest of the City. In all cases the City of North Miami Beach shall have no liability to any contractor for any costs or expense incurred in connection with this bid or otherwise.

1.17 NOTICE REQUIREMENTS

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 City

Project Manager:
City of North Miami Beach
Attention: Shari Kamali, Public Services Department Director
Phone: 305-948-2983
Fax: 305-957-3632
E-mail: shari.kamali@citynmb.com

and,

To the Chief Procurement Officer:
Brian K. O'Connor, C.P.M. A.P.P
Chief Procurement Officer
Procurement Management Division
17011 NE 19th Avenue, Suite 315
North Miami Beach, FL 33162
Phone: (305) 948-2946 Fax: (305) 957-3522
Email: bids@citynmb.com

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 City of North Miami Beach. The Contractor shall supply competent and physically capable employees and the City is authorized to require the Contractor to remove any employee it deems careless, incompetent, insubordinate or otherwise objectionable and whose presence on City property is not in the best interest of the City.

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.

1.19 AWARD OF BID

A. The Review Committee will make a recommendation based upon the lowest responsive and responsible bidder(s) whose bid(s) conforms to the Invitation for Bids and is most advantageous to the City.

B. The City 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 city, 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 City shall provide notice of its intent to award or reject to all bidders by posting such notice on the City's website within two (2) working days after the posted review committee meeting.

The bidder must file a notice of protest in writing to the Chief Procurement Officer within three (3) working days after the posting of the notice of the City's intent to award, and shall file a formal written protest within five (5) working days after filing the notice of protest. The notice of protest must be either, hand-delivered and date and time stamped by the Procurement Division, or sent via certified U.S. mail, return-receipt requested. Failure to file a protest within the time-frame specified herein shall constitute a full waiver of all rights to protest the City's decision regarding the award of bid.

A. The written protest shall state in detail the specific facts and law or ordinance upon which the protest of the proposed award is based, and shall include all pertinent documents and evidence.

B. A written protest may not challenge the relative weight of evaluation criteria or a formula for assigning points.

C. Only a bidder whose bid is timely received and fully complies with all terms and conditions of the bid may protest an award.

D. Upon receipt of a formal written protest, the City may stop award proceedings until resolution of the protest; however, the award proceedings shall not be stopped if the City Manager decides the award must continue without delay in order to avoid an immediate and serious threat to the public health, safety, or welfare.

E. Any and all costs incurred by a protesting party in connection with a bid protest pursuant to this section shall be the sole responsibility of the protesting party.

A protest shall be reviewed and evaluated administratively and a decision in writing shall be forwarded to the protesting firm. If the protesting firm does not agree with the administrative decision, they may appeal the decision in writing to the City Manager within five (5) working days. The notice of appeal must be either hand-delivered and date and time stamped by the City Manager's Office, or sent via certified U.S. mail, return-receipt requested to the City Manager. The decision of the City Manager will be final and submitted with his/her recommendation to the City Council if the award exceeds $50,000.00.

Any person who files a formal written protest shall post with the Chief Procurement Officer, at the time of filing the formal written protest, a cashier's check made payable to the City of North Miami Beach in an amount equal to (one) 1% percent of the City's estimate of the total amount of the contract or $5,000, whichever is less.

If the decision of the City Manager or designee upholds the action taken by the City, then the deposit becomes non refundable and the City shall retain the deposit as payment for a portion of the cost and expense, including but not limited to, time spent by City staff in responding to the protest and in conducting the evaluation of the protest. If the decision of the City Manager or designee does not uphold the action taken by the City, then the City shall return the amount of the cashier's check without deduction, to the person or entity filing the protest.

1.21 AGREEMENT

An agreement shall be sent to the awarded bidder to be signed, witnessed, and returned to the City for execution. The City 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 City's opinion, on previous contracts with the City.

B. Poor performance or default, in the City's opinion, on previous contracts with other public entities.

C. Insufficient financial or company size, in the City'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 City. The ability to subcontract may be further limited by the Special Conditions. Subcontracting without the prior consent of the City 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 corporation without the prior written consent of the City and City's approval.

1.25 LOCAL, STATE AND FEDERAL COMPLIANCE REQUIREMENTS

Bidders shall comply with all local, state and federal directives, orders and laws as applicable to this bid and subsequent contract(s) 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.

1.26 FRAUD AND MISREPRESENTATION

In accordance with City Purchasing Policy 3.6 and pursuant to Section 2-8-1.4 of the Miami-Dade County Code, any individual, corporation or other entity that attempts to meet its contractual obligations with the City through fraud, misrepresentation or material misstatement, may be debarred from doing business with the City. The City 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.

1.27 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 City department, and is in all respects fair, without outside control, collusion, fraud, or otherwise illegal action."

1.28 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.

1.29 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 City 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 City, 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.

1.30 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 City 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 City 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 City 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 City in violation of this restriction, either inadvertently or intentionally and clearly identifies that information in the bid as protected or confidential, the City 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.

1.31 INFORMATION

Further information, if desired, may be obtained from the Chief Procurement Officer, 17011 N.E. 19th Avenue, Room 315, North Miami Beach, Florida 33162, Telephone (305) 948-2946.

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 (305) 957-3522 or emailed to Bids@citynmb.com.

1.32 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.

1.33 CONFLICT IN SPECIFICATIONS

Where there appears to be a variance or conflict between these General Conditions and the Special Conditions or Technical Specifications outlined in the Bid Package, the order of preference shall be Technical Specifications, Special Conditions, then General Terms and Conditions.

1.34 EXCEPTIONS TO PROPOSAL

The bidder shall list on the space provided on the proposal page or on a separate sheet of paper any exceptions to the conditions of this Bid Proposal. This sheet shall be labeled, "Exceptions to Proposal Provisions," and shall be attached to the Bid Proposal. If no exceptions are stated, it will be understood that all General, Special and Technical Conditions will be complied with, without exception.

1.35 NOTICE TO PROCEED

A signed Purchase Order will be the Contractor's authorization to proceed and may substitute for a "Notice to Proceed" form.

1.36 INDEMNIFICATION AND HOLD HARMLESS AGREEMENT

In accordance with Chapter 725, Florida Statutes, the Contractor hall indemnify and hold harmless the City of North Miami Beach and its officers, employees, agents and instrumentalities from any and all liability, losses or damages in an amount not less than $1,000,000 per occurrence. In addition to $1,000,000 per occurrence, the City shall be entitled to attorney's fees and costs of defense, which the City of North Miami Beach, 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 this project by the awarded bidder or its employees, agents, servants, partners, principals or subcontractors. Furthermore, the awarded bidder shall pay all claims and losses in an amount not less than $1,000,000 per occurrence in connection therewith and shall investigate and defend all claims, suits or actions of any kind of nature in the name of the City of North Miami Beach, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. The awarded bidder expressly understands and agrees that any insurance protection required by the resulting agreement or otherwise provided by the awarded bidder shall cover the City of North Miami Beach, its officers, employees, agents and instrumentalities and shall include claims for damages resulting from and/or caused by the negligence, recklessness or intentional wrongful misconduct of the indemnifying party and persons employed or by utilized by the indemnifying party in the performance of the contract.

1.37 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).

1.38 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.

1.39 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 City 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.

1.40 QUANTITIES

The City 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 City, without such change affecting the contract unit price set forth in the proposal form by the bidder.

1.41 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 City unless loss or damage results from negligence by the City. If the materials or services supplied to the City are found to be defective or to not conform to specifications, the City reserves the right to cancel the order upon written notice to the contractor and return product at bidder's expense.

1.42 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 City, 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.

1.43 DURATION OF AGREEMENT

This Agreement will commence on _____ and expire on _____ unless Contractor is otherwise notified by the City. Any extension to this Agreement shall be in writing. The City Manager is authorized to extend or terminate this Agreement on behalf of the City.

1.44 CLAIMS

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

1.45 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.

1.46 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.

1.47 MATERIAL SAFETY DATA SHEET (MSDS)

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 Material Safety Data Sheet (MSDS) for each substance as a condition of the award of the bid by the City.

1.48 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.

1.49 SAMPLES

Samples, when required, must be submitted within the time specified at no expense to the City. 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.

1.50 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.

1.51 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.

1.52 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.

1.53 SOLICITATION, GIVING, AND ACCEPTANCE OF GIFTS POLICY

Bidders shall sign and submit this attached form indicating understanding and compliance with the City'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 City within five calendar days after notification by the City, if this is determined to be in the best interest of the City.

1.54 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.

1.55 ACCESS TO RECORDS

The City 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 this Agreement at its place of business during regular business hours. The Contractor shall retain all records pertaining to this Agreement and upon request make them available to the City 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 City to ensure compliance with applicable accounting and financial standards at no cost to the City.

1.56 GREEN PROCUREMENT POLICY

PURPOSE

The purpose of this policy is to ensure that the City of North Miami Beach departments purchase recycled and other environmentally preferable products whenever the products meet the price and performance requirements of the City.

The City recognizes that the products and services the City buys have inherent social, human, health, environmental and economic impacts; thus the City should make procurement decisions that consider the reduction of its environmental footprint and promote practices that improve human health, and conserve natural resources.

POLICIES

GENERAL POLICIES

The City encourages its Departments and their staff to be innovative and demonstrate leadership by incorporating progressive and best-practice sustainability specifications, strategies and practices in procurement decisions.

Departments shall buy recycled and other environmentally preferable products whenever practicable.

The City shall require its contractors and consultants to use recycled and other environmentally preferable products whenever practicable.

The City shall promote the use of recycled and other environmentally preferable products by publicizing its environmental purchasing policy and its implementation, consistent with this policy.

The City shall communicate its commitment to sustainable procurement by modeling the best product and services choices to citizens, other public agencies and private companies.

The Purchasing Division will take the lead in including environmentally preferable product specifications in bid documents and district contracts, as appropriate.

The City shall aim to maximize the proportion of goods and services that come from local providers with acceptable environmental practices, thereby reducing the environmental impact of transportation wherever feasible and supporting a sustainable local economy.

The City shall seek opportunities to pool purchases with others to enhance markets for environmentally preferable products, to obtain favorable prices, and to reduce waste packaging, transportation, and product cost.

The City shall encourage and promote both local and national companies to bring forward emerging and progressive sustainable products and services, by being a consumer of such products and companies.

RESPONSIBILITIES OF THE PURCHASING DIVISION

Preparing or revising bid documents and contract language where necessary to implement this chapter;

Researching opportunities for procurement of recycled and other environmentally preferable products and communicating these to appropriate county departments for evaluation and purchase;

Collecting data on purchases by departments of recycled and other environmentally preferable products; and

Preparing and submitting a report to the City Manager each year by March 31, describing the progress of departments in implementation of the environmental purchasing policy, including the following elements:

A. Quantities, costs and types of recycled and other environmentally preferable products purchased;
B. A summary of savings achieved through the purchase of recycled and other environmentally preferable products;
C. A summary of program promotional efforts; and
D. Recommendations for changes in procurement policies.

RESPONSIBILITIES OF DEPARTMENTS

Assigning appropriate personnel to evaluate opportunities for buying recycled and other environmentally preferable products reflected in federal guidance or communicated by Purchasing Division.

Purchasing recycled and other environmentally preferable products whenever practicable; and

Seeking opportunities to pool purchases with others to enhance markets for environmentally preferable products, to obtain favorable prices, and to reduce waste packaging, transportation, and product cost.

RULES AND REGULATIONS FOR PROCUREMENT OF PAPER PRODUCTS

Departments shall buy recycled or other environmentally preferable paper whenever practicable.

Departments shall use recycled paper for all imprinted letterhead paper and business cards.

Departments shall publicize the city's use of recycled paper by including a recycling logo and an indication of recycled content on all printed material, to the extent practicable.

Departments shall use both sides of sheets of paper whenever practicable.

Departments shall require all contractors or consultants submitting proposals to use recycled paper and use both sides of sheets of paper whenever practicable.

RULES AND REGULATIONS FOR PROCUREMENT OF LUIBRICATING AND FUEL OILS

Departments shall purchase environmentally preferable oils whenever practicable.

When departments specify re-refined lubricating oil in procurements, they shall purchase re-refined oil if the price is no more than ten percent higher than the price of non-re-refined oil.

DEFINITIONS

Environmentally Preferable Product: A product that has a reduced negative effect or increased positive effect on human health and the environment when compared with competing products that serve the same purpose. This comparison may consider raw materials acquisition, production, fabrication, manufacturing, packaging, distribution, reuse, operation, maintenance, and disposal of the product. This term includes, but is not limited to, recyclable products, recycled products, and reusable products.

EXEMPTIONS

Nothing in this policy shall be construed as requiring a department or contractor to procure products that do not perform adequately for their intended end use or are not available at a reasonable price in a reasonable period of time.

GREEN PURCHASING RESOURCES

The Purchasing Division shall maintain and distribute to staff a list of resources and educational materials regarding accessing and purchasing environmentally preferable products. Some of these resources include the following:

A. U.S. Communities Going Green Program is the one-stop source for public agency access to a broad line of responsible purchasing products, services and resources. In addition to comprehensive contracts that offer eco-friendly products, agencies will find a wealth of valuable information and resources that will help lower the environmental impact within the community and will assist in making educated decisions about the products an agency purchases. http://www.gogreencommunities.org/

B. U.S. EPA Environmentally Preferable Purchasing (EPP): http://www.epa.gov/epp/

C. The Responsible Purchasing Network (RPN) is a national network of procurement-related professionals dedicated to socially responsible and environmentally sustainable purchasing. http://www.responsiblepurchasing.org/

D. ENERGY STAR is a joint program of the U.S. Environmental Protection Agency and the U.S. Department of Energy helping to save money and protect the environment through energy efficient products and practices. http//www.energystar.gov/

E. Electronic Product Environmental Assessment Tool (EPEAT) is a system to help purchasers in the public and private sectors evaluate, compare and select desktop computers, notebooks and monitors based on their environmental attributes. http://www.epeat.net

ANNUAL REVIEW OF POLICY

The City shall annually review its Green Procurement Policy to evaluate the following: its effectiveness, savings, potential changes, and expansion of policy to reflect national trends and best practices.

1.57 INSURANCE REQUIREMENTS

Upon City'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:

A. 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 City 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.

B. 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. **The City of North Miami Beach must be shown as an additional insured with respect to this coverage. The mailing address of City of North Miami Beach 17011 NE 19 Avenue, Suite 315, North Miami Beach, Florida 33162, as the certificate holder, must appear on the certificate of insurance.**

C. 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.

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 City'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 City.

NOTE: CITY OF NORTH MIAMI BEACH 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 this Agreement.

Award of this Contract is contingent upon the receipt of the insurance documents, as required, within fifteen (15) calendar days after City 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 this 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 City. If the Contractor fails to submit the required insurance documents in the manner prescribed in this Agreement within twenty (20) calendar days after City 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 City.

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 City. 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 City 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 City shall suspend the Contract until such time as the new or renewed certificates are received by the City in the manner prescribed herein; provided, however, that this suspended period does not exceed thirty (30) calendar days. Thereafter, the City may, at its sole discretion, terminate this contract.

1.58 CITY WEBSITE

Bids, addenda, bid tabulations, lists of pre-bid conferences attendees and other information is available on the Procurement and Contract Services Division's "Bid's & RFP's" page, which can be found at: www.citynmb.com.

1.59 DISCLAIMER

The City of North Miami Beach 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 City of North Miami Beach's requirements will not be considered. After all bids are analyzed, organization(s) submitting bids that appear, solely in the opinion of the City of North Miami Beach, to be the most competitive, shall be submitted to the City of North Miami Beach's City Council, and the final selection will be made shortly thereafter with a timetable set solely by the City of North Miami Beach. The selection by the City of North Miami Beach shall be based on the bid, which is, in the sole opinion of the City Council of the City of North Miami Beach, in the best interest of the City of North Miami Beach. The issuance of this bid constitutes only an invitation to make presentations to the City of North Miami Beach.

The City of North Miami Beach reserves the right to determine, at its sole discretion, whether any aspect of the bid satisfies the criteria established in this Bid. In all cases the City of North Miami Beach shall have no liability to any contractor for any costs or expense incurred in connection with this bid or otherwise.

1.60 CONFIDENTIALITY

As a political subdivision, the City of North Miami Beach 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 City of North Miami Beach'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.

1.61 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 City of North Miami Beach's RFP and any associated addenda and attachments thereof, and

C. The Contractor's Proposal.

1.62 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 this 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 City 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 City's Project Manager.

The Contractor acknowledges that the City 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 City. The Contractor agrees to act in an expeditious and fiscally sound manner in providing the City with input regarding the time and cost to implement said changes and in executing the activities required to implement said changes.

1.63 PAYMENT FOR SERVICES/AMOUNT OBLIGATED

The Contractor warrants that it has reviewed the City'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 City shall have no obligation to pay the Contractor any additional sum(s) in excess of this amount, except for a change and/or modification to the Contract which is approved and executed in writing by the City and the Contractor.

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

expense.

1.64 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 City at any time during the Contract term, including any renewal or extension thereof.

1.65 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 City upon the request of the City for five years after the date of acceptance of the project by the City, 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 City for work performed does not constitute a waiver of this guarantee.

1.66 MANNER OF PERFORMANCE

A. The Contractor shall provide the Services described herein in a competent and professional manner satisfactory to the City in accordance with the terms and conditions of this Agreement. The City 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 City, 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 City 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 City, 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 City. 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 City, should the City 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 City 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 this Agreement.

1.67 INDEPENDENT CONTRACTOR RELATIONSHIP

The Contractor is, and shall be, in the performance of all work services and activities under this Agreement, an independent contractor, and not an employee, agent or servant of the City. All persons engaged in any of the work or services performed pursuant to this 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 City shall be that of an independent contractor and not as employees and agents of the City.

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

1.68 AUTHORITY OF THE CITY'S PROJECT MANAGER

A. The Contractor hereby acknowledges that the City's Project Manager 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, this 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 Manager, including the withdrawal or modification of any previous order and regardless of whether the Contractor agrees with the Project Manager'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 Manager 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 this Agreement authorize the City Manager 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 City Manager'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 City Manager within 10 days of the occurrence, event or act out of which the dispute arises.

The City Manager 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 this 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 City Manager 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 City Manager 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 City Manager 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 City Manager 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.

1.69 MUTUAL OBLIGATIONS

A. This 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 this 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 this Agreement imposes an indemnity or defense obligation on the Contractor, the City may, at its expense, elect to participate in the defense if the City should so choose. Furthermore, the City 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.

1.70 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

this Agreement for a period of three (3) years from the expiration date of this Agreement and any extension thereof.

1.71 AUDITS

The City, or its duly authorized representatives or governmental agencies shall, until the expiration of three (3) years after the expiration of this 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 City. Such records shall conform to Generally Accepted Accounting Principles requirements, as applicable, and shall only address those transactions related to this Agreement.

The Contractor agrees to grant access to the City'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.

1.72 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 City in writing and request written approval for the substitution at least ten (10) business days prior to effecting such substitution.

1.73 SUBCONTRACTUAL RELATIONS

A. If the Contractor will cause any part of this 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.

B. The Contractor, before making any subcontract for any portion of the services, will state in writing to the City 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 City may require. The City will have the right to require the Contractor not to award any subcontract to a person, firm or corporation disapproved by the City.

C. Before entering into any subcontract hereunder, the Contractor will inform the subcontractor fully and completely of all provisions and requirements of this 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 City, in addition to the other requirements herein provided, the subcontractor must be prepared to prove to the satisfaction of the City 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 City that it has satisfactorily performed services of the same general type which is required to be performed under this Agreement.

E. The City shall have the right to withdraw its consent to a subcontract if it appears to the City that the subcontract will delay, prevent, or otherwise impair the performance of the Contractor's obligations under this Agreement. All subcontractors are required to protect the confidentiality of the City and City's proprietary and confidential information. Contractor shall furnish to the City 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 City permitting the City to request completion of performance by the subcontractor of its obligations under the subcontract, in the event the City 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 City to any subcontractor hereunder as more fully described herein.

1.74 ASSUMPTION, PARAMETERS, PROJECTIONS, ESTIMATES AND EXPLANATIONS

The Contractor understands and agrees that any assumptions, parameters, projections, estimates and explanations presented by the City were provided to the Contractor for evaluation purposes only. However, since these assumptions, parameters, projections, estimates and explanations represent predictions of future events, the City makes no

representations or guarantees, the City shall not be responsible for the accuracy of the assumptions presented, the City 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.

1.75 SEVERABILITY

If this Agreement contains any provision found to be unlawful, the same shall be deemed to be of no effect and shall be deemed stricken from this Agreement without affecting the binding force of this Agreement as it shall remain after omitting such provision.

1.76 TERMINATION FOR CONVENIENCE AND SUSPENSION OF WORK

A. The City may terminate this Agreement if an individual or corporation or other entity attempts to meet its contractual obligation with the City through fraud, misrepresentation or material misstatement.

B. The City may, as a further sanction, terminate or cancel any other contract(s) that such individual or corporation or other entity has with the City. Such individual, corporation or other entity shall be responsible for all direct and indirect costs associated with such termination or cancellation, including attorney's fees.

C. The foregoing notwithstanding, any individual, corporation or other entity which attempts to meet its contractual obligations with the City through fraud, misrepresentation or material misstatement may be debarred from City contracting in accordance with the City debarment procedures. The Contractor may be subject to debarment for failure to perform and all other reasons set forth in Chapter 3 of the City's Purchasing Policies and Procedures Manual.

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

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

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 City's materials and property;

3. Cancel orders;

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

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

E. In the event that the City exercises its right to terminate this 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 this Agreement and which have been specifically developed for the sole purpose of this Agreement but not incorporated in the Services.

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

1.77 EVENT OF DEFAULT

A. An Event of Default shall mean a breach of this 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 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 City where required by this 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 City, reasonable grounds for uncertainty exist with respect to the Contractor's ability to perform the Services or any portion thereof, the City may request that the Contractor, within the time frame set forth in the City's request, provide adequate assurances to the City, in writing, of the Contractor's ability to perform in accordance with terms of this Agreement. Until the City receives such assurances the City 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 City the requested assurances within the prescribed time frame, the City may:

1. Treat such failure as a repudiation of this 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 City shall terminate this Agreement for default, the City or its designated representatives may immediately take possession of all applicable equipment, materials, products, documentation, reports and data.

1.78 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 City 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 City may also bring any suit or proceeding for specific performance or for an injunction.

1.79 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, or any other third party proprietary rights.

B. The Contractor shall be liable and responsible for any and all claims made against the City 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 City'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 City and defend any action brought against the City with respect to any claim, demand, and cause of action, debt, or liability.

C. In the event any Deliverable or anything provided to the City 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 City'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 City, at the Contractor's expense, the rights provided under this Agreement to use the item(s).

D. The Contractor shall be solely responsible for determining and informing the City 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 City may reject any Deliverable that it believes to be the subject of any such litigation or injunction, or if, in the City'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.

1.80 PROPRIETARY INFORMATION

As a political subdivision of the State of Florida, the City of North Miami Beach is subject to the provisions of Florida's Public Records Law.

The Contractor acknowledges that all computer software in the City's possession may constitute or contain information or materials which the City has agreed to protect as proprietary information from disclosure or unauthorized use and may also constitute or contain information or materials which the City has developed at its own expense, the disclosure of which could harm the City'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 City's property, any computer programs, data compilations, or other software which the City has developed, has used or is using, is holding for use, or which are otherwise in the possession of the City (hereinafter "Computer Software"). All third-party license agreements must also be honored by the contractors and their employees, except as authorized by the City and, if the Computer Software has been leased or purchased by the City, 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 City any information discovered or which is disclosed to the Contractor which may relate to the improper use, publication, disclosure or removal from the City'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.

1.81 PROPRIETARY RIGHTS

A. The Contractor hereby acknowledges and agrees that the City retains all rights, title and interests in and to all materials, data, documentation and copies thereof furnished by the City to the Contractor hereunder or furnished by the Contractor to the City and/or created by the Contractor for delivery to the City, even if unfinished or in process, as a result of the Services the Contractor performs in connection with this 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 this Agreement. The Contractor shall not, without the prior written consent of the City, 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 this Agreement shall not be construed as publication in derogation of the City'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 City, hereinafter referred to as "Developed Works" shall become the property of the City.

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 City, 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 City 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 City or entities controlling, controlled by, under common control with, or affiliated with the City, or organizations which may hereafter be formed by or become affiliated with the City. Such license specifically includes, but is not limited to, the right of the City 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 City for such person's or entity's use in furnishing any and/or all of the Deliverables provided hereunder exclusively for the City or entities controlling, controlled by, under common control with, or affiliated with the City, or organizations which may hereafter be formed by or become affiliated with the City. 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.

1.82 BUSINESS APPLICATION AND FORMS

The Contractor shall be a registered vendor with the City Procurement Management Division for the duration of this Agreement. It is the responsibility of the Contractor to file the appropriate vendor application and to update the application file for any changes for the duration of this Agreement, including any option years.

Section 2-11.1(d) of the Miami-Dade County Code as amended by Ordinance 00-1, requires any City employee or any member of the employee's immediate family who has a controlling financial interest, direct or indirect, with the City or any person or agency acting for the City competing or applying for any such contract as it pertains to this solicitation, must first request a conflict of interest opinion from the County's Ethic Commission prior to their or their immediate family member's entering into any contract or transacting any business through a firm, corporation, partnership or business entity in which the employee or any member of the employee's immediate family has a controlling financial interest, direct or indirect, with the City of North Miami Beach or any person or agency acting for the City and that any such contract, agreement or business engagement entered in violation of this subsection, as amended, shall render this Agreement voidable. For additional information, please contact the Ethics Commission hotline at (305) 579-2593.

1.83 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 City orders, statutes, ordinances, rules and regulations which may pertain to the Services required under this 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. Miami-Dade County Florida, Department of Small Business Development Participation Provisions, as applicable to this Contract.

C. Environmental Protection Agency (EPA), as applicable to this Contract.

D. Miami-Dade County Code, Chapter 11A, Article 3. 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.

E. "Conflicts of Interest" Section 2-11 of the County Code, and Ordinance 01-199.

F. North Miami Beach Purchasing Policies and Procedures Manual Policy 3.6 "Debarment and Suspension".

G. Notwithstanding any other provision of this Agreement, Contractor shall not be required pursuant to this 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.

1.84 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 City, 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 City 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.

1.85 CONFLICT OF INTEREST

The Contractor represents that:

A. No officer, director, employee, agent, or other consultant of the City 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 this Agreement.

B. There are no undisclosed persons or entities interested with the Contractor in this Agreement. This 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 the City, 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 this Agreement, or in the services, supplies or work, to which this 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 this Agreement; provided that the City, in its sole discretion, may consent in writing to such a relationship, and provided the Contractor provides the City 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 City'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 this 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 City's Project Manager. Contractor shall thereafter cooperate with the City's review and investigation of such information, and comply with the instructions Contractor receives from the Project Manager in regard to remedying the situation.

1.86 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 City:

A. Issue or permit to be issued any press release, advertisement or literature of any kind which refers to the City, or the Work being performed hereunder, unless the Contractor first obtains the written approval of the City.

Such approval may be withheld if for any reason the City 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 City; 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 City, except as may be required by law.

1.87 BANKRUPTCY

The City reserves the right to terminate this contract if, during the term of any contract the Contractor has with the City, 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.

1.88 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.

1.89 SURVIVAL

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

1.90 CANCELLATION FOR UNAPPROPRIATED FUNDS

The obligation of the City 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.

1.91 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.

1.92 VERBAL INSTRUCTIONS PROCEDURE

No negotiations, decisions, or actions shall be initiated or executed by the Contractor as a result of any discussions with any City employee. Only those communications which are in writing from an authorized City 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 City as duly authorized expressions on behalf of Contractors.

1.93 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 City 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 City shall have the right to receive from the Contractor reduction in costs that reflect such cost changes in the industry. The City 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 City does not wish to accept the adjusted

costs and the matter cannot be resolved to the satisfaction of the City, the contract can be cancelled by the City upon giving thirty (30) days written notice to the Contractor.

1.94 PROHIBITION OF INTEREST

No contract will be awarded to a bidding firm who has City elected officials, officers or employees affiliated with it, unless the bidding firm has fully complied with current Florida State Statutes and City 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 City's bidder lists, and prohibition from engaging in any business with the City.

1.95 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 this 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 this Agreement. For the breach or infraction of this provision, the City shall have the right to terminate the Agreement without liability at its discretion, to deduct from the contract price, or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

1.96 E-VERIFY

Contractor acknowledges that the City 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 City 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 City and a State Agency, and reporting to the City 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 this Agreement.

1.97 FORCE MAJEURE

The Agreement which is awarded to the successful proposer may provide that the performance of any act by the City 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 City shall have the right to provide substitute service from third parties or City forces and in such event the City shall withhold payment due Contractor for such period of time. If the condition of force majeure exceeds a period of 14 days the City may, at its option and discretion, cancel or renegotiate this Agreement.

1.98 BUDGETARY CONSTRAINTS

In the event the City 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.

1.99 ANNEXATION

Contractor agrees to extend all terms, conditions and pricing in this agreement and any amendments thereto, to any areas annexed into the City.

1.99 A.LITIGATION VENUE

The parties waive the privilege of venue and agree that all litigation between them in the state courts shall take place in Miami-Dade County, Florida and that all litigation between them in the federal courts shall take place in the Southern District of Florida.

1.99 B.SOVEREIGN IMMUNITY

Nothing in this agreement shall be interpreted or construed to mean that the city waives its common law sovereign immunity or the limits on liability set forth in Section 768.28, Florida Statute.

SECTION 2.0 SPECIAL CONDITIONS

2.1 COOPERATIVE BID

The City of North Miami Beach is currently soliciting bids to establish a contract for the purchase of sodium hypochlorite in tank loads and less than tank loads. This is a cooperative invitation to bid issued by the City of North Miami Beach Purchasing Division on behalf of the participating Southeast Florida Governmental Purchasing Cooperative agencies for the purchase of their respective estimated requirements for sodium hypochlorite.

Bid openings are open to the public. All bidders and/or their representatives are invited to be present. Once opened, the bids will be tabulated, evaluated, and presented to the appropriate City officials for contract award.

2.2 QUESTIONS REGARDING SPECIFICATIONS

Any questions regarding the specifications shall be addressed to the Chief Procurement Officer, Procurement Management Division, City of North Miami Beach, via e-mail at bids@citynmb.com or in writing to 17011 NE 19 Avenue, Room 315, North Miami Beach, Florida 33162.

Any oral instructions given are not binding. All questions and interpretations will be clarified in writing to all bidders by written addenda. Failure of a bidder to receive and/or acknowledge any addendum shall not release the bidder from any obligations under this bid.

2.3 TERM OF CONTRACT

This contract shall be in effect for a three (3) year period from the date of the issuance of a letter of award, or date of executed contract, whichever is later, and contingent upon the completion and submittal of all required bid documents. The contract shall expire on the last day of the three (3) year period. The City may extend this contract for two additional one (1) year periods at the same terms, conditions and prices upon mutual agreement of both parties. The Proposer agrees to this condition by signing its proposal. If the Contractor cannot renew at these same terms, conditions and prices, Contractor must notify City on/or before 90 days prior to contract expiration.

2.4 ADDITION/DELETION OF DELIVERY LOCATIONS

The City of North Miami Beach reserves the right to add or delete locations during the term of the contract at its sole discretion.

2.5 DELIVERY

Delivery shall be made within two (2) calendar days after receipt of purchase order or notice from the participating agency. Failure of the successful bidder to deliver the sodium hypochlorite within the time specified in this section shall be grounds for default and termination of the contract.

2.6 DELIVERY FOR CITY OF MARGATE

The City of Margate has its own system for producing sodium hypochlorite. The City will order deliveries from the Contractor only in an emergency situation. Delivery shall be made within 24 hours of the notice from the City of Margate.

2.7 AWARD OF CONTRACT

Award will be made only to responsible, licensed contractors possessing the potential ability to perform successfully under the terms and conditions of these specifications. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, references, and financial and technical resources.

Contractors submitting bids must be regularly engaged in the trade or trades relating to the bids submitted.

2.8 SAMPLE REQUIREMENTS

2.8.1. Each bidder submitting a bid for consideration shall submit the results from a 1500ml "chilled" sample of their product from the proposed manufacturing facility which would serve the customer that was sent to one of the approved testing laboratories listed in this specification for analysis within the past ninety (90) days from the bid opening date. The laboratory shall ascertain whether the proposer's product is in compliance with this specification for available chlorine, % sodium hypochlorite, excess caustic, iron, copper, nickel, chlorate, bromate and suspended solids (based on Filter Test

time). The cost of the analysis shall be borne by the bidder. The results of the analysis shall be submitted with the proposal. Additionally, bidder shall submit a copy of the most recently available NSF sample results of their product from the proposed manufacturing facility to ensure compliance with the specification. Failure to submit either sample results or meet the requirements of the specifications may result in bidder being disqualified.

2.8.2. The City of North Miami Beach reserves the right to take samples from bidder's other customers to ensure that the bidder's sample and delivery equipment is in compliance with all the requirements of this specification and such a sample shall be judged representative of the bidder's quality. The bidder shall provide a list of current customers for the same product along with contact and telephone number with this bid. In such event, the City of North Miami Beach shall bear the cost of any analysis. Based on this compliance check, failure to meet the requirements of this specification may result in bidder being disqualified.

2.8.3. The approved laboratories are listed below for all sampling and testing whether during the proposal period or after award. No other laboratory shall be used unless expressly approved by the City of North Miami Beach.

NovaChem Laboratories
5172 College Corner Pike
P.O. Box 608
Oxford, OH 45056
Phone: 513-523-3605
Fax: 513-523-4025

Thornton Laboratories
1145 East Cass Street
Tampa, FL 33602
Phone: 813-223-9702
Fax: 813-223-9332

Advanced Environmental Laboratories
10200 USA Today Way
Miramar, FL 33025
Phone: 754-816-3123

2.9 CONTRACTOR'S RESPONSIBILITY

2.9.1. Shipments shall bear warning labels as specified by USDOT regulations.

2.9.2. Contractor shall have vehicle equipped with a 2" Cam Lock Filler Nozzle for product dispensing (unload).

2.9.3. The delivery site(s) is located within a well field zone. Proper handling and delivery procedures shall comply with the Department of Environmental Resources Management (DERM) requirements.

2.9.4. Product shall be delivered in thoroughly cleaned tank trucks.

2.10 CLEAN TANK GUARANTEE

At any time during the performance of this Agreement, if any participating agency has any sort of sludge or other impurity buildup in any of its sodium hypochlorite tanks, the Contractor shall clean out the tank at no charge to the participating agency within seven (7) days, unless such timeframe is extended by the participating agency. The cleanout should be done in such a manner so that it is done safely with no loss of disinfection to the affected plant and the contents disposed of in accordance with current regulations on disposal of hazardous wastes. The Contractor shall submit a procedure to the participating agency for the approval prior to this work being completed. The determination of whether there is any such sludge or impurity buildup in the tanks will be at the *sole discretion* of the participating agency. When the tank has been properly cleaned, the Contractor shall refill the tank with clean, fresh sodium hypochlorite at no cost to the participating agency. Failure of the Contractor to clean out the tank and replace the sodium hypochlorite within seven (7) days after being served notice (or within any extension of this timeframe specified by the participating agency) shall be cause for immediate termination of the sodium hypochlorite supply Agreement between the participating agency and the Contractor.

2.11 DELIVERY LOCATIONS, SIZE OF TANKS AND ESTIMATED ANNUAL USAGE FOR EACH PARTICIPATING AGENCY

Location- Number of Tanks- Tank Size

1. Broward County, Florida – Estimated Annual Usage is 840, 720 Gallons

1A District One Water Treatment Plant - 4 tanks - 7,300 Gallons each
3701 North State Road 7
Lauderdale Lakes, FL 33319

1A1 – 2 tanks – 450 Gallons each
3598 West Prospect Road
Ft. Lauderdale, FL

1A2-2 tanks – 250 Gallons each
3901 N.W. 8 Place
Ft. Lauderdale, FL

1B1 – 2 tanks – 450 Gallons each
300 N.W. 66 Street
Ft. Lauderdale, FL

13B8 – 2 tanks – 600 Gallons each
3533 Pembroke Road
Hollywood, FL

13B9 – 2 tanks – 600 Gallons each
1751 S.W. 57 Avenue
Hollywood, FL

3C – 2 tanks – 1,100 Gallons each
2400 S.W. 67 Avenue
Miramar, FL

3B – 1 tank – 500 Gallons each
4550 S.W. 38 Street
West Park, FL

District Two Water Treatment Plant – 6 tanks – 14,000 Gallons each
1390 North East 50 Street
Pompano Beach, FL 33064

District Four Water Treatment Plant – 1 tank – 2,000 Gallons
2401 North Powerline Road 1 tank – 5,000 Gallons
Pompano Beach, FL 33069

2. **City of Cooper City, Florida – Estimated Annual Usage is 103,000 Gallons**
Cooper City Utilities – 4 tanks-3000 Gallons each
11791 S.W. 118 Avenue
Cooper City, FL 33330

3. **City of Davie – Estimated Annual Usage is 240,000 Gallons**
System I – 1 tank-5000 Gallons
3790 S.W. 64th Avenue
Davie, FL

System II-1 tank-7800 Gallons
3500 N.W. 76th Avenue
Hollywood, FL

4. **City of Deerfield Beach – Estimated Annual Usage is 40,000 Gallons**
Deerfield Beach Water Treatment Plant-1 tank-6,000 Gallons
290 Goolsby Blvd.
Deerfield Beach, FL 33442

5. **City of Fort Lauderdale – Estimated Annual Usage is 170,000 Gallons**
Peele Dixie WTP-3 Tanks – 11,450 Gallons each – 34,350 Total Storage
1500 S. State Road 7
Fort Lauderdale, FL 33317

6. **City of Margate – Estimated Annual Usage is Unknown**
Water Treatment Plant- 1 tank - 8,500 Gallons
980 NW 66 Avenue
Margate, FL 33063

Wastewater Treatment Plant
6630 NW 9th Street- 2 tanks-10,300 Gallons each
Margate, FL 33063

7. **City of North Miami – Estimated Annual Usage is 166,400 Gallons**
City of North Miami-2 tanks-2000 Gallons each
12098 N.W. 11 Avenue
North Miami, FL 33168

8. **City of North Miami Beach - Estimated Annual Usage is 530,000 Gallons**
Norwood Water Treatment Plant- 2 tanks- 15,000 Gallons each
19150 NW 8th Ave
Miami Gardens FL, 33169

Public Services Operations Center- 2 tanks- 3,000 Gallons each
2101 N.E. 159th Street
Miami, FL 33162

9. **City of Pembroke Pines – Estimated Annual Usage is 156,000 Gallons**
Wastewater Treatment Plant – 6 tanks – 4,000 Gallons each
13955 Pembroke Road
Pembroke Pines, FL 33027

Water Plant – 2 tanks – 12,000 Gallons each
7960 Johnson Street
Pembroke Pines, FL 33024

10. **City of Pompano Beach – Estimated Annual Usage is 366,000 Gallons**
Water Treatment Plant-3 tanks-10,000 Gallons each
301 N.E. 12th Street
Pompano Beach, Florida 33060

Reuse- 2 tanks- 3,000 Gallons each and 1 tank – 6,000 Gallons
1799 North Federal Highway
Pompano Beach, Florida 33060

2.12 ADDITIONAL INFORMATION

All work is to be performed during normal working hours unless requested otherwise by the participating agency. Contractor must provide name and contact information as references for facilities that have been provided the same or similar products and service.

2.13 PRICE ADJUSTMENTS (UPWARD OR DOWNWARD)

The prices proposed by the Contractor shall remain firm for the initial twelve (12) months of the three (3) year initial term. At the beginning of each of the two (2) additional years of the initial term, and at the commencement of each of the two one- year renewal options, the City may consider a single annual price adjustment to the unit price of each item based on the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index (CPI-U, All Items, Not Seasonally Adjusted (NSA). The website is http://www.bls.gov/cpi/home.htm. At the City's sole discretion, the annual adjustment shall be calculated by using the appropriate annual percentage as provided by the Bureau of labor Statistics not more than 120 days nor less than 30 days prior to the first day of each one year period of this contract.

Prices may adjusted upward or downward based on the CPI.

SECTION 3.0 TECHNICAL SPECIFICATIONS

3.1 SCOPE

The City of North Miami Beach, as the lead agency for the Southeast Florida Governmental Purchasing Cooperative Group (COOP) is requesting bids to provide a firm fixed price for the purchase and delivery of Sodium Hypochlorite in bulk and less than tanker loads as specified herein.

3.2 SPECIFICATIONS AND REQUIREMENTS

Product specifications (as per AWWA standard B300a-99, latest revision):

- Trade name: Hypochlorite Solution, Bleach
- Chemical formula: NaOCl
- Specific gravity: at 20C -1.1 - 1.2
- Molecular weight: 74.5
- Appearance: Light-yellow to green clear liquid solution.
- Solubility in water: Complete
- Freezing Temperature: minus 7C to minus 10C

3.3 STANDARDS

3.3.1. Hypochlorite supplied under this contract shall be tested and certified as meeting these specifications and those of the American National Standards Institute/National Sanitation Foundation Standard 60 (ANSI/NSF Standard 60), Drinking Water Treatment Chemicals Health Effects. It is the responsibility of the Contractor to inform the participating agency that NSF or UL certification has been revoked or lapsed within 24 hours of the time the supplier receives verbal or written notification. Loss of certification may constitute sufficient grounds for immediate termination of the contract between the participating agency and the Contractor.

3.3.2. Hypochlorite delivered under this contract shall have a minimum of 120 Grams per Liter (GPL) available chlorine (i.e., 12.0 Trade Percent).

3.3.3. Hypochlorite delivered under this contract shall have a minimum of 0.15 percent by weight sodium hydroxide and a maximum of 0.45 weight percent sodium hydroxide.

3.3.4. Hypochlorite delivered under this contract shall meet the following containment concentration limits:

- ☐ Iron < 0.3 mg/L
- ☐ Copper < 0.03 mg/L
- ☐ Nickel < 0.03 mg/L
- ☐ Chlorate < 1,500 mg/L
- ☐ Bromate < 20 mg/L
- ☐ Perchlorate < 20 mg/L
- ☐ Filter Test Time (1000 ml) < 3 minutes

3.3.5. Sampling and testing shall be in accordance with EPA and AWWA B300-04 standards and in accordance with the documents titled: *"The Weight Percent Determination of Sodium Hypochlorite, Sodium Hydroxide, And Sodium Chlorate in Liquid Bleach"* and *"Suspended Solids Quality Test for Bleach Using Vacuum Filtration"*, distributed by Powell Fabrication and Manufacturing, Inc. and available at http://www.powellfab.com.

SECTION 4.0
2012-15 BID PAGE

NAME OF COMPANY:

_____
(Name of company submitting bid)

SIGNATURE: _____ _____
(Sign in Ink) (Print Name)

TITLE: _____ E-MAIL ADDRESS: _____

ADDRESS: _____

TELEPHONE NO.: _____ FAX NO.: _____

By signing and submitting this bid proposal, we acknowledge having read and agreeing to all times and conditions of these specifications, including, but not limited to, agreeing to indemnify and hold the City harmless from any and all claims, suits, actions, damages, causes of action, or attorney's fees arising from any personal injury, loss of life, or damage to person or property sustained by reason of or as a result of the products or services supplied, or negligence of contractor supplier, his employees, agents, or assigns.

By signing and submitting this bid proposal, we certify that this company has current insurance coverage specified herein. The insurance policy number(s) and expiration date(s) are provided below, or copies of the insurance certificate(s) are enclosed. If awarded the bid, we will provide the City with proof of the required insurance and include the City as an additional insured on our general liability coverage.

Do you give prompt payment discounts?

☐Yes, Percentage of discount _____% Term_____ ☐No

I certify that this bid is made without prior understanding, agreement or connection with any corporation, firm, or person submitting a bid for the same materials, supplies, or equipment, and is in all respects fair and without collusion or fraud. I agree to abide by all conditions of this bid and certify that I am authorized to sign this bid for the bidder.

INSURANCE POLICY NO(S):_____

EXPIRATION DATE(S):_____

INSURANCE CERTIFICATE(S) ENCLOSED: YES NO

_____ _____
(Sign In Ink) (Print Name)

WARRANTIES_____

_____

_____

_____

Section 4.1
Pricing Page
2012-15

Item No.	Description	Unit	Estimated Annual Usage	Unit Price	Total Price
1	Sodium Hypochlorite -Tanker Load	Gallon	2,336,470		
2	Sodium Hypochlorite less than Tanker Load	Gallon	275,650		
Total Items 1 and 2					

SECTION 5.0 CITY REQUIRED FORMS

5.1 STATEMENT OF "NO" BID

If your company shall not be submitting a bid in response to this Invitation to Bid or Request for Proposal, please complete this Statement of "No" Bid Sheet and return, prior to the Bid/RFP Due Date established within, to:

The City of North Miami Beach
Procurement Management Division, Room 315
17011 NE 19th Avenue
North Miami Beach, Florida 33162

This information shall help the City of North Miami Beach in the preparation of future Bids and RFP's.

Bid/RFP/RFQ Number: _____ Title: _____

Company Name: _____

Contact: _____

Address: _____

E-Mail: _____

Telephone: _____ Facsimile: _____

√	**Reasons for "NO" Bid:**
	Unable to comply with product or service specifications.
	Unable to comply with scope of work.
	Unable to quote on all items in the group.
	Insufficient time to respond to the Invitation to Bid.
	Unable to hold prices firm through the term of the contract period.
	Our schedule would not permit us to perform.
	Unable to meet delivery requirements.
	Unable to meet bond requirements.
	Unable to meet insurance requirements.
	Other (Specify below)

Comments: _____

5.2 REFERENCE QUESTIONNAIRE

It is the responsibility of the contractor/vendor to provide a minimum of three (3) references using this form and providing this information with your submission. Failure to do so may result in the rejection of your submission.

Giving reference for:
(BID/RFP/RFQ # AND TITLE)

Firm giving Reference:
Address:
Phone:
Fax:
Email:

1. **Q:** What was the dollar value of the contract?
   A:

2. Have there been any change orders, and if so how many?
   A:

3. **Q:** Do they perform on a timely basis as required by the agreement?
   A:

4. **Q:** Was the project manager easy to get in contact with?
   A:

5. **Q:** Would you use them again?
   A:

6. **Q:** Overall, what would you rate their performance? (Scale from 1-5)

   A: ☐**5** *Excellent* ☐**4** *Good* ☐**3** *Fair* ☐ **2** *Poor* ☐**1** *Unacceptable*

7. **Q:** Is there anything else we should know, that we have not asked?
   A:

The undersigned does hereby certify that the foregoing and subsequent statements are true and correct and are made independently, free from vendor interference/collusion.

Name: _____ Title _____

Print Name: _____ Date: _____

5.3 BID SIGNATURE PAGE FOR CORPORATION

The officers of the Corporation are as follows:

	NAME	ADDRESS
President		
Vice-President		
Secretary		
Treasurer		
Registered Agent		

The full names and residences of stockbrokers, persons, or firms interested in the foregoing Bid, as principals, are as follows:

_____

_____

Post Office Address BIDDER:

_____
(CORPORATE NAME)

_____
PRESIDENT'S SIGNATURE AND E-MAIL ADDRESS

Is this corporation incorporated in the State of Florida?

ATTEST: _____
SECRETARY

YES [ ] NO [ ]

If no, give address of principal place of business: _____

_____ _____

5.4 BID SIGNATURE PAGE FOR SOLE PROPRIETOR OR PARTNERSHIP

The full names and residences of persons, partners or firms interested in the foregoing Bid, as principals, are as follows:

_____ _____

_____ _____

_____ _____

_____ _____

_____ _____

BIDDER

_____ (FIRM NAME)

Witnesses:

(SEAL)

_____

SIGNATURE AND E-MAIL ADDRESS

_____

PRINT NAME

_____

Title (Sole Proprietor or Partner)

Post Office Address:

_____

_____

TELEPHONE

CITY in which fictitious name is registered.

_____

Attach a copy of proof of registration

5.5 DRUG-FREE WORKPLACE PROGRAM

IDENTICAL TIE BIDS - Preference shall be given to businesses with drug-free workplace programs. Whenever two or more bids which are equal with respect to price, quality, and service are received by the State or by any political subdivision for the procurement of commodities or contractual services, a bid received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. Established procedures for processing tie bids will be followed if none of the tied vendors have a drug-free workplace program. In order to have a drug-free workplace program, a business shall:

1. 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 prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining 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.
3. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
4. 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 such conviction.
5. 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.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

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

_____ _____

VENDOR'S SIGNATURE PRINTED NAME

_____

NAME OF COMPANY

5.6 SOLICITATION, GIVING, AND ACCEPTANCE OF GIFTS POLICY

Florida Statute 112.313 prohibits the solicitation or acceptance of Gifts. - "No Public officer, employee of an agency, or candidate for nomination or election shall solicit or accept anything of value to the recipient, including a gift, loan, reward, promise of future employment, favor, or service, based upon any understanding that the vote, official action, or judgment of the public officer, employee, or candidate would be influenced thereby.""... The term 'public officer' includes any person elected or appointed to hold office in any agency, including any person serving on an advisory body."
The City of North Miami Beach policy prohibits all public officers, elected or appointed, all employees, and their families from accepting any gifts of any value, either directly or indirectly, from any contractor, vendor, consultant, or business with whom the City does business. Only advertising office stationery or supplies of small value are exempt from this policy - e.g. calendars, note pads, pencils.

The State of Florida definition of "gifts" includes the following:

Real property or its use,
Tangible or intangible personal property, or its use,
A preferential rate of terms on a debt, loan, goods, or services,
Forgiveness of indebtedness,
Transportation, lodging, or parking,
Membership dues,
Entrance fees, admission fees, or tickets to events, performances, or facilities,
Plants, flowers or floral arrangements

Services provided by persons pursuant to a professional license or certificate. Other personal services for which a fee is normally charged by the person providing the services. Any other similar service or thing having an attributable value not already provided for in this section. To this list, the City of North Miami Beach has added food, meals, beverages, and candy.
Any contractor, vendor, consultant, or business found to have given a gift to a public officer or employee, or his/her family, will be subject to dismissal or revocation of contract.
As the person authorized to sign the statement, I certify that this firm will comply fully with this policy.

_____	_____
SIGNATURE	PRINTED NAME
_____	_____
NAME OF COMPANY	TITLE

Failure to sign this page shall render your bid non-responsive

5.7 VENDOR REGISTRATION

If you are not a City of North Miami Beach current registered vendor follow the instructions when you go to:

http://www.keepandshare.com/doc/1759482/vendor-registration-form-2010-pdf-february-19-2010-9-51-am-360k?da=y

5.8 NONCOLLUSION AFFIDAVIT
STATE OF: _____

COUNTY OF: _____, being first duly sworn, deposes and says that:

(1) He/she is _____ of _____, the Bidder that has submitted the attached Bid.

(2) Bidder has been fully informed regarding the preparation and contents of the attached Bid and of all pertinent circumstances regarding such Bid;

(3) Such Bid is genuine and is not a collusion or sham Bid;

(4) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant has 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 contractor for which the attached Bid has been submitted or to refrain from bidding in connection with such contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm or person to fix the price or prices, profit or cost element of the Bid price or the Bid price of any other Bidder, or to secure through advantage against the _____ (Local Public Agency) or any person interested in the proposed Contract; and

(5) The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

(SIGNED)_____
Title

Subscribed and sworn to before me this
____day of _____,20___
My commission expires:

5.9 SWORN STATEMENT PURSUANT TO SECTION 287.133 (3) (a) FLORIDA STATUTES ON PUBLIC ENTITY CRIMES
THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS

1. This form statement is submitted to _____

by_____ for _____

(Print individual's name and title) (Print name of entity submitting sworn statement)

whose business address is _____

and if applicable its Federal Employer Identification Number (FEIN) is _____ If the entity has not FEIN, include the Social Security Number of the individual signing this sworn statement.

_____

2. I understand that a "public entity crime" as defined in paragraph 287.133(1)(g), Florida Statues, means a violation of any state or federal law by a person with respect to an directly related to the transactions of business with any public entity or with an agency or political subdivision of any other state or with the United States, including, but not limited to any bid or contract for goods or services to be provided to public entity or agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misinterpretation.

3. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in an federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non-jury trial, or entry of a plea of guilty or nolo contendere.
4. I understand that an "Affiliate" as defined in paragraph 287.133(1)(a), Florida Statutes means:

    1. A predecessor or successor of a person convicted of a public entity crime, or
    2. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a *pooling* of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.
5. I understand that a "person" as defined in Paragraph 287.133(1)(e), Florida Statues, means any natural person or entity organized under the laws of any state or of the United States within the legal power to enter into a binding contract and which bids or applies to bid on contracts for the

provision of goods or entity. The term "person" includes those officers, executives, partners, shareholders, employees, members, and agents who are active in management of an entity

6. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. (Please indicate which statement applies.)

_____ Neither the entity submitting sworn statement, nor any of its officers, director, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

_____ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity, or an affiliate of the entity had been charged with and convicted of a public entity crime subsequent to July 1, 1989, AND (please indicate which additional statement applies.

_____ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent proceeding before a Hearing Officer of the State of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list. (attach a copy of the final order).

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 (ONE) ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND THAT THIS FORM IS VALID THROUGH DECEMBER 31 OR THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THAT PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE

THRESHOLD AMOUNT PROVIDED IN SECTION 287.017 FLORIDA STATUTES FOR A CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

_____
(Signature)

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

Personally known_____

Or produced identification _____ Notary Public-State of _____

_____ my commission expires_____

(Type of identification)

_____
(Printed, typed or stamped commissioned name of notary public)

5.10 SOURCE OF INFORMATION

How did you find out about this solicitation? Check all that applies.

1. www.citynmb.com ☐
2. www.demandstar.com ☐
3. Daily Business Review ☐
4. The Miami Herald ☐
5. Referral/word- of mouth ☐ ecify Source: _____
6. Search Engine/Internet search ☐
7. E-mail, newsgroup, online chat ☐ pecify Source: _____
8. Banner or Link on another website ☐
9. Flyer, newsletter, direct mail ☐ pecify Source: _____

Other ☐ cify Source: _____

SECTION 6.0 SAMPLE AGREEMENT FOR BIDDER INFORMATION ONLY

DO NOT EXECUTE
SAMPLE AGREEMENT- DO NOT FILL OUT

CONTRACT TITLE AND NUMBER

THIS AGREEMENT made and entered into as of this ____ day of _____, **2012** by and between _____, a corporation organized and existing under the laws of the **State of Florida,** having its principal office at _____ (hereinafter referred to as the "Contractor"), and the City of North Miami Beach, a political subdivision of the State of Florida, having its principal office at 17011 NE 19 Avenue, North Miami Beach, Florida 33162 (hereinafter referred to as the "City"),

WITNESSETH:

WHEREAS, the Contractor has offered to provide the materials and/or services and to be bound by the Plans and the terms and conditions of the ITB_____, which includes:

- General Terms and Conditions of Invitations for Bids, Specifications, Bid Forms, and associated addenda attached hereto and incorporated herein as Exhibit "A".
- The terms of CONTRACTOR'S PROPOSAL attached hereto and incorporated herein as Exhibit "B".

WHEREAS, the Contractor has submitted a written proposal dated_____, **2012** hereinafter referred to as the "Contractor's Proposal", which is incorporated herein by reference; and,

WHEREAS, the City desires to procure from the Contractor such _____ for the City, in accordance with the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto agree as follows:

1. The CONTRACTOR agrees to provide the materials and/or services and to be bound by the Plans and the terms and conditions of the Invitation to Bid, which includes General Terms and Conditions of Invitations for Bids, Specifications, Bid Forms, and associated addenda and attach attached hereto and incorporated herein as Exhibit "A" and to the terms of CONTRACTOR'S PROPOSAL attached hereto and incorporated herein as Exhibit "B".

2. The CITY agrees to abide by and to be bound by the terms of the Invitation to Bid, which includes General Terms and Conditions of Invitations for Bids, Specifications, Bid Forms, and associated addenda as attached hereto and incorporated herein as Exhibit "A" and to the terms of CONTRACTOR'S PROPOSAL attached hereto and incorporated herein as Exhibit "B".

3. CONTRACTOR shall deliver materials and/or provide service when and as directed by the CITY.

4. The CITY agrees to make payment in accordance with the terms of the attached Invitation to Bid and Bid Forms attached hereto and incorporated herein as Exhibit "A" and to the terms of CONTRACTOR'S PROPOSAL attached hereto and incorporated herein as Exhibit "B".

5. This Agreement constitutes the entire agreement between the parties hereto, and its provisions shall not be amended, except in writing, after formal approval by both parties.

6. This Agreement will commence on _____ expire on _____ unless otherwise notified by the City. Any extension to this Agreement shall be in writing. The City Manager is authorized to terminate this agreement on behalf of the City.

8. CONTRACTOR agrees to indemnify and hold the City harmless from any and all claims, suits, actions, damages, causes of action, and attorney's fees, arising from any personal injury, loss of life, or damage to person or property sustained by reason of or as a result of the products or materials used or supplied in the performance of this agreement.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on this

_____ day of _____, 2012.

CONTRACTOR

By: _____
(Signature)

Name: _____
(Print)

Title: _____

Date: _____

Attest: _____
Corporate Seal/Notary Public

Corporate Seal/Notary Seal
CITY OF NORTH MIAMI BEACH

By: _____
Lyndon L. Bonner, City Manager

Date: _____

Attest: _____
Pamela L. Latimore, City Clerk

Approved as to form
And legal sufficiency

_____
Darcee S. Siegel, City Attorney