

Request for Proposal

552-9094

**3-YEAR CONTRACT FOR PRESCRIPTION DRUG SERVICES FOR CITY
EMPLOYEES**

***Opens: August 26, 2004
2:00 p.m.***



City of Fort Lauderdale

***Issued for FINANCE DEPARTMENT/RISK MANAGEMENT DIVISION
By the Procurement & Materials Management Division***

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GENERAL CONDITIONS - G-107(a) Rv 7/01

PART I: INTRODUCTION/GENERAL INFORMATION

1. PURPOSE: The purpose of this RFP is to obtain proposals from qualified Proposers to provide a local and nationwide network of retail and mail service pharmacies, pharmacy benefit management (PBM) services, claims adjudication and processing for drugs and other goods and related services, and drug utilization review for eligible City employees, dependents and retirees. The selected prescription drug provider must provide all staffing, systems and procedures required to perform the services in accordance with the Request for Proposal (RFP) specifications, and in a manner that assures convenient access, high quality, and effective cost control for the City.

1.1. BACKGROUND: The City of Fort Lauderdale currently is self-insured for medical benefits and provides an EPO and PPO option for its employees. The prescription benefit has been carved out and has been with Eckerd Health Services since October 1, 1998. Management, Confidential and General City employees and their families are currently covered under a self-funded, cost plus administrative services only (ASO) prescription plan with PBM services. Currently there are 4,031 eligible member lives.

- a. The General employee's FOPA Union has given the City notice that they intend to leave the City of Fort Lauderdale's Health plan effective January 1, 2005. If they leave, an estimate of the number of remaining eligible member lives as of January 1, 2005 is 1,250. If pricing is based upon number of eligible member lives please note price breaks.
- b. A majority of the employees reside in Broward, Dade and Palm Beach counties. We may have members through out the United States. **Attachment 1, zip code grid** is broken down by General FOPA employees and Management, Confidential, and Temporary employees and provides the location and number of our employees based on zip code.
- c. The City is seeking a Proposer to most closely mirror the current plan design included in the Scope of Work, Specifications Section 1.4, Current Plan Design, on either a fully insured or self-insured basis. Details of the past 12 months plan utilization broken down by employee group are included in **Attachment 2**.

2. LAST DATE FOR RECEIPT OF QUESTIONS: A "last date for receipt of questions of a material nature" is listed in the RFP Schedule. Proposers may submit questions or requests for clarifications to the Procurement & Materials Management Division, in writing via e-mail to lwilson@fortlauderdale.gov or by fax prior to the Pre-Proposal time and date, or brought to the meeting for discussion. Faxed questions may be sent prior to the Pre-proposal meeting to the attention: Linda Wilson, Procurement Specialist II, (954) 828-5576. Any addendum, if required, will be issued within 3 days of the "Last Date For Questions".

3. ADDITIONAL INFORMATION: For information concerning bidding procedures contact the Procurement Specialist, Linda Wilson at (954) 828-5146. For additional information concerning the technical specifications contained in this bid contact, Marylee Coyle, Employee Benefits Coordinator, at (954) 828-5436. Such contact is to be for clarification purposes only. Material changes, if any, to the written specifications or bidding procedures will only be transmitted by written addendum.

4. CONTRACT TERM: The initial contract term will be for three (3) years, however, the City reserves the right to extend the contract for additional one (1), or two (2) year, periods providing (a) both parties to the contract agree to the extension; (b) all terms, conditions, and specifications remain the same; (c) such extension is approved by the City.

5. SELLING, TRANSFERRING OR ASSIGNING CONTRACT: No contract awarded under these terms, conditions and specifications shall be sold, transferred or assigned without the written approval of the City Manager, or designee.

6. INVOICES: The City will accept invoices for the retail and mail order prescription claims no more frequently than two (2) times per month and invoice for Administrative fees once per month. Each invoice

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shall be accompanied by records fully detailing the amounts stated on the invoice. The City will endeavor to pay invoices completely within thirty (30) days of receipt, except for items questioned. The City will make every effort to advise the Proposer of any items questioned, within ten (10) days of receipt of invoice. The Proposer shall prepare verification data for the amount claimed and provide complete cooperation during such investigation of any areas in the invoice subject to question.

7. PROPOSER ELIGIBILITY: Proposers shall provide the City with credentials supporting their experience, expertise and ability to provide the services as contained in the RFP. The Proposer must be licensed to do business in the State of Florida. The Proposer shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements/standards, necessary for the performance of this Contract.

It is desired that Proposers be licensed by the State of Florida as a Third Party Administrator (TPA). Extra consideration in the evaluation of proposals will be given to those Proposers licensed as a professional administrator.

PART II - RFP SCHEDULE:

Release Notice of RFP Availability	8/04/04
LAST DATE FOR RECEIPT OF QUESTIONS OF A MATERIAL NATURE	8/13/04 5:00 PM
Addendum Release, if required	8/16/04
RFP OPENS	8/26/2004 2:00 PM
Preliminary Evaluation Committee Review, and And if possible, Short listing	9/02/2004
Evaluation Committee Meeting to review clarifications, and/or 9/23/2004 and/or Oral Presentations (if necessary), and final ranking	Week of
Anticipated City Commission Approval	10/19/2004
Anticipated CONTRACT START DATE:	01/01/ 2005

Proposers should be aware that the City wishes to complete the **RFP** process according to a schedule, which is identical to, or closely follows, the schedule contained in this RFP.

PART III - SPECIAL CONDITIONS

1. RULES AND PROPOSALS: The signer(s) of the proposal must declare that the only person(s), company or parties interested in the proposal as principals are named therein; that the proposal is made without collusion with any other person(s), company or parties submitting a proposal; that it is in all respects fair and in good faith, without collusion or fraud; and that the signer of the proposal has full authority to bind the principal proposer.

2. VARIANCES: While the City allows Contractors to take variances to the RFP terms, conditions, and specifications, the number and extent of the variances taken will be considered in determining proposal responsiveness, and in allocating proposal evaluation points. (See Evaluation & Award, Part V.)

3. CONFIDENTIAL INFORMATION: Florida law provides that municipal records shall at all times be open for personal inspection by any person. Section 119.01 F.S., The Public Records Law. Information and materials received by the City in connection with all Proposer's responses shall be deemed to be public records subject to public inspection upon award, recommendation for award, or 10 days after the RFP opening, whichever occurs first. However, certain exemptions to the public records law are statutorily provided for in Section 119.07, F.S. Therefore, if the Proposer believes any of the information contained in his or her response is exempt from the Public Records Law, then the Proposer must in his or her response specifically identify the material which is deemed to be exempt and cite the legal authority for the exemption, otherwise, the City will treat all materials received as public records.

4. INVOICES: The City will accept invoices for the retail and mail order prescription claims and invoice for Administrative fees no more frequently than two (2) times per month. . Each invoice shall be accompanied by records fully detail the hourly costs, and all related costs, if applicable, and shall specify the status of the particular task or project, as of the date of the invoice. The City will endeavor to pay all invoices completely within thirty (30) days of acceptance of the invoice, except for items questioned. The City will make every effort to notify the Contractor within ten (10) days of receipt of invoice of any items questioned. The Contractor shall prepare verification data for the amount claimed and provide complete cooperation during such investigation of any areas in the invoice subject to question.

5. RECORDS: The Contractor shall maintain during the term of the contract all books of account, receipt invoices, reports and records in accordance with generally accepted accounting practices and standards. The form of all records and reports shall be subject to the approval of the City's Internal Auditor. Recommendations for changes, additions or deletions by the City's Internal Auditor must be complied with by the Contractor. The City's Internal Auditor must be permitted, during normal business hours, to audit and examine the books of account, reports and records relating to this contract.

6. PRICING & COST ADJUSTMENTS: The fees and discounts offered and accepted shall remain firm for the initial three (3) year contract term and any extension terms.

7. MINORITY-WOMEN BUSINESS ENTERPRISE PARTICIPATION: It is the desire of the City of Fort Lauderdale to increase the participation of minority (MBE) and women-owned (WBE) businesses in its contracting and procurement programs. While the City does not have any preference or set aside programs in place, it is committed to a policy of equitable participation for these firms.

If a proposer is considered for award, he/she may be asked to meet with City personnel so that the intended MBE/WBE participation can be formalized and included in the subsequent contract.

7.1. Certification by Broward County, Florida: If awarded a contract or purchase order as a result of this solicitation, and if the awarded contractor/Proposer is claiming minority status in accordance with Section 1.08 of the general Conditions, then said **awarded contractor/Proposer will apply for certification by Broward County, Florida, Division of Equal Employment and Small Business Opportunity.** Contractor/Proposer will provide documentation of application status, and once approved or disapproved by Broward County, will also provide that documentation to the Procurement Division of

the City of Fort Lauderdale.

Proposers are requested to include in their proposals a narrative describing their past accomplishments and intended actions in this area. If proposers are considering minority or women owned enterprise participation in their proposal, those firms, and their specific duties have to be identified in the proposal.

See General Conditions, Section 1.08 for MBE and WBE definitions.

8. ADDITION OR DELETION OF SERVICES: The City may require services of a similar nature for items not specifically listed in the RFP during the Contract term. The Contractor agrees to provide such services, and shall provide the City prices or contractual terms on such additional services based on a formula or method that is the same as, or similar to, that used in establishing the prices or contractual terms in his/her RFP proposal. If the price(s) or term(s) offered are not acceptable to the City, and an agreement cannot be reached to the satisfaction of the City, the City reserves the right to procure those services from other qualified Contractors.

The City reserves the right to delete any portion of this Contract at any time without cause, and if such right is exercised by the City the total fee shall be increased or reduced in the same ratio as the estimated cost of the work added or deleted to the estimated cost of the work originally planned.

9. SELLING, TRANSFERRING OR ASSIGNING CONTRACT: No contract awarded under these terms, conditions and specifications shall be sold, transferred or assigned without the written approval of the City Manager, or designee.

10. SUBSTITUTION OF PERSONNEL: In the event the Consultant wishes to substitute any key personnel for those listed in his proposal, the City shall receive prior notice and shall have the right to review and approve such substitutions.

If the City has reasonable evidence to believe that an employee of the Consultant, working on City property, is incompetent, or has performed his or her employment in an objectionable manner, the City shall have the right to require the Consultant to resolve the situation to the City's satisfaction. However, the Consultant shall not be required to institute or pursue to completion any action if to do so would violate any law, statute, City ordinance, contract of employment, or union agreement.

11. CONFLICT OF INTEREST: Proposers are required to include a disclosure statement of any potential conflict of interest the firm may have due to other clients, current or former employees, contracts or interests associated with this project.

12. GENERAL CONDITIONS: Except as noted in the Special Conditions in the RFP, the terms and conditions of the General Conditions, FORM G-107, REV. 7/01, attached to the RFP, are included by reference.

13. NO EXCLUSIVE CONTRACT/ADDITIONAL SERVICES: Contractor agrees and understands that the contract shall not be construed as an exclusive arrangement and further agrees that the City may, at any time, secure similar or identical services at its sole option. While this contract is for services provided to the City's Risk Management Department, the City may require similar work for other City departments. Contractor agrees to take on perform such services as may be required under the same contract provisions, unless such work would not be considered reasonable or become an undue burden to the Contractor.

14. SUBCONTRACTING: If the Proposer intends to use a sub-contractor to provide any part of the services contained in the RFP, a listing of sub-contractors, and the portion of the contract they will perform must be specifically detailed in the proposal response. Sub-contractor(s) shall be responsible to confirm to the same requirements of the specifications as bind the Contractor. Sub-contractor cannot be changed after acceptance of the proposal, except with the written permission of the City Manager, or designee. The use of a sub-contractor shall not relieve the Contract from the prime responsibility of full

and complete, satisfactory and acceptable performance under the awarded Contract.

In the event subcontracting is permitted, the Proposer shall include all details regarding any sub-contractor in the RFP response, including credentials to support the experience and ability of the sub-contractor to perform the services outlined within the RFP specifications. The City reserves the right to accept or reject any proposed sub-contractor who does not meet the RFP requirements. If during the Contract term any subsequent subcontractor candidate shall be proposed, the sub-contractor candidate shall be promptly reported to the City with enough detail to allow the City to properly review the proposed candidate. The City reserves the right to approve or disapprove of any subcontractor candidate in its best interest.

15. INDEPENDENT CONTRACTOR: The Contractor ,including its employees, and any sub-contractor(s) are considered an independent contractor under this Agreement. Personal services provided by the Contractor shall be by employees of the Contractor and subject to supervision by the Contractor, and not as officers, employees, or agents of the City. Personnel policies, tax responsibilities, social security, health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Contract shall be those of the Contractor.

16. INSURANCE: The Contractor shall carry at all times the following insurance coverage: **

- Commercial General Liability including premises-operations, products-completed Operations, independent contractors, and contractual liability
Limits: Combined single limit Bodily Injury/Property Damage one million dollars (\$1,000,000.00). This coverage must include:
 - a) Coverage for liability assumed by the contractor under the indemnity provision of this contract.

- Professional Liability Insurance at all times of \$1,000,000 per occurrence, \$2,000,000 aggregate with defense costs covered in addition to limits.

Such certificates shall list the City as an “additional insured” for Professional Liability, and Commercial General Liability coverage, and shall have no less than thirty (30) days notice of cancellation.

All original certificates of insurance must be submitted to the Procurement Division and be approved by the City's Risk Manager prior to commencement of any work.

No work can be started until the certificate is submitted and approved by the City's Risk Management Division.

17. UNCONTROLLABLE CIRCUMSTANCES ("Force Majeure")

The City and Contractor will be excused from the performance of their respective obligations under this agreement when and to the extent that their performance is delayed or prevented by any circumstances beyond their control including, fire, flood, explosion, strikes or other labor disputes, act of God or public emergency, war, riot, civil commotion, malicious damage, act or omission of any governmental authority, delay or failure or shortage of any type of transportation, equipment, or service from a public utility needed for their performance, provided that:

- A. the non performing party gives the other party prompt written notice describing the particulars of the Force Majeure including, but not limited to, the nature of the occurrence and its expected duration, and continues to furnish timely reports with respect thereto during the period of the Force Majeure;
- B. the excuse of performance is of no greater scope and of no longer duration than is required by the Force Majeure;
- C. no obligations of either party that arose before the Force Majeure causing the excuse of performance

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are excused as a result of the Force Majeure; and

D. the non performing party uses its best efforts to remedy its inability to perform.

Notwithstanding the above, performance shall not be excused under this Section for a period in excess of two (2) months, provided that in extenuating circumstances, the City may excuse performance for a longer term. Economic hardship of the Contractor will not constitute Force Majeure. The term of the agreement shall be extended by a period equal to that during which either party's performance is suspended under this Section.

18. LOBBYING ACTIVITIES: Any Proposer submitting a response to this solicitation must comply, if applicable, with the City of Fort Lauderdale Ordinance No. C-00-27, Lobbying Activities. Copies of Ordinance C-00-27 may be obtained from the City Clerk's office on the 7th Floor of City Hall, 100 North Andrews Avenue, Fort Lauderdale, FL 33301. The ordinance may also be viewed on the City's website at <http://fortlauderdale.gov/documents.htm>

PART IV SCOPE OF SERVICES

1. **SCOPE OF SERVICES:** The City of Fort Lauderdale is seeking to contract with a Proposer who will most closely mirror the current Plan design in RFP Specifications Section 1.4, Current Plan Design, and who has the capacity, requisite experience, and expertise to provide retail and mail order prescription drug services to City employees, dependents and retirees. On January 1, 2005, if the General employees enter a Union-sponsored health plan, the current 1,500 eligible lives/4,000 eligible member lives may be reduced to 460 eligible lives/1060 eligible member lives. **If your proposal is based on number of eligible lives, please identify price breaks between the current and reduced number of eligible lives in your response to the RFP.**
 - 1.1. **Specifications:** General Information:
 - 1.1.1. **Proposals for a self funded, cost plus administrative services only (ASO) plan, the billed amount per item entry shall be the total of: the Average Wholesale Price (AWP) of the prescribed medicine less any discount negotiated; the Contract dispensing fee; less the City employee fixed fee.** Proposer may propose pricing based on a discount from the AWP, but in no case shall pricing exceed the AWP. **The proposed dispensing fees shall be firm for the term of the Contract and any extension terms.** Pricing based on "Maximum Allowable Cost (MAC)" must be provided based on actual utilization data provided in **Attachment 2** . Proposers who submit a response for this pricing offer shall complete the excel spreadsheet attached to the RFP document, labeled "**Attachment 2 Utilization by Group**" for Management/Confidential and General employees, **and return the DISC only as a part of the proposal response. NO HARD COPY OF THIS SPREADSHEET IS REQUIRED – ONLY THE COMPLETED INFORMATION DISC.** Documented examples are to be included in the proposal. Use data from completed disk **Attachment 2 "Utilization by Group"** for ingredient cost and number of Rx and complete the word table "Pricing for Self-Funded - (ASO) Based on Utilization". In addition, **Proposers shall complete word table "Pricing and Administrative Fees for Self-Funded - (ASO)" and return as a hard copy, and on a disk,** as an attachment to the RFP response .
 - 1.1.2. **Proposals for a fully insured plan are to set forth a monthly premium based on a four tier plan along with all plan specifics that may have an impact on the cost, quality or accessibility of the prescription drug services to be used by the employees/ members of the plan.** Proposers who submit a pricing offer based on a fully insured program shall complete the word table referenced "Fully Insured Pricing", and return the table completed as a hard copy, and on a disk, as an attachment to the RFP response. Any additional charges should be documented on proposal summary pages, in the space provided for this response. For proposals for a fully insured plan, the monthly billing format must be included in the proposal and documented with examples.
 - 1.1.3 Prescription drug claims are paid to the Pharmacy Benefit Manager (PBM) through the Third Party Administrator (TPA). The City currently contracts with two TPA's, and, at this time, the City does not intend to change this procedure. If in the future, however, the City determines that payments for claims are paid directly to the PBM, a TPA license will be required in accordance with Florida Statute FS112.08, and the current Contractor(s) would be required to comply.
 - 1.2. In order to prepare for the program (e.g. open enrollment activities, data transfer arrangements, funding arrangement, Proposer coordination), Proposer must agree to provide these services without cost to the City prior to January 1, 2005, in accordance with all the

terms and conditions of the RFP and subsequent contract award.

1.3. Additional Services: Proposers are encouraged to submit information on any other services which may be included as standard with the basic services requested in this bid, or available as optional services, such as Disease State Management etc. Proposers should include information on any related charges to the City for these services, should the City desire to add any of the additional services to the Scope of Services during the contract period.

1.4. Current Plan Design

City of Fort Lauderdale Prescription Drug Program

TWO WAYS TO PURCHASE PRESCRIPTION DRUGS

You may purchase prescription drugs:

- From retail pharmacies that participate in the network (in-network);
- By mail

SUMMARY OF COVERAGE

	GENERIC DRUGS	BRAND DRUGS	NON-FORMULARY
<u>RETAIL COPAYS</u> (up to a 30 days supply)	\$10	\$20	\$35
<u>MAIL COPAYS</u> (up to a 90 days supply)	\$20	\$40	\$70

HOW THE PRESCRIPTION DRUG PROGRAM WORKS

Your Prescription Drug Program ID Card

After enrolling in the City of Fort Lauderdale’s prescription program, you will receive a prescription ID card. Always show your ID card when filling a prescription.

Prescription Drug Categories

With the Prescription Drug Program, there are three categories of prescription drugs:

- Generic
- Brand
- Non-formulary

Generic – Most generic drugs are covered under the Prescription Drug Program, unless they are plan exclusions. For purchases of generic drugs, you pay the lowest **copay** available under the program. A generic drug has the same chemical compound as its brand-name counterpart. The use of generic drugs offers a simple and safe alternative to help reduce prescription drug costs for you and the City.

Your pharmacist will substitute generic medications whenever possible, based upon availability, legal requirements and your physician’s approval. But you can help ensure that you’ll receive the generic product

when it is available by asking your physician to write your prescription by the generic or chemical name.

Retail Pharmacy Purchases

Network Pharmacies – Prescriptions for up to a 30-day supply can be filled at a network pharmacy.

Network pharmacies are those participating in national network of retail drug stores.

You must present your ID card at the time of purchase and pay your share of the cost. If you do not present your card when you purchase your prescriptions, you will be reimbursed at the non-network pharmacy level as outlined below.

Mail Service Purchases

Prescription for maintenance drugs – those that you take regularly over an extended period – can be filled by mail service. You may purchase up to a 90-day supply of most of these drugs, such as insulin, heart or high-blood-pressure medication. Certain “controlled” (Schedule II) substances are limited to a 30-day supply with no refills. If you are taking maintenance drugs, request a Mail Service enrollment form/envelope.

Follow these steps to use the Mail Service service:

- 1** When your physician prescribes a maintenance drug, ask for two written prescriptions – one for your immediate needs and one up to 90-day supply.
- 2** Fill the prescription for a short-term supply (30 days or less) at a retail pharmacy.
- 3** Send the prescription for your long-term supply, your mail service form, and your check or credit card number to Rx Proposer. If you do not know which copayment applies, call Rx Proposer for assistance. Be sure to use the Rx Proposer Mail Service envelope.

Your prescription is mailed within two or three weeks after the Rx Proposer receives it. If your prescription includes refills, you may order them by phone, mailing the prescription refill order form, or on the Rx Proposer’s website.

Prior Authorization

There are certain prescription medications that, while not plan exclusions, may initially be denied because they require prior authorization. These situations require a closer review before the Rx Proposer can approve the reimbursement. The prior authorization process is in place to make sure medications are being dispensed for the appropriate reason, in the appropriate quantities, at the appropriate time.

Listed below are the major reasons a prescription would require prior authorization:

- Refill too soon;
- Vacation supply;
- Increased dosage;
- Lost medication;
- Interim supply;
- Newly FDA approved drugs; or
- Medical necessity

For most of the reasons listed above, you need to call the Rx Proposer and provide additional information.

Medical necessity and newly FDA approved drugs prior authorizations require a closer review to support their benefit(s) to the patient.

A medical necessity review is performed on a limited number of prescriptions. This medical necessity prior authorization requires a medical diagnosis from the prescribing physician. Some medications may require more information, in addition to the medical diagnosis. Your pharmacist may supply the Rx Proposer with the necessary information if it is provided on the actual prescription or your physician can call or fax the appropriate medical documentation to the Rx Proposer. After receiving the documentation (from your pharmacist or physician), pharmacists at the Rx Proposer will determine if the condition falls within the appropriate medical guidelines based on both medical judgment and current medical literature. In addition, some drugs may be subject to quantity limitations due to safety and cost concerns.

In most cases, you will not experience a delay in obtaining your medicine. You may experience a delay, however, if the appropriate documentation cannot be obtained from your physician or pharmacist immediately.

Drugs typically selected to be included in the prior authorization process are new drugs, drugs that have off-label (not approved by the FDA) uses, drugs that have the potential to be used inappropriately or drugs that are extremely expensive.

The need for prior authorization affects only a small number of medications. As new drugs become available, prior authorization may be required.

PRESCRIPTION DRUGS THAT ARE NOT COVERED

The Prescription Drug Program does not cover expenses for the following:

- Prescription refills in excess of the number specified by the physician, or any refill dispensed after one year from the date of the prescription;
- Prescription which are not medically necessary as determined by the Rx Proposer;
- OTC products or over-the-counter equivalents and state restricted drugs;
- Implantable time-released medication (i.e., Norplant);
- Experimental or investigation drugs; or drugs prescribed for experimental (non-FDA approved/unlabeled) indications (i.e., progesterone suppositories, Yocon);
- Drugs FDA approved for cosmetic use only (i.e., Renova, Rogaine, Propecia, Vaniqua);
- Extemporaneously prepared combination of raw chemicals or combination of federal legend drugs in a non-FDA approved dosage form (i.e., capsules made from progesterone an estrogen powder);
- Fertility drugs (i.e., Lutrepulse Kit, Metrodin, Pergonal, Profasi, Pregnyl);
- Oral fertility drugs (i.e., Clomid, Serophene);
- Smoking Cessation Agents (i.e., Nicorette, Habitrol, Nicoderm, Nicotrol, ProStep);
- Immune Response Modifiers (Rebetron);

The Plan reserves the rights to temporarily or permanently limit, restrict, or deny coverage for newly approved drugs and/or newly emergent therapeutic classes pending the completion of a comprehensive pharmaco-economic impact analysis by the Rx Proposer.

PRESCRIPTION DRUGS WITH RESTRICTIONS OR REQUIRE PRIOR AUTHORIZATION

Therapeutic Class	Drug Name(s) and/or Description	Coverage
Anabolic steroids	Anadrol, Oxandrin, Winstrol	Covered with medical necessity

Antibiotics (Oxazolidinones)	Zyvox	Cover with Prior Authorization
Antimigraine agents:	Treatment of migraine headache attacks (e.g., Imitrex, Zomig, Amerge, Maxalt)	Cover with following restrictions: Imitrex – (18) tablets/month (9) 100mg tablets/month Zomig - (12) 2.5 tabs or(6) 5mg tabs/month Amerge - (18) 1 mg tabs or (9) 2.5 mg tabs /month Maxalt - (12) tablets per month Frova- (12) tablets per month
Cosmetic agents	Retin-A, Differin, Avita	Cover through age 25, then prior authorization
Cosmetic/Antineoplastic agent with alternate use	Proscar	Diagnosis required. Covered as an antineoplastic agent only; not for hair growth.
Emergency Contraceptive	Preven, Plan B	Maximum 1 Kit per 6 month at Retail only
Impotence Drugs	Viagra	Cover with quantity limits, 4 per month
Miscellaneous	Thalomid	Covered with medical necessity
Narcolepsy Drug	Xyrem	Cover with prior authorization and quantity limitations; 3 bottles per 30 days
Neuraminidase inhibitors	Relenza Diskhaler, Tamiflu caps	Relenza: Cover one diskhaler per year. Tamiflu: Cover 10 capsules per year. Cover 75mg solution per year.
Nutritional Supplements	Phenyl-Free & others used in PKU	Cover for PKU only.
Oral fertility drugs	Crinone	Cover with prior authorization for amenorrhea only.
Osteoporosis Drugs	Actonel	Cover quantity limitations; 4 tablets per 30 days retail.
Pain Management	Toradol	Cover for 5 consecutive days only at FDA approved maximum dose; tablets limited to 40mg/day, injectable limited to 120mg/day
Pain Management	Stadol NS	Limit to 2 spray units for 30 calendar days
PMDD (premenstrual dysphoric disorder) Drugs	Sarafem	Limit coverage to females with Prior Authorization

Antidepressant agent with alternate use	Wellbutrin-SR	Diagnosis required
Sympathomimetic agent with alternate use: Attention Deficit Hyperactivity Disorder, Narcolepsy)	Wellbutrin-SR, Concerta, Cylert, Adderal, Dexedrine, Desoxyn, Provigil	Ritalin/Metadate covered with 60mg/day as maximum daily dose. Concerta cover with 54mg/day as maximum daily dose.
Weight loss medications	All other drugs in this class (Meridia, Xenical and other drugs prescribed for weight loss)	Covered with medical necessity.
VITAMINS:		
Legend vitamins (except Prenatal)	**Many brands**	Cover for medical necessity only, not for supplementation
Prenatal vitamins	**Many brands**	Cover for women only up to age 50. Cover for all members > 50 years for medical necessity.
Single entity Legend Vitamins/Minerals	Vitamin B3 (Niacin), Oil Soluble & Water Soluble (A, D, K)	Cover for medical necessity only, not for supplementation
Antibiotics	Zyvox (Oxazolidinones)	Cover with Prior Authorization
Anticoagulants: Heparin and Lovenox	prevention and treatment of blood clots	Prior Authorization required for Lovenox only, which is used after certain surgeries.
Antimigraine agents: Imitrex	Treatment of migraine headache attacks.	Cover maximum 6 kits (12 syringes) per month, or 18 tabs per month, or 12 bottles nasal spray per month
Antineoplastic agents - (i.e., 5-fluorouracil, Lupron, Taxol, Zoladex & Methotrexate)	Treatment of cancer.	
Anti-Rheumatic Drugs -	Enbrel	Prior auth required; maximum 8 vials/30 days
Biologicals – Immune Globulins	Provides passive immunization to infectious diseases (e.g. Gammar, Gammimune, Sandoglobulin)	Prior Authorization Required
Crohn's Disease treatment	Remicade	Prior Authorization required – see Appendix
Growth hormones	e.g., Humatrope, Nutropin, Protropin	Prior authorization required

Impotence drugs	Used for treatment of impotence (e.g., Caverject, Muse, Edex)	Cover with quantity limitations; Caverject-6 vials/30 days Muse-1 carton/30 days Edex-6 vials or 4 kits per 30 days Viagra – 4 per 30 days
Insomnia Drugs	Ambien, Sonata	Cover with quantity limitations; 14 tablets per 32 days retail, 42 tablets per 90 days mail order.
Irritable Bowel Syndrome (IBS) Drugs	Lotronex, Zelnorm	Cover with prior authorization and quantity limit; 60 tablets per 30 days, 180 tablets per 90 days
Osteoarthritis agent	Synvisc, Hyalgan	Cover with Prior Authorization
RSV agent	Synagis	Cover with Prior Authorization
Miscellaneous	Botox, Myobloc	Cover with Prior Authorization
Insulin Delivery Devices	Implantable insulin pumps	Prior authorization required.
Insulin Delivery Devices	Ancillary pump products (i.e. Minimed tubing, needles, syringes)	Prior authorization required.
Testosterone, Androgel, Androderm, Testoderm, Striant, Depo-testosterone	Oral, Topical, injectable	Cover with prior authorization if patient meets following criteria; <ul style="list-style-type: none"> • Diagnosis of hypogonadism, testicular hypofunction • Confirmed low testosterone level (normal >300ng/dl)

2. Proposer Requirements:

Program Requirements

- a. Proposer must provide an integrated retail and mail order prescription drug benefits program for enrollees in the City of Fort Lauderdale's prescription plan. Proposer shall provide a complete listing of participating pharmacies in Broward, Dade and Palm Beach Counties and a listing of the names of National Chains in the Network where employees and retirees may obtain prescriptions. **Proposer should include a Geo Report and complete Attachment 1 Zip Code Grid, an Excel spreadsheet.. Proposers shall download the excel spreadsheet doc to a disk, complete it, print a hard copy, and return the hard copy Attachment 1, and the completed disk with your RFP proposal response..**
- b. Proposer must be able to process in-network retail and mail order and direct paper claims on the same adjudication system. Proposer shall include detailed information regarding your "mail order" capability.
- c. The Proposer must be able to load and administer open or restricted formularies, fee schedules, and benefit design changes for claims processing. Proposer must provide in an excel spreadsheet titled "Formulary Drugs – Proposer Name" of their most used formulary drugs based on their commercial book of business. Provide the data in the following format: use these column headings on the first row, NDC number - use leading zeros that preserve the 11 character nature of the code, Label Name and Drug Strength. Download the completed file "Formulary Drugs – Vendor Name" to a disk and also print a hard copy. Attach a printed hard copy to your RFP proposal and submit the file on disk with your RFP proposal response.
- d. Proposer will charge and collect the lesser of a set prescription fee from the City employee or actual cost of the prescription at the time of transaction.
- e. It is the intent of the City for the Proposer to provide personalized prescription identification cards to these eligible employees, along with an effective patient education program. The prescription identification cards will be issued to participants for presentation at any Proposer affiliated location for the purpose of filling physician prescribed orders.
- f. Proposal should include Service Performance Guarantees. The Proposer must meet or exceed specific, measurable performance standards. **Define the guaranteed terms of the service performance standards.** This table is included in **the proposal summary pages.** Proposer shall complete this section on the table referenced in the Proposal Summary pages, as both a hard copy response, and on a disk.
- g. Proposal should include Service Performance Penalties.. **Define the penalty to be assessed for each service performance guarantee if the proposed standard is not met.** Define the penalty as a percent of administration fees. Proposer shall complete this section on the table referenced in the Proposal Summary pages, as both a hard copy response, and on a disk.
- h. The Proposer shall provide benefit design consultation for the City as requested by the City. Services include but are not limited to: modeling analysis for proposed program changes, cost projections, suggested program changes to minimize cost and maximize program quality.

Clinical Management

- a.** Drug Utilization Review Programs: The Proposer must provide Drug Utilization Review (DUR) programs that are integrated across the retail and mail order delivery channels. Proposer shall also include a detailed description of quality controls and patient medication monitoring for drug inter-action and other risk factors, as a part of the RFP response. A description of required DUR services that the proposers claims system must edit for are listed below.
1. Drug Interactions
 2. Therapeutic Duplications
 3. Excessive Daily Doses
 4. Excessive Utilization
 5. Insufficient Daily Doses
 6. Drug-Age Conflicts
 7. Drug – Disease Contraindications
 8. Drug Pregnancy Contraindications
 9. Controlled Substance Abuse
 10. Refill-Too-Late/ Noncompliance
 11. Other _____
- b.** Proposer must provide list of all DUR programs available noting any additional costs if not included in the standard administrative fee on the Proposal Summary Pages, under the Financial Proposal section of the RFP.
- c.** Therapeutic Drug Management Program: The Proposer must be able to provide a Therapeutic Drug Management Program which includes:
- i. An independent advisory board comprised of medical doctors and doctors of pharmacy to advise the Proposer concerning therapeutic equivalent medications.
 - ii. Contacting the Covered Person's physician and the Covered Person to obtain their consent to convert to a lower cost, therapeutic or generic equivalent medications.
 - iii. With appropriate consents, convert the Covered Person to a lower cost, therapeutic or generic equivalent medication.
 - iv. Provide the City with monthly reports of drug conversions and cost savings.
- The Proposer should include any cost for the above service on the Proposal Summary Pages, Financial Proposal section in the space provided.
- d.** The Proposer must provide coordinated coverage with Proposers contracted by the City for disease management and other services. The Proposer must work with other Proposers to share prescription claims data in an electronic format, on a frequent, scheduled basis in a manner that is HIPAA compliant and acceptable to the City's TPA
- e.** The Proposer must respond within one working day to any inquiry from the City regarding the disposition of any pending authorization, review, or medical issue.

Data and Systems

- a. The Proposer must have the capabilities to accept electronic data transfer and to administer protected health information in compliance with HIPAA.

- b. Proposer shall agree to sign a HIPAA "Business Associate Agreement" with the City. The City will provide the HIPAA Business Associate Agreement to the Proposer. **(Sample Agreement attached with Proposal Summary pages)**
- c. The Proposer must agree and certify that all systems are HIPAA compliant prior to the contract effective date.
- d. The Proposer must maintain eligibility requirements and be able to accept eligibility information for their participants on daily basis via paper, tape, diskette, CD-ROM, EDI or secured website.
- e. The Proposer's system must be able to administer eligibility data that contains employee ID number, non-SSN, and alphanumeric ID numbers.
- f. The Proposer must agree to notify the City immediately upon identification of system-related problems, programming problems, or data transfer problems. The Proposer must make every effort necessary to correct such problems within 48 hours regardless of the time or date in order to minimize any negative impact on plan participants.
- g. Subject to the provisions of HIPAA regarding Protected health Information (PHI), and the Florida Public Records Law, proposer must maintain complete records of all claims and payments for a minimum of seven years. At the end of the seven-year period, records shall either be transferred to the City or destroyed at the discretion of the City. The records are the property of the City and are returned to the City on demand. The Proposer shall maintain claims history data on-line for a minimum of three years from date of processing in a format that is readily available to the city upon request. The minimum data requirements to be captured for all claims are subject to City modification and approval.
- h. The Proposer must provide on a regularly scheduled basis detailed claim records in a format to be determined by the City. Additionally, the Proposer must provide an additional tape or CD-Rom to distribute to outside Proposers as specified by the City. These services shall be provided at no additional cost.
- i. Invoice Format: Proposer invoice shall be itemized/per prescription and may include, but not necessarily be limited to, the following information: Employee Name, ID, prescription drug identity, "AWP", applicable discount from AWP, dispensing fee, less employee co-payment, net cost to City, and grand total net monthly cost to the City. Proposers should submit a sample of the invoice format proposed with their proposal. This format may be subject to City modification and approval.

Reporting

- a. The Proposer should include a sample standard reporting package, listing all available reports and including frequency. Indicate time needed to produce each report. The Proposer must produce a standard reporting package in both paper and electronic format (excel) to the City (included in Administrative Fees). The frequency and detail of each reporting package should include, but not be limited to the following:

Monthly

- i. Utilization Management reports, by employee group and in total to include but not limited to the following;
 - 1. Utilization Summary
 - 2. Group Utilization Summary
 - 3. Brand/Generic/Non formulary Utilization Summary
 - 4. Per member/Per month (PMPM) Summary
 - 5. Annual Executive Summary
 - 6. Drug Utilization Review Reports
 - 7. Therapeutic Drug Management Program Reports

Quarterly Summary

- i. An executive summary containing a narrative of significant accomplishments, plan performance, and account management issues log progress from prior month.
- ii. A narrative or newsletter on clinical developments in the marketplace, such as new major drugs and brand names going generic or over-the counter.

Standard Year-End Reporting Package

- i. Year-end summary of the monthly reports
- ii. Full financial and enrollment experience for the previous 12 months
- iii. Annual plan performance evaluation and outlook for subsequent plan years
- iv. Claims lag report over 24-month period, showing total payments by incurred and paid months.
- v. Annual performance guarantee measurements

Reporting (Other than Standard)

- i. In the event the City requests non-standard or customized services, the additional cost of such services shall be paid by City at an additional charge to be mutually agreed upon by the parties in writing before the services are provided. Fees for Customized Programming per hour and any charge Per Report Run should be documented in the Proposal Summary Pages, Financial Proposal section in the space provided.

Account Management

- a. The Proposer must provide one Senior Account Executive who is responsible for the overall effectiveness and satisfaction of the City. The Account Executive must be based in the State of Florida and act as the primary contact for the City. He or she shall be responsible to resolve any issues related to account management.
- b. The Proposer must provide at least one Account Specialist who is responsible for over all service quality and to resolve the-day-to-day issues that may arise.
- c. The Proposer must appoint appropriate representatives to attend and participate in various meetings, including but not limited to open enrollment meetings, benefit fairs, quarterly pharmacy benefit summary results

presentations, presentations to the City Commission or City Manager.

- d. The Proposer must assist the City in the transition of a new benefit program upon termination of the contract.
- e. The Proposer must have the ability to print and distribute standard implementation materials for the City to include, but not limited to, open enrollment announcements, welcome packets, plan year materials, formulary lists and mail order forms.

Customer Service

1. The Proposer must have qualified Customer Service Representatives (CSR's) to accommodate inquires from participants who are hearing or visually impaired, elderly or speak a foreign language.
2. The Proposer must have the ability to log all participant service calls through a system capable of tracking relevant service data including average speed of answer, average time on hold, nature of problem or request, and confirmation of call resolution.
3. The Proposer must supply a separate toll-free number for inquiries from physicians and pharmacists.
4. The Proposer's CSR's must be able to respond to participant inquiries, complaints and appeals via phone, email or conventional written response.
5. Describe your Internet website and plans for future enhancements.

Transition and Implementation

1. The City will be responsible for providing the Proposer with updated information on eligible participants. This information will be provided to the Proposer by a mutually agreed upon procedure, using the City's current facilities, for both new employee additions and deletions. The City of Fort Lauderdale or the City's Third Party Administrators (TPA's) or current PBM will provide this information. .
2. Provide an implementation work plan to outline the key steps for plan transition and implementation. Assume annual enrollment November 2004 with a January 1, 2005 effective date. Show each event and decision point in your work plan. Estimate the number of man-hours that will be required by City resources.
 - i. Include samples of standard or customized communication materials for use during the transition and implementation phases. (e.g. mail order transition)

3. Pricing

1. Proposals should describe savings guarantees and provide fixed formulary rebates for mail order and retail prescriptions. Proposal should describe the net cost per Rx and formulary rebates based on an open formulary with tiered co pays (generic, brand and non-formulary). If proposal also includes a restrictive formulary, include a description of the general differences (e.g. preferred drugs, number of drugs, excluded drugs) by drug class between open vs restricted formulary.

2. Self-Funded –ASO Proposers shall complete all information requested on the Proposal Summary pages,. **Attachment 3** tables “ Pricing and Administrative Fees – Self Funded – ASO” and “Pricing for Self Funded – ASO (Based on **Attachment 2**” Utilization by Group”) shall be completed and returned both as hard copies, and on a disk as a part of the RFP proposal response.

3. Fully insured proposals must complete all information requested on the Proposal Summary pages, **Attachment 3** table “Fully Insured Pricing”, shall be completed and returned both as hard copies, and on a disk as a part of the RFP proposal response.

PART V – EVALUATION AND CONSIDERATION FOR AWARD

EVALUATION AND AWARD CRITERIA: The City will review and evaluate all responsive proposals submitted in response to this RFP. Proposals will be evaluated by an Evaluation Committee established for this purpose, made up of City staff and any other qualified individuals deemed necessary by the City. The City will consider all information submitted with your proposal in the evaluation procedure. The Committee will rank each proposal to determine which proposal(s) best meet the needs of the City, in accordance with the Evaluation Criteria stated in the RFP specifications.

The committee will score and rank all responsive proposals and determine a minimum of three (3), if more than three (3) proposals are responsive, to be finalists for further consideration. In the event there are less than three (3) responsive proposals, the committee will give further consideration to all responsive proposals received. The committee may determine the need to conduct oral interviews, for clarification purposes only, with the finalists and re-score and re-rank the finalists proposals. The first ranked proposer resulting from this process will be recommended to the Fort Lauderdale City Commission for award.

The City may require additional information and Proposers agree to furnish such information. The City reserves the right, based upon its deliberations and in its opinion, to accept or reject any or all proposals. The City also reserves the right to waive minor irregularities or variations to the specifications and in the bidding process. The City reserves the right to award the contract to that proposer who will best serve the interest of the City.

Award of contract(s) shall be based on certain subjective and objective considerations, including but not necessarily limited to: the number and convenience of Proposer locations; the fixed dispensing fee; per cent of discount off of AWP; any other financial factors which contribute to a clear, measurable process of cost control and efficiency; Proposer's experience providing the services (including client references and number of years in business), and the ability and capacity of Proposer to perform all the services in accordance with the RFP requirements. The City reserves the right to review the terms of the initial award for revision during the contract period, if such modification or revision shall best serve the interest of the City, and such modification is agreeable to the Proposer.

<u>EVALUATION CRITERIA:</u>	<u>ASSIGNED POINTS</u>
1. Demonstrates a understanding of the overall needs of the City as presented in the narrative technical proposal, and supported by answers to RFP questions exhibits and attachments. Score value 0 to 20 points	20
2. Experience, qualifications, past performance, and customer service. Includes network resources that provides the best retail network accessibility in Broward, Palm Beach and Dade counties and most closely duplicates the current plan design. These criteria include client references, service guarantees and answers to RFP questions. Score value 0 to 25 points	25
3. Ability to meet Account Management, Customer Service, Clinical Management, Data and Systems and Reporting Requirements in accordance with the RFP specifications. Score value 0 to 20 points	20

EVALUATION CRITERIA:

ASSIGNED POINTS

4. Cost to the City of Fort Lauderdale:
Score value 0 to 35 points

35

Notes: Self-Funded ASO - Cost will be determined using Proposal summary pages including completed **Attachment 3** tables “ Pricing and Administrative Fees – Self Funded –ASO” and “Pricing for Self Funded – ASO (Based on **Attachment 2** Utilization by Group”

Fully Insured proposals will be evaluated by the proposed monthly premium, documented in the **Attachment 3** table titled “Fully Insured Pricing” in and the Proposal summary pages.

For both Self Funded – ASO and Fully Insured proposals maximum points will Be given for lowest cost to City with multi year fee/rate guarantees.

MAXIMUM TOTAL POINTS:

100

PART VI - INSTRUCTIONS TO PROPOSERS/REQUIREMENTS OF PROPOSALS

The emphasis in each bid must be on completeness and clarity of content. In order to expedite the evaluation of all proposals, it is essential that Proposers follow the format and instructions contained herein.

I. Instructions to Proposers:

The City will receive proposals for these services up until the date and time specified in the RFP Schedule.

Proposals must be submitted in sealed envelopes clearly marked with the RFP Identification Title and Proposal Number, Opening Date and Opening Time, and the Return Address of the Proposer all clearly marked on the outside of the envelope. All proposals must be received prior to the opening date and time specified in the RFP.

Proposals shall be delivered to:

City of Fort Lauderdale-Procurement & Materials Management Div.
100 N. Andrews Avenue, RM. 619
Ft. Lauderdale, FL 33301

II. Corporate Authorization/Registration:

(1) The proposal shall be signed by a representative who is authorized to contractually bind the Contractor. A copy of your Corporate By-Laws, or a letter signed by a corporate officer must be included, if proposal is signed by other than the President, Vice-President or Treasurer.

(2) Proposer shall include a current copy of your State of Florida Corporate Registration, or Certificate of Good Standing from the State in which you are corporately registered.

III. Requirements of the Proposal:

All proposals shall be submitted as specified on the proposal pages included in the RFP document. Any attachments must be clearly identified. To be considered, the proposal must respond to all parts of the RFP. Any other information thought to be relevant, but not applicable to the enumerated categories, should be provided as an appendix to the proposal. If publications are supplied by a proposer to respond to a requirement, the response should include reference to the document number and page number. This will provide a quick reference for the evaluators. Proposals not providing this reference will be considered to have no reference material included in the additional documents.

If the City will be required to enter into a formal contract with the Proposer, a copy of your standard contract form should be included with your RFP response. The contract terms shall include the Scope of Services as contained in the bid specifications and form subject to final approval by the City Attorney's office.

All proposals shall include:

- a. **Proposal Summary/Signature Page** completed and properly signed.
- b. All Proposal Summary Pages completed, including acknowledgment of any addendum, which may have been issued.
- c. Narrative response to Scope of Work, reference RFP page # and specific item in response.
- d. Answers to Proposal Questionnaire
- e. Reference list of clients, including contact/company name, address and telephone numbers.
- f. Return your completed Attachments as follows: **Attachments #1 & 2 shall be returned on a single disk, and clearly marked Attachments #1 & 2.**

Attachment 1 Zip Code Grid **in hard copy and in a file on a disk formatted in Excel 2000 or later**

Attachment 2 Exhibit B Utilization by Group in a file **on a disk only – NO HARD COPY. Returned disk shall be formatted in Excel 2000 or later**

Note: Attachments #1 and 2 are provided in a WinZip file and will require

utilization of WinZip to open.

You may avail yourself of this software by going to www.winzip.com

The following Attachments are provided as WORD files. Return of these worksheets shall be returned with the RFP response formatted in WORD 2000 or later. All attachment #3 tables shall be completed and returned on a separate disk, and clearly marked Attachment #3

Attachment 3 Service Performance Guarantees in hard copy and in a file on a disk

Attachment 3 Service Performance Penalties in hard copy and in a file on a disk

Attachment 3 Pricing & Administrative Fees– Self Funded –ASO in hard copy and in a file on a disk

Attachment 3 Pricing for Self-Funded - (ASO) Based on Utilization in **Attachment** data in hard copy and in a file on a disk

Attachment 3 Fully Insured Pricing in hard copy and in a file on a disk

g. Attach the following documents in hard copy and in files on a disk:

Pharmacy GEO Report
Implementation/Work Plan
Formulary Drug List per

h. Attach the following “sample” documents in hard copy (on disk if available):

Reporting package
Communication materials
Invoice

A sample Contract for Cty review and modification, if the City will be required to execute such agreement.

i. Any appendix information thought to be relevant to the bid.

Proposers MUST PROVIDE AN ORIGINAL AND NINE (9) COPIES OF THEIR RFP RESPONSE. THIS IS A TOTAL REQUIREMENT OF TEN (10) SETS OF YOUR RFP RESPONSE AND ALL ATTACHMENTS OR APPENDICES.

PROPOSAL SUMMARY PAGES - SIGNATURE PAGE

TO: The City of Fort Lauderdale

The below signed hereby agrees to furnish the services at the price(s) and terms stated subject to all instructions, conditions, specifications addenda, legal advertisement, and conditions contained in the RFP. I addenda, legal advertisement, and conditions contained in the RFP. I have read all attachments including the specifications and fully understand what is required. By submitting this signed proposal I will accept a contract if approved by the City and such acceptance covers all terms, conditions, and specifications of this proposal. I have not divulged to, discussed with, or compared this proposal with any other proposer(s) and have not colluded with any other proposer(s) or parties to this RFP. I certify I am authorized to contractually bind the Proposing firm:

Proposal submitted by:

Name (printed) _____ Title: _____

Company Name: _____
(Legal Registered)

Address: _____

City _____ State: _____ Zip _____

Telephone No. _____ FAX No. _____ Email: _____

Signature: _____ **Date:** _____

Principal Contact Person: (If different from above)

(Name & Title)

Telephone: _____ Fax: _____ Email: _____

1. ADDENDUM ACKNOWLEDGEMENT - Proposer acknowledges that the following addenda have been received and are included in his proposal:

Addendum No. Date Issued

2. Are there any services contained in the RFP specifications, which are NOT included in your bid?
YES _____ NO _____

If **YES**, please detail in the space provided, or provide as an appendix to your bid.

3. VARIANCES: State any variations to specifications, terms and conditions in the space provided below or reference in the space provided below all variances contained on other pages of RFP, attachments or proposal pages.

No variations or exceptions by the Proposer will be deemed to be part of the proposal submitted unless such variation or exception is listed and contained within the proposal documents and referenced in the space provided below. If no statement is contained in the below space, it is hereby implied that your proposal complies with the full scope of this RFP.

Variances:

4. MINORITY/WOMAN OWNED BUSINESS: If your company qualifies as a MBE or WBE, in accordance with the General Conditions for G-107, Rv. 7/01, please indicate that in the space provided. **If you mark one of these categories, please also provide a copy of your MBE/WBE Certification as documentation.**

MBE:_____ WBE:_____

Certification copy included: YES:_____ NO:_____

5. Are you able to meet the City’s schedule as outlined within the RFP?

YES:____ NO:_____

After City approval of award, how many days will be required before you are able to begin bthe services required? _____/days

6. a) Have you included information on your company's experience, including documentation of services performed, or copies of other contracts?

____YES _____NO

b) Do you currently hold a State of Florida Certificate of Authority Administrator? If yes attach a copy.

____YES _____NO

c) Have you included a copy of your State of Florida Corporations Registration?

____ YES ____ NO

d) Have you included information on the experience of those principals, or employees who will be assigned to this Contract, INCLUDING RESUMES?

____ YES ____ NO

7. Have you included your client reference list, in accordance with RFP requirements ?

____ YES ____ NO

8. Have you included your narrative description of your understanding of the Scope of Work, including your approach, understanding of the services required, techniques, methodology, etc., as requested in RFP specifications?

____ YES ____ NO

9. Have you completed AND RETURNED ALL THE REQUIRED TABLES AND EXCEL PRICING SPREADSHEETS, IN ACCORDANCE WITH THE RFP SPECIFICATIONS AND INSTRUCTIONS?

10. Did you return an original and nine copies?

____ YES ____ NO

11. Give the location of the office from which the work is to be performed, if different from your company address:

PROPOSAL SUMMARY - FINANCIAL PROPOSAL

Proposer, please check off the appropriate boxes based on your RFP proposal submittal.

ID	Proposal Type	Included
I	Self-Funded - ASO	
II	Fully Funded	
*	Both Self-Funded – ASO & Fully Funded	

I. SELF-FUNDED – ASO proposer is required to return:

- Attachment 1 Zip Code Grid – Excel spreadsheet *
- Pharmacy GEO Report – Excel *
- Attachment 2 Utilization by Group – Excel spreadsheet DISK ONLY
- Attachment 3 Pricing and Administrative Fees for Self-Funded - (ASO) – WORD table
- Attachment 3 Pricing for Self-Funded - (ASO) Based on Exhibit B Utilization by Group - WORD table
- Attachment 3 Service Performance Guarantees – WORD table *
- Attachment 3 Service Performance Penalties – WORD table *
- Formulary Drug List – Excel *
- Implementation/Work Plan *

Sample Documents Requested:

- Reporting package
- Communication materials
- Invoice
- Contract – for review and/or modification by the City

PRICING AND ADMINISTRATIVE FEES FOR SELF FUNDED - ASO

A.	RETAIL PHARMACY PRICING: The lower of Usual and Customary or:	
	BRAND DRUGS:	AWP- % + \$ Dispensing Fee
	MAC GENERIC DRUGS:	NetMAC + \$ Dispensing Fee
	NON-MAC GENERIC DRUGS:	AWP- % + \$ Dispensing Fee
B.	MAIL SERVICE PHARMACY PRICING:	
	BRAND DRUGS:	AWP - % + \$ Dispensing Fee
	MAC GENERIC DRUGS:	NetMac + \$ Dispensing Fee
	NON-MAC GENERIC DRUGS:	AWP- % + \$ Dispensing Fee
	Are shipping costs included in dispensing fee?	
	Are pre-addressed, postage paid Rx mail order envelopes included in your base fee?	
C.	SPECIALTY PHARMACY PRICING: Include Biologicals/injectables Detail any exceptions to above pricing:	AWP- % + \$ Dispensing Fee
D.	ADMINISTRATIVE FEES:	
	RETAIL BASE CLAIMS PROCESSING FEE (PER PAID/REVERSED CLAIM)	\$
	MAIL BASE CLAIMS PROCESSING FEE (PER PAID/REVERSE3D CLAIM)	\$
	DIRECT MEMBER REIMBURSEMENT (PER SUBMITTED CLAIM)	\$
	FOREIGN DIRECT MEMBER REIMBURSEMENT (PER SUBMITTED CLAIM)	\$
	SUBMISSION OF ELIGIBILITY (FROM PAPER DOCUMENTS)	
	Start Up (Per Person) (\$ minimum)	\$
	Updates (Per Person) Number of "no charge" manual updates per month	\$
	ADDITIONAL/REPLACEMENT ID CARDS (SET OF TWO)	\$ # of ___ identification cards included in base fee
E	DRUG UTILIZATION REVIEW	\$ PMPM - if not included in base fee
F	THERAPEUTIC DRUG MANAGEMENT PROGRAM	\$
G	NON-STANDARD REPORTS/CUSTOM PROGRAMMING	\$ per report or \$ per Hr.
H.	FORMULARY SHARING: GUARANTEED REBATE Name of Pharmacy Management Company and group purchasing administrative fees paid by pharmaceutical manufacturers	\$ per all paid retail \$ per all paid mail service prescriptions, subject to Formulary Management fee of \$ per claim. Name: % - Value of products dispensed

PRICING FOR SELF-FUNDED - (ASO) (BASED ON ATTACHMENT 2 - UTILIZATION BY GROUP)

Proposer Name	Retail Pharmacy		Mail Order Pharmacy		Specialty Drugs		Totals
	Brand	Generic	Brand	Generic	Retail	Mail	
Total Rxs							
Undiscounted Ingredient Cost							
Discounted AWP Percentage	%	%	%	%	%	%	
Dispensing Fee Per Rx	\$	\$	\$	\$	\$	\$	
Administration Fee Per Rx	\$	\$	\$	\$	\$	\$	
Administration Fee Per Employee Per Month	\$	\$	\$	\$	\$	\$	
Rebate Per Rx	\$	\$	\$	\$	\$	\$	
Net Total Cost	\$	\$	\$	\$	\$	\$	\$
Generic Pricing	Retail	Mail Order					
MAC Discount (Enter 0 if MAC pricing does not apply)	%	%					
% of Generic claims that adjudicate under MAC	%	%					
Discount for claims that do not adjudicate under MAC	%	%					
Generic Weighted Average	%	%					

II. FULLY INSURED: Proposers must return the following documents:

- Attachment 1 Zip Code Grid – excel spreadsheet *
- Pharmacy Geo Report –excel *
- Attachment 3 Fully Insured Pricing - table
- Attachment 3 Service Performance Guarantees –table *
- Attachment 3 Service Performance Penalties – table *
- Formulary Drug List –excel *

Sample Documents Requested:

- Reporting package
- Communication materials
- Invoice
- Contract – for review and/or modification by the City

FULLY INSURED PRICING

Tier	Monthly Cost	Rate Guarantee in Years
Employee Only		
Employee & Spouse		
Employee & Children		
Employee & Family		
Note number of employee lives needed for this pricing		

Tier	Monthly Cost	Rate Guarantee in Years
Employee Only		
Employee & Spouse		
Employee & Children		
Employee & Family		
Note number of employee lives needed for this pricing		

*** The exhibit and tables below must be returned for Both Self-Funded – ASO and Fully Insured Proposals**

- Attachment 1 Zip Code Grid – Complete exhibit as requested.
- Pharmacy Geo Report
- Attachment 3 Service Performance Guarantees
- Attachment 3 Service Performance Penalties
- Formulary Drug List

Sample Documents Requested:

- Reporting package
- Communication materials
- Invoice
- Contract – for review and/or modification by the City

SERVICE PERFORMANCE GUARANTEES

	SERVICE PERFORMANCE STANDARDS	Guarantee
1	<p>Mail Order Claims Processing Time</p> <p>a. Average turnaround time for Rx's requiring NO intervention in business days measured from date mail order received to date mail order shipped.</p> <p>b. Average turnaround time for Rx's received via phone, fax or email requiring NO intervention in business days measured from date order received to date mail order shipped.</p>	<p>____ Business days</p> <p>_____ Business Days</p>
2.	<p>Mail Order Claims Processing Accuracy</p> <p>a. Percent Rx's <u>data input</u> with NO errors.</p> <p>b. Percent Rx's <u>filled</u> with no errors</p> <p>c. Percent Rx packages shipped with no errors</p> <p>d. Overall dispensing accuracy rate</p>	<p>_____%</p> <p>_____%</p> <p>_____%</p> <p>_____%</p>
3.	<p>Customer Service</p> <p>a. Average time in seconds to answer customer service calls</p> <p>b. Percent of calls abandoned</p>	<p>____ sec</p> <p>_____%</p>
6	<p>Account Service</p> <p>a. Percent of calls resolved within 24 hours of receipt</p> <p>b. Number of days for a response to a written inquiry</p>	<p>_____%</p> <p>____ Days</p>
7.	<p>Implementation</p> <p>a. Terms of guarantee to insure that all services are implemented as proposed within specified timeframe.</p> <p>b. Conditions or exceptions</p>	

SERVICE PERFORMANCE PENALTIES

No.	Service Performance Guarantee	Penalty Percent of Administration Fees or Premium if Fully Insured	<i>Penalty Description</i> Explanation of Condition Basis for Measurement Standard Frequency of Standard Measurement Frequency of Penalty Reconciliation Subject to Aggregate Limit
1.	Mail Order Claims Processing Time a. Mail Order Claims b. Rx received via phone, fax or email		
2.	Mail Order claims Processing Accuracy a. % Rx's data input with No errors b. % Rx's filled with no errors c.% Rx packages shipped with no errors d. Overall dispensing accuracy rate		
3.	Customer Service a. Average time in seconds to answer customer service calls b. % calls abandoned		
4.	Account Service a. .% of calls resolved within 24 hours of receipt b. No. of days for a response to a written inquiry		
5.	Implementation		
6.	Indicate Aggregate limit		

PRICING:

For Self-Funded – ASO proposals please **describe any and all pricing elements used by completing Attachment 2** Utilization by Group – excel spreadsheet, **Attachment 3** Pricing and Administrative Fees for Self-Funded - (ASO) – table, and **Attachment 3** Pricing for Self-Funded - (ASO) Based on **Attachment 2** Utilization by Group – table.

For Fully Insured proposals complete **Attachment 3** Fully Insured Pricing – table and note the number of employee lives needed for this pricing.

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If additional space is needed, please include as an appendix to your proposal.

THIS WOULD APPLY WHEREVER FOR EACH PRICING PROGRAM OFFER
Additional Services/Options/Charges, if applicable:

4. Are you able to transfer existing refills on mail order prescriptions from the current mail order service Proposers? Describe available options for this service and detail any associated costs in proposal summary pages, Additional Services/Options/Charges.

5. What are your procedures and processes used to ensure intended recipient receives Rx's safely and securely? Address Rx packaging and labeling, shipping methods used and signature requirements.

6. Do you have the ability to recoup any government subsidy as a result of the new Medicare Law?

What are your hours/days of operation for your Customer Service Department? What are the hours/days that a pharmacist is available to answer clinical and therapeutic questions from our members?

8. Describe your capabilities to electronically transfer Disease Management and Utilization data from your database to the City's designated TPA's?

9. Are you able to meet the City's RFP Schedule for Contract implementation
YES NO

If **NO**, indicate alternate proposed start date, and explain why below:

10. A sample Business Associate Agreement for HIPPA compliance is attached. Please acknowledge your acceptance of this agreement, in your RFP response.

If we are awarded a contract for these services, we acknowledge and accept the sample agreement for inclusion into the contract award documents.

YES NO

If NO, please explain any exceptions: _____

“SAMPLE AGREEMENT”

BUSINESS ASSOCIATE AGREEMENT

This Agreement is made and entered into this _____ day of _____, 2004, by and between the City of Fort Lauderdale, a Florida municipal corporation (hereinafter referred to as the "Covered Entity" or "City") and _____, a _____ corporation authorized to transact business in the state of Florida (hereinafter referred to as "Business Associate").

WHEREAS, the Covered Entity and the Business Associate have established a business relationship in which Business Associate, acting for or on behalf of Covered, receives Personal Health Information as defined by the Health Insurance Portability and Accountability Act of 1996 ("Act"); and

WHEREAS, the Covered Entity and the Business Associate desire to comply with the requirements of the Act's Privacy Rule as further set out below.

NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements set forth herein, the Covered Entity and the Business Associate agree as follows:

1. Definitions

a. Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in the Privacy Rule, as codified in 45 Code of Federal Regulations Section 164.501, *et seq.*, as may be amended.

2. Obligations and Activities of Business Associate

a. Business Associate agrees to not use or disclose Protected Health Information other than as permitted or required by the Agreement or as required by law.

b. Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement.

c. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.

d. Business Associate agrees to report to Covered Entity any use or disclosure of the Protected Health Information not provided for by this Agreement of which it becomes aware.

e. Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity, agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.

f. Business Associate agrees to provide access, at the request of Covered Entity, and in a reasonable time and manner, to Protected Health Information in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 C.F.R. § 164.524, if the Business Associate has Protected Health Information in a designated record set.

g. Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R. §

164.526 at the request of Covered Entity or an Individual, and in a reasonable time and manner, if Business Associate has protected health information in a designated record set.

h. Business Associate agrees to make internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Entity available to the Covered Entity, or to the Secretary, in a reasonable time and manner or as designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.

i. Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528.

j. Business Associate agrees to provide to Covered Entity or an Individual, within ten (10) business days of receipt of a written request from the Covered Entity or an Individual, information collected in accordance with Section 2.9 of this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528.

3. Permitted Uses and Disclosures by Business Associate

a. Except as otherwise limited in this Agreement, Business Associate may use or disclose Protected Health Information on behalf of, or to provide services to, Covered Entity for the purposes set forth in the Agreement to Supply Delinquent Account Collection Services between the City of Fort Lauderdale and _____ ("Original Contract"), if such use or disclosure of Protected Health Information would not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.

4. Specific Use and Disclosure Provisions

a. Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.

b. Except as otherwise limited in this Agreement, Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

c. Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information to provide Data Aggregation services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(I)(B).

d. Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 45 C.F.R. § 164.502(j)(1).

5. Obligations of Covered Entity

a. Covered Entity shall notify Business Associate of any limitation(s) in its notice of privacy practices of Covered Entity in accordance with 45 C.F.R. § 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of Protected Health Information.

b. Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, to the extent that such changes may affect Business Associate's use or disclosure of Protected Health Information.

c. Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of Protected Health Information.

6. Permissible Requests by Covered Entity

a. Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Covered Entity. If necessary in order to meet the Business Associate's obligations under the Agreement to Supply Delinquent Account Collection Services between the City of Fort Lauderdale and _____, the Business Associate may use or disclose protected health information for data aggregation or management and administrative activities of Business Associate.

7. Term and Termination

a. The Term of this Agreement shall be effective as of date of execution by the second of the two parties, and shall terminate when all of the Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy Protected Health Information, or if it is illegal to destroy Protected Health Information, the protections are extended to such information, in accordance with the termination provisions in this Section.

b. Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:

1. Provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement and the Original Contract if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity;

2. Immediately terminate this Agreement and the Original Contract if Business Associate has breached a material term of this Agreement and cure is not possible; or

3. If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.

c. Effect of Termination

1. Except as provided in paragraph (2) of this section, upon termination of this Agreement, for any reason, Business Associate shall return, or destroy, except as prohibited by the Florida public records law, all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.

2. In the event that Business Associate's return or destruction of the Protected Health Information would be infeasible or illegal, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible or illegal. Upon Covered Entity's

concurrence that return or destruction of the Protected Health Information would be infeasible or illegal, Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible or illegal, for so long as Business Associate maintains such Protected Health Information. At all times Business Associate shall comply with the Florida public records law and exemptions therefrom.

8. Miscellaneous

a. A reference in this Agreement to a section in the Privacy Rule means the section as in effect or as amended.

b. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

c. The respective rights and obligations of Business Associate under Sections 7(c)(1) and 7(c)(2) of this Agreement shall survive the termination of this Agreement.

d. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy Rule.

e. Business Associate shall indemnify, hold harmless, and defend, at Business Associate's expense, counsel being subject to Covered Entity's approval, the Covered Entity, and Covered Entity's officers, employees, agents, and subcontractors against any actual and direct losses suffered by the Indemnified Party(ies) and all liability to third parties, including the United States Government, arising out of or in connection with Business Associate's or Business Associate's officer's, employee's or agent's breach of this Agreement or any negligent or wrongful act or omission by Business Associate or any of Business Associate's officers, employees, or agents, including Business Associate's failure to perform its obligations under the Privacy Regulations. The Business Associate shall reimburse the Indemnified Party(ies) for any and all actual expenses, fines, and penalties, including court costs and reasonable attorney's fees, which may be imposed upon any Indemnified Party(ies) by reason of any suit, claim, action, proceeding, judgment, or demand by any third party resulting from or arising out of the Business Associate's or Business Associate's officer's, employee's, or agent's breach of this Agreement or other act or omission.

IN WITNESS WHEREOF, the parties have set their hands and seals the day and year first written above.

WITNESSES:

CITY OF FORT LAUDERDALE

By _____
Mayor

By _____
City Manager

(CORPORATE SEAL)

ATTEST:

City Clerk

Approved as to form:

City Attorney

WITNESSES:

Corporate Entity

By _____

ATTEST:

(CORPORATE SEAL)

STATE OF _____:
COUNTY OF _____:

The foregoing instrument was acknowledged before me this _____, 2004, by _____ and _____, as _____ and _____, respectively, of _____, on behalf of the corporation. They are personally known to me or have produced _____ as identification.

(SEAL)

Notary Public, State of Florida
(Signature of Notary taking
Acknowledgment)

Name of Notary Typed, Printed
Or Stamped

My Commission Expires:

Commission Number

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PROPOSER: PLEASE INSURE THAT YOU HAVE the Proposal Summary – Signature page OF THIS RFP. OMISSION OF A SIGNATURE ON THAT PAGE MAY RESULT IN REJECTION OF YOUR PROPOSAL.

HAVE YOU INCLUDED THE CORRECT NUMBER OF PROPOSAL COPIES? (10)

Yes: _____ NO: _____

City of Fort Lauderdale

GENERAL CONDITIONS

These instructions are standard for all contracts for commodities or services issued through the City of Fort Lauderdale Division of Procurement & Materials Management. The City may delete, supersede, or modify any of these standard instructions for a particular contract by indicating such change in the Invitation to Bid (ITB) Special Conditions, Technical Specifications, Instructions, Proposal Pages, Addenda, and Legal Advertisement.

PART I BIDDER PROPOSAL PAGE(S) CONDITIONS:

- 1.01 BIDDER ADDRESS:** The City maintains automated Proposer mailing lists for each specific Commodity Class Item. Invitation to Bid (ITB'S) will be mailed first to a selection of Proposer who have fully registered on our system. Requests will be mailed to unregistered Proposer within a reasonable time frame for that bid only. Neither the mailing of one ITB to the Proposer, nor a bid in return, will register a Proposer on our system. If you wish purchase orders sent to a different address, please so indicate. If you wish payments sent to a different address, please so indicate on your invoice.
- 1.02 DELIVERY:** Time will be of the essence for any orders placed as a result of this ITB. The City reserves the right to cancel any orders, or part thereof, without obligation if delivery is not made in accordance with the schedule specified by the Bidder and accepted by the City.
- 1.03 PAYMENT TERMS AND CASH DISCOUNTS:** Payment terms, unless otherwise stated in this ITB, will be considered to be net 30 days after the date of satisfactory delivery at the place of acceptance and receipt of correct invoice at the office specified, whichever occurs last. Bidder may offer cash discounts for prompt payment but they will not be considered in determination of award. If a Bidder offers a discount, it is understood that the discount time will be computed from the date of satisfactory delivery, at the place of acceptance, and receipt of correct invoice, at the office specified, whichever occurs last.
- 1.04 TOTAL BID DISCOUNT:** If Bidder offers a discount for award of all items listed in the bid, such discount shall be deducted from the total of the firm net unit prices bid and shall be considered in tabulation and award of bid.
- 1.05 BIDS FIRM FOR ACCEPTANCE:** Bidder warrants, by virtue of bidding, that his bid and the prices quoted in his bid will be firm for acceptance by the City for a period of ninety (90) days from the date of bid opening unless otherwise stated in the ITB.
- 1.06 VARIANCES:** For purposes of bid evaluation, Bidder's must indicate any variances, no matter how slight, from ITB General Conditions, Special Conditions, Specifications or Addenda in the space provided in the ITB. No variations or exceptions by a Bidder will be considered or deemed a part of the bid submitted unless such variances or exceptions are listed in the bid and referenced in the space provided on the bidder proposal pages. If variances are not stated, or referenced as required, it will be assumed that the product or service fully complies with the City's terms, conditions, and specifications.

By receiving a bid, City does not necessarily accept any variances contained in the bid. All variances submitted are subject to review and approval by the City. If any bid contains material variances that, in the City's sole opinion, make that bid conditional in nature, the City reserves the right to reject the bid or part of the bid that is declared, by the City as conditional.

- 1.07 NO BIDS:** If you do not intend to bid please indicate the reason, such as insufficient time to respond, do not offer product or service, unable to meet specifications, schedule would not permit, or any other reason, in the space provided in this ITB. Failure to bid or return no bid comments prior to the bid due and opening date and time, indicated in this ITB, may result in your firm being deleted from our Bidder's registration list for the Commodity Class Item requested in this ITB.
- 1.08 MINORITY AND WOMEN BUSINESS ENTERPRISE PARTICIPATION AND BUSINESS DEFINITIONS:** The City of Fort Lauderdale wants to increase the participation of Minority Business Enterprises (MBE), Women Business Enterprises (WBE), and Small Business Enterprises (SBE) in it's purchasing activities. If your firm qualifies in accordance with the below definitions please indicate in the space provided in this ITB.

Minority Business Enterprise (MBE) "A Minority Business" is a business enterprise that is owned or controlled by one or more socially or economically disadvantaged persons. Such disadvantage may arise from cultural, racial, chronic economic circumstances or background or other similar cause. Such persons include, but are not limited to: Blacks, Hispanics, Asian Americans, and Native Americans.

The term 'Minority Business Enterprise' means a business at least 51 percent of which is owned by minority group members or, in the case of a publicly owned business, at least 51 percent of the stock of which is owned by minority group members. For the purpose of the preceding sentence, minority group members are citizens of the United States who include, but are not limited to: Blacks, Hispanics, Asian Americans, and Native Americans.

Women Business Enterprise (WBE) a "Women Owned or Controlled Business is a business enterprise at least 51 percent of which is owned by females or, in the case of a publicly owned business, at least 51 percent of the stock of which is owned by females.

Small Business Enterprise (SBE) "Small Business" means a corporation, partnership, sole proprietorship, or other legal entity formed for the purpose of making a profit, which is independently owned and operated, has either fewer than 100 employees or less than \$1,000,000 in annual gross receipts.

BLACK, which includes persons having origins in any of the Black racial groups of Africa.

WHITE, which includes persons whose origins are Anglo-Saxon and Europeans and persons of Indo-European decent including Pakistani and East Indian.

HISPANIC, which includes persons of Mexican, Puerto Rican, Cuban, Central and South American, or other Spanish culture or origin, regardless of race.

NATIVE AMERICAN, which includes persons whose origins are American Indians, Eskimos, Aleuts, or Native Hawaiians.

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ASIAN AMERICAN, which includes persons having origin in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands.

1.09 MINORITY-WOMEN BUSINESS ENTERPRISE PARTICIPATION

It is the desire of the City of Fort Lauderdale to increase the participation of minority (MBE) and women-owned (WBE) businesses in its contracting and procurement programs. While the City does not have any preference or set aside programs in place, it is committed to a policy of equitable participation for these firms. Proposers are requested to include in their proposals a narrative describing their past accomplishments and intended actions in this area. If proposers are considering minority or women owned enterprise participation in their proposal, those firms, and their specific duties have to be identified in the proposal. If a proposer is considered for award, he will be asked to meet with City staff so that the intended MBE/WBE participation can be formalized and included in the subsequent contract.

- 1.09(a) **CERTIFICATION BY BROWARD COUNTY, FL:** If awarded a contract or purchase order as a result of this solicitation, and if the awarded contractor/Proposer is claiming minority status in accordance with Section 1.08 of the General Conditions, then said awarded contractor/Proposer shall apply for certification by Broward County, Florida, Division of Equal Employment and Small Business Opportunity. Contractor/Proposer shall provide documentation of application status, and once approved or disapproved by Broward County, must also provide that documentation to the Procurement Division of the City of Fort Lauderdale.

Part II DEFINITIONS/ORDER OF PRECEDENCE:

- 2.01 **BIDDING DEFINITIONS** The City will use the following definitions in its general conditions, special conditions, technical specifications, instructions to Proposer, addenda and any other document used in the bidding process:
INVITATION TO BID (ITB) when the City is requesting bids from qualified Proposer.
REQUEST FOR PROPOSALS (RFP) when the City is requesting proposals from qualified Proposers.
BID – a price and terms quote received in response to an ITB.
PROPOSAL – a proposal received in response to an RFP.
BIDDER – Person or firm submitting a Bid.
PROPOSER – Person or firm submitting a Proposal.
RESPONSIVE BIDDER – A person whose bid conforms in all material respects to the terms and conditions included in the ITB.
RESPONSIBLE BIDDER – A person who has the capability in all respects to perform in full the contract requirements, as stated in the ITB, and the integrity and reliability that will assure good faith performance.
FIRST RANKED PROPOSER – That Proposer, responding to a City RFP, whose Proposal is deemed by the City, the most advantageous to the City after applying the evaluation criteria contained in the RFP.
SELLER – Successful Bidder or Proposer who is awarded a Purchase Order or Contract to provide goods or services to the City.
CONTRACTOR – Successful Bidder or Proposer who is awarded a Purchase Order, award Contract, Blanket Purchase Order agreement, or Term Contract to provide goods or services to the City.
CONTRACT – A deliberate verbal or written agreement between two or more competent parties to perform or not to perform a certain act or acts, including all types of agreements, regardless of what they may be called, for the procurement or disposal of equipment, materials, supplies, services or construction.
CONSULTANT – Successful Bidder or Proposer who is awarded a contract to provide professional services to the City.
The following terms may be used interchangeably by the City: ITB, or RFP; Bid or Proposal; Bidder, Proposer, or Seller; Contractor or Consultant; Contract, Award, Agreement or Purchase Order.
- 2.02 **SPECIAL CONDITIONS:** Any and all Special Conditions contained in this ITB that may be in variance or conflict with these General Conditions shall have precedence over these General Conditions. If no changes or deletions to General Conditions are made in the Special Conditions, then the General Conditions shall prevail in their entirety,

PART III BIDDING AND AWARD PROCEDURES:

- 3.01 **SUBMISSION AND RECEIPT OF BIDS:** To receive consideration, bids must be received prior to the bid opening date and time. Unless otherwise specified, Bidder's should use the proposal forms provided by the City. These forms may be duplicated, but failure to use the forms may cause the bid to be rejected. Any erasures or corrections on the bid must be made in ink and initialed by Bidder in ink. All information submitted by the Bidder shall be printed, typewritten or filled in with pen and ink. Bids shall be signed in ink. Separate bids must be submitted for each ITB issued by the City in separate sealed envelopes properly marked. When a particular ITB or RFP requires multiple copies of bids or proposals they may be included in a single envelope or package properly sealed and identified. Only send bids via facsimile transmission (FAX) if the ITB specifically states that bids sent via FAX will be considered. If such a statement is not included in the ITB, bids sent via FAX will be rejected. Bids will be publicly opened in the Procurement Office, or other designated area, in the presence of Bidder's, the public, and City staff. Proposer and the public are invited and encouraged to attend bid openings. Bids will be tabulated and made available for review by Bidder's and the public in accordance with applicable regulations.
- 3.02 **MODEL NUMBER CORRECTIONS:** If the model number for the make specified in this ITB is incorrect, or no longer available and replaced with an updated model with new specifications, the Bidder shall enter the correct model number on the bidder proposal page. In the case of an updated model with new specifications, Bidder shall provide adequate information to allow the City to determine if the model bid meets the City's requirements.
- 3.03 **PRICES QUOTED:** Deduct trade discounts, and quote firm net prices. Give both unit price and extended total. In the case of a discrepancy in computing the amount of the bid, the unit price quoted will govern. All prices quoted shall be F.O.B. destination, freight prepaid (Bidder pays and bears freight charges, Bidder owns goods in transit and files any claims), unless otherwise stated in Special Conditions. Each item must be bid separately. No attempt shall be made to tie any item or items contained in the ITB with any other business with the City.
- 3.04 **TAXES:** The City of Fort Lauderdale is exempt from Federal Excise and Florida Sales taxes on direct purchase of tangible property. Exemption number for Federal Excise taxes is 59-74-0111K, and State Sales tax exemption number is 16-03-196479-54C.
- 3.05 **WARRANTIES OF USAGE:** Any quantities listed in this ITB as estimated or projected are provided for tabulation and information purposes only. No warranty or guarantee of quantities is given or implied. It is understood that the Contractor will furnish the City's needs as they arise.

- 3.06 APPROVED EQUAL:** When the technical specifications call for a brand name, manufacturer, make, model, or Proposer catalog number with acceptance of APPROVED EQUAL, it shall be for the purpose of establishing a level of quality and features desired and acceptable to the City. In such cases, the City will be receptive to any unit that would be considered by qualified City personnel as an approved equal. In that the specified make and model represent a level of quality and features desired by the City, the Bidder must state clearly in his bid any variance from those specifications. It is the Bidder's responsibility to provide adequate information, in his bid, to enable the City to ensure that the bid meets the required criteria. If adequate information is not submitted with the bid, it may be rejected. The City will be the sole judge in determining if the item bid qualifies as an approved equal.
- 3.07 MINIMUM AND MANDATORY TECHNICAL SPECIFICATIONS:** The technical specifications may include items that are considered minimum, mandatory, or required. If any Bidder is unable to meet, or exceed these items, and feels that the technical specifications are overly restrictive, he must notify the Procurement Division immediately. Such notification must be received by the Procurement Division prior to the deadline contained in the ITB, for questions of a material nature, or prior to five (5) days before bid due and open date, whichever occurs first. If no such notification is received prior to that deadline, the City will consider the technical specifications to be acceptable to all Proposer.
- 3.08 MISTAKES:** Proposer are cautioned to examine all terms, conditions, specifications, drawings, exhibits, addenda, delivery instructions and special conditions pertaining to the ITB. Failure of the Bidder to examine all pertinent documents shall not entitle him to any relief from the conditions imposed in the contract.
- 3.09 SAMPLES AND DEMONSTRATIONS:** Samples or inspection of product may be requested to determine suitability. Unless otherwise specified in Special Conditions, samples shall be requested after the date of bid opening, and if requested should be received by the City within seven (7) working days of request. Samples, when requested, must be furnished free of expense to the City and if not used in testing or destroyed, will upon request of the Bidder, be returned within thirty (30) days of bid award at Bidder's expense. When required, the City may request full demonstrations of units prior to award. When such demonstrations are requested, the Bidder shall respond promptly and arrange a demonstration at a convenient location. Failure to provide samples or demonstrations as specified by the City may result in rejection of a bid.
- 3.10 LIFE CYCLE COSTING:** If so specified in the ITB, the City may elect to evaluate equipment proposed on the basis of total cost of ownership. In using Life Cycle Costing, factors such as the following may be considered: estimated useful life, maintenance costs, cost of supplies, labor intensity, energy usage, environmental impact, and residual value. The City reserves the right to use those or other applicable criteria, in its sole opinion that will most accurately estimate total cost of use and ownership.
- 3.11 BIDDING ITEMS WITH RECYCLED CONTENT:** In addressing environmental concerns, the City of Fort Lauderdale encourages Proposer to submit bids or alternate bids containing items with recycled content. When submitting bids containing items with recycled content, Bidder shall provide documentation adequate for the City to verify the recycled content. The City prefers packaging consisting of materials that are degradable or able to be recycled. When specifically stated in the ITB, the City may give preference to bids containing items manufactured with recycled material or packaging that is able to be recycled.
- 3.12 USE OF OTHER GOVERNMENTAL CONTRACTS:** The City reserves the right to reject any part or all of any bids received and utilize other available governmental contracts, if such action is in its best interest.
- 3.13 QUALIFICATIONS/INSPECTION:** Bids will only be considered from firms normally engaged in providing the types of commodities/services specified herein. The City reserves the right to inspect the Bidder's facilities, equipment, personnel, and organization at any time, or to take any other action necessary to determine Bidder's ability to perform. The Procurement Manager reserves the right to reject bids where evidence or evaluation is determined to indicate inability to perform.
- 3.14 BID SURETY:** If Special Conditions require a bid security, it shall be submitted in the amount stated. A bid security can be in the form of a bid bond, postal money order, cashiers check, or irrevocable letter of credit. Bid security will be returned to the unsuccessful Proposer as soon as practicable after opening of bids. Bid security will be returned to the successful bidder after acceptance of the performance bond or irrevocable letter of credit, if required; acceptance of insurance coverage, if required; and full execution of contract documents, if required; and full execution of contract documents, if required; or conditions as stated in Special Conditions.
- 3.15 PUBLIC RECORDS:** Florida law provides that municipal records shall at all times be open for personal inspection by any person. Section 119.01, F.S., The Public Records Law. Information and materials received by City in connection with an ITB response shall be deemed to be public records subject to public inspection upon award, recommendation for award, or 10 days after bid opening, whichever occurs first. However, certain exemptions to the public records law are statutorily provided for in Section 119.07, F.S. If the Proposer believes any of the information contained in his or her response is exempt from the Public Records Law, then the Proposer, must in his or her response, specifically identify the material which is deemed to be exempt and cite the legal authority for the exemption, otherwise, the City will treat all materials received as public records.
- 3.16 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. Proposer must disclose any such affiliation. Failure to disclose any such affiliation will result in disqualification of the Bidder and removal of the Bidder from the City's bidder lists and prohibition from engaging in any business with the City.
- 3.17 RESERVATIONS FOR AWARD AND REJECTION OF BIDS:** The City reserves the right to accept or reject any or all bids, part of bids, and to waive minor irregularities or variations to specifications contained in bids, and minor irregularities in the bidding process. The City also reserves the right to award the contract on a split order basis, lump sum basis, individual item basis, or such combination as shall best serve the interest of the City. The City reserves the right to make an award to the responsive and responsible bidder whose product or service meets the terms, conditions, and specifications of the ITB and whose bid is considered to best serve the City's interest. In determining the responsiveness of the offer and the responsibility of the Bidder, the following shall be considered when applicable: the ability, capacity and skill of the Bidder to perform as required; whether the Bidder can perform promptly, or within the time specified, without delay or interference; the character, integrity, reputation, judgment, experience and efficiency of the Bidder; the quality of past performance by the Bidder; the previous and existing compliance by the Bidder with related laws and ordinances; the sufficiency of the Bidder's financial resources; the availability, quality and

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adaptability of the Bidder's supplies or services to the required use; the ability of the Bidder to provide future maintenance, service or parts; the number and scope of conditions attached to the bid.

If the ITB provides for a contract trial period, the City reserves the right, in the event the selected bidder does not perform satisfactorily, to award a trial period to the next ranked bidder or to award a contract to the next ranked bidder, if that bidder has successfully provided services to the City in the past. This procedure to continue until a bidder is selected or the contract is re-bid, at the sole option of the City.

- 3.18 LEGAL REQUIREMENTS:** Applicable provisions of all federal, state, county laws, and local ordinances, rules and regulations, shall govern development, submittal and evaluation of all bids received in response hereto and shall govern any and all claims and disputes which may arise between person(s) submitting a bid response hereto and the City by and through its officers, employees and authorized representatives, or any other person, natural or otherwise; and lack of knowledge by any bidder shall not constitute a cognizable defense against the legal effect thereof.

PART IV BONDS AND INSURANCE

- 4.01 PERFORMANCE BOND/IRREVOCABLE LETTER OF CREDIT:** If a performance bond or irrevocable letter of credit is required in Special Conditions, the Contractor shall within fifteen (15) working days after notification of award, furnish to the City a Performance Bond or an Unconditional Irrevocable Letter of Credit payable to the City of Fort Lauderdale, Florida, in the face amount specified in Special Conditions as surety for faithful performance under the terms and conditions of the contract. If the bond is on an annual coverage basis, renewal for each succeeding year shall be submitted to the City thirty (30) days prior to the termination date of the existing Performance Bond. The Performance Bond must be executed by a surety company of recognized standing, authorized to do business in the State of Florida and having a resident agent. If a Letter of Credit is chosen, it must be in a form acceptable to the City, drawn on a local (Broward, Dade or Palm Beach Counties) bank acceptable to the City and issued in favor of the City of Fort Lauderdale, Florida. If a Bidder wishes to use a non-local bank, he must have prior City approval of the requirements to draw against the Letter of Credit.

Acknowledgement and agreement is given by both parties that the amount herein set for the Performance Bond or Irrevocable Letter of Credit is not intended to be nor shall be deemed to be in the nature of liquidated damages nor is it intended to limit the liability of the Contractor to the City in the event of a material breach of this Agreement by the Contractor.

- 4.02 INSURANCE:** If the Contractor is required to go on to City property to perform work or services as a result of ITB award, the Contractor shall assume full responsibility and expense to obtain all necessary insurance as required by City or specified in Special Conditions.

The Contractor shall provide to the Procurement Division original certificates of coverage and receive notification of approval of those certificates by the City's Risk Manager prior to engaging in any activities under this contract. The Contractor's insurance is subject to the approval of the City's Risk Manager. The certificates must list the City as an ADDITIONAL INSURED and shall have no less than thirty (30) days written notice of cancellation or material change. Further modification of the insurance requirements may be made at the sole discretion of the City's Risk Manager if circumstances change or adequate protection of the City is not presented. Bidder, by submitting his bid, agrees to abide by such modifications.

PART V PURCHASE ORDER AND CONTRACT TERMS:

- 5.01 COMPLIANCE TO SPECIFICATIONS, LATE DELIVERIES/PENALTIES:** Items offered may be tested for compliance to bid specifications. Items delivered which do not conform to bid specifications may be rejected and returned at Contractor's expense. Any violation resulting in contract termination for cause or delivery of items not conforming to specifications, or late delivery may also result in:
- Bidder's name being removed from the City's bidder's mailing list for a specified period and Bidder will not be recommended for any award during that period.
 - All City Departments being advised to refrain from doing business with the Bidder.
 - All other remedies in law or equity.
- 5.02 ACCEPTANCE, CONDITION, AND PACKAGING:** The material delivered in response to ITB award shall remain the property of the Seller until a physical inspection is made and the material accepted to the satisfaction of the City. The material must comply fully with the terms of the ITB, be of the required quality, new, and the latest model. All containers shall be suitable for storage and shipment by common carrier, and all prices shall include standard commercial packaging. The City will not accept substitutes of any kind. Any substitutes or material not meeting specifications will be returned at the Bidder's expense. Payment will be made only after City receipt and acceptance of materials or services.
- 5.03 SAFETY STANDARDS:** All manufactured items and fabricated assemblies shall comply with applicable requirements of the Occupational Safety and Health Act of 1970 as amended, and be in compliance with Chapter 442, Florida Statutes. Any toxic substance listed in Section 38F-41.03 of the Florida Administrative Code delivered as a result of this order must be accompanied by a completed Material Safety Data Sheet (MSDS).
- 5.04 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.
- 5.05 OTHER GOVERNMENTAL ENTITIES:** If the Bidder is awarded a contract as a result of this ITB, he will, if he has sufficient capacity or quantities available, provide to other governmental agencies, so requesting, the products or services awarded in accordance with the terms and conditions of the ITB and resulting contract. Prices shall be F.O.B. delivered to the requesting agency.
- 5.06 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.
- 5.07 INDEPENDENT CONTRACTOR:** The Contractor is an independent contractor under this Agreement. Personal services provided by the Proposer shall be by employees of the Contractor and subject to supervision by the Contractor, and not as officers, employees, or agents of the

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City. Personnel policies, tax responsibilities, social security, health insurance, employee benefits, purchasing policies unless otherwise stated in this ITB, and other similar administrative procedures applicable to services rendered under this contract shall be those of the Contractor.

- 5.08 INDEMNITY/HOLD HARMLESS AGREEMENT:** The Contractor agrees to protect, defend, indemnify, and hold harmless the City of Fort Lauderdale and its officers, employees and agents from and against any and all losses, penalties, damages, settlements, claims, costs, charges for other expenses, or liabilities of every and any kind including attorney fees, in connection with or arising directly or indirectly out of the work agreed to or performed by Contractor under the terms of any agreement that may arise due to the bidding process. Without limiting the foregoing, any and all such claims, suits, or other actions relating to personal injury, death, damage to property, defects in materials or workmanship, actual or alleged violations of any applicable Statute, ordinance, administrative order, rule or regulation, or decree of any court shall be included in the indemnity hereunder.
- 5.09 TERMINATION FOR CAUSE:** If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if the Contractor shall violate any of the provisions of this Agreement, the City may upon written notice to the Contractor terminate the right of the Contractor to proceed under this Agreement, or with such part or parts of the Agreement as to which there has been default, and may hold the Contractor liable for any damages caused to the City by reason of such default and termination. In the event of such termination, any completed services performed by the Contractor under this Agreement shall, at the option of the City, become the City's property and the Contractor shall be entitled to receive equitable compensation for any work completed to the satisfaction of the City. The Contractor, however, shall not be relieved of liability to the City for damages sustained by the City by reason of any breach of the Agreement by the Contractor, and the City may withhold any payments to the Contractor for the purpose of setoff until such time as the amount of damages due to the City from the Contractor can be determined.
- 5.10 TERMINATION FOR CONVENIENCE:** The City reserves the right, in its best interest as determined by the City, to cancel contract by giving written notice to the Contractor thirty (30) days prior to the effective date of such cancellation.
- 5.11 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.
- 5.12 RECORDS/AUDIT:** The Contractor shall maintain during the term of the contract all books of account, reports and records in accordance with generally accepted accounting practices and standards for records directly related to this contract. The form of all records and reports shall be subject to the approval of the City's Internal Auditor. The Contractor agrees to make available to the City's Internal Auditor, during normal business hours and in Broward, Dade or Palm Beach Counties, all books of account, reports and records relating to this contract for the duration of the contract and retain them for a minimum period of one (1) year beyond the last day of the contract term.
- 5.13 PERMITS, TAXES, LICENSES:** The successful Contractor shall, at his own expense, obtain all necessary permits, pay all licenses, fees and taxes, required to comply with all local ordinances, state and federal laws, rules and regulations applicable to business to be carried on under this contract.
- 5.14 LAWS/ORDINANCES:** The Contractor shall observe and comply with all Federal, state, local and municipal laws, ordinances rules and regulations that would apply to this contract.
- 5.15 NON-DISCRIMINATION:** There shall be no discrimination as to race, sex, color, creed, age or national origin in the operations conducted under this contract.
- 5.16 UNUSUAL CIRCUMSTANCES:** If during a contract term where costs to the City are to remain firm or adjustments are restricted by a percentage or CPI cap, unusual circumstances that could not have been foreseen by either party to the contract occur, and those circumstances significantly affect the Contractor's cost in providing the required items or services, then the Contractor may request adjustments to the costs to the City to reflect the changed circumstances. The circumstances must be beyond the control of the Contractor, and the requested adjustments must be fully documented. 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 City will reserve the following options:
1. The contract can be canceled by the City upon giving thirty (30) days written notice to the Contractor with no penalty to the City or Contractor. The Contractor shall fill all City requirements submitted to the Contractor until the termination date contained in the notice.
 2. The City requires the Contractor to continue to provide the items and services at the firm fixed (non-adjusted) cost until the termination of the contract term then in effect.
 3. If the City, in its interest and in its sole opinion, determines that the Contractor in a capricious manner attempted to use this section of the contract to relieve themselves of a legitimate obligation under the contract, and no unusual circumstances had occurred, the City reserves the right to take any and all action under law or equity. Such action shall include, but not be limited to, declaring the Contractor in default and disqualifying him for receiving any business from the City for a state period of time.
- If the City does agree to adjusted costs, these adjusted costs shall not be invoiced to the City until the Contractor receives notice in writing signed by a person authorized to bind the City in such matters.
- 5.17 ELIGIBILITY:** If applicable, the Contractor must first register with the Department of State of the State of Florida, in accordance with Florida State Statutes, prior to entering into a contract with the City.
- 5.18 PATENTS AND ROYALTIES:** The Contractor, without exception, shall indemnify and save harmless the City and its employees from liability of any nature and kind, including cost and expenses for or on account of any copyrighted, patented or un-patented invention, process, or article manufactured or used in the performance of the contract, including its use by the City. If the Contractor uses any design, device, or materials covered by letters, patent or copyright, it is mutually agreed and understood without exception that the bid prices shall include all royalties or costs arising from the use of such design, device, or materials in any way involved in the work.

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- 5.19 ASSIGNMENT:** Contractor shall not transfer or assign the performance required by this ITB without the prior written consent of the City. Any award issued pursuant to this ITB, and the monies, which may become due hereunder, are not assignable except with the prior written approval of the City Manager or selected designee.
- 5.20 LITIGATION VENUE:** The parties waive the privilege of venue and agree that all litigation between them in the state courts shall take place in Broward County, Florida and that all litigation between them in the federal courts shall take place in the Southern District in and for the State of Florida.

Form G-107 Rev. 07/01