



## **REQUEST FOR QUALIFICATIONS (RFQ)**

### **PROFESSIONAL ENGINEERING SERVICES AND CEI SERVICES FOR VARIOUS TOWN PROJECTS**

**RFQ NO. 2023-002**

August 15, 2023

Town of Sewall's Point  
One South Sewall's Point Road  
Sewall's Point, FL 34996  
(772) 287-2455

**TOWN OF SEWALL'S POINT  
REQUEST FOR QUALIFICATIONS  
PROFESSIONAL ENGINEERING SERVICES AND CEI SERVICES  
FOR VARIOUS TOWN PROJECTS  
RFQ NO. 2023-002**

Pursuant to the CCNA (Section 287.055, Florida Statutes), the Town of Sewall's Point (the "Town") is seeking Letters of Interest and Professional Qualifications from professional engineering consulting firms for professional engineering services and construction engineering and inspection (CEI) services for various Town projects, including but not limited to drainage improvements and septic to sewer conversions. These projects are either currently funded by local, state, and/or federal grants or the Town anticipates seeking such grants to fund them. Notices to proceed under the resulting contract(s) will not be issued for a particular project unless and until the Town has received the needed grants. No minimum amount of work is guaranteed under any resulting contract. All professional services shall be performed in accordance with the resulting contract, this RFQ, and all applicable grants, laws, ordinances, rules and regulations. Copies of all awarded grants are available from the Town Clerk. These various projects are collectively referred to as the "Town Projects."

The Town will be soliciting professional engineering services for the following: (1) One or more firms hired to perform all required surveying, geotechnical, environmental and archeological services, preliminary engineering services, permitting services, bid services, post-design and construction coordination services and any other professional engineering services needed to complete each project (collectively, "Project Engineering Services"); and (2) One or more firms hired to perform Construction Engineering and Inspection services for each of the Projects ("CEI Services"). The Town anticipates awarding the Project Engineering Services needed under each of the Town Projects to either one or more firms and awarding the CEI Services needed under each of the Town Projects to either one or more firms. Firms may apply for one or more project and must clarify the same in its proposal.

Request for Qualifications (RFQ) packages shall be submitted electronically through DemandStar by firms responding to this RFQ on or before 2 P.M. on September 18, 2023. No responses will be accepted after that time. No hard copies will be accepted. Any firm who is submitting an e-proposal for the first time is strongly encouraged to contact DemandStar by emailing questions to [demandstar@demandstar.com](mailto:demandstar@demandstar.com). Selection will be in accordance with the CCNA, section 287.055, Florida Statutes, the Town's Purchasing Code and policies, and all applicable federal, state, and local requirements and any grant requirements. The Town Manager or an Evaluation Committee shall evaluate the qualifications submitted by the firms using criteria as outlined in the RFQ and recommend the best qualified firm(s) to the Town Commission. The Town Commission will select the firm(s) it considers to be the best qualified to serve the Town's interest for these grants. The Town reserves the right in its sole discretion to withdraw this RFQ, to reject any or all qualifications and/or to waive all nonmaterial irregularities on any and all qualifications. All questions and requests for additional information in connection with this RFQ and selection shall be directed in writing or email only to Robert Daniels, Town Manager, 1 South Sewall's Point Road, Sewall's Point, Florida 34996; email [rdaniels@sewallspoint.org](mailto:rdaniels@sewallspoint.org).

**Dated: August 15, 2023**

**Town of Sewall's Point**

Published: *Stuart News*

## I. IN GENERAL

### 1.1 Purpose

The intent of this solicitation is to comply with the CCNA (Section 287.055, Florida Statutes) and contract with one or more professional engineering consulting firm(s) for the Town Projects described in **Exhibit A** which is attached hereto and incorporated herein for (1) the surveying, geotechnical, environmental, and archaeological services, preliminary engineering services, permitting services, bid services, post design and construction coordination services and any other necessary professional services to complete each project (“Project Engineering Services”); and (2) the construction engineering inspection services needed to complete each project (“CEI Services”). The Scope of Work for each project and a list of any awarded grants are set forth in **Exhibit A**.

Firms may apply for either (1) Project Engineering Services for one or more projects or (2) CEI Services for one or more projects. Which project(s) and what services each firm is seeking should be made clear in the firm’s proposal. The only exception is that it is anticipated (not guaranteed) that the same firm will be awarded the South Sewall’s Point Road (Phase 2) Project and the Septic to Sewer Project (both described in **Exhibit A**) as these two projects involve the placement of infrastructure in the same locations and must be coordinated accordingly. Therefore, if a firm applies for one of these projects, it must also apply for the other.

These projects are either currently funded by local, state, and/or federal grants or the Town anticipates seeking such grants to fund them. Notices to proceed under the resulting contract(s) will not be issued for a particular project unless and until the Town has received the needed grants. No minimum amount of work is guaranteed under any resulting contract.

All services shall be completed in accordance with all applicable grants and all applicable federal, state, and local laws, ordinances, policies, regulations and codes, executive orders, and FEMA or other funding agency requirements. Each firm must be a licensed, certified engineering business in the State of Florida and have a professional engineer licensed in the State of Florida on staff. Florida law requires the Town to make a determination of a consultant’s qualification to perform professional services work prior to their employment. The information submitted in response to this Request for Qualifications (RFQ) will be used by the Town to make this determination. Any firm that participates in the development of the scope of work and solicitation for the Project is prohibited from bidding on the construction work.

Additionally, contracts funded in whole or in part by federal funding are also subject to the requirement at 2 C.F.R. § 200.321 that all necessary affirmative steps be taken to assure that minority businesses, women’s business enterprises, and labor surplus area firms are used when possible. A list of labor surplus areas is provided at the Department of Labor’s website at <https://doleta.gov/programs/lisa.cfm>. Accordingly, where subcontractors are used, contractors must take the following affirmative steps:

- (1) Placing qualified small and minority businesses and women’s business enterprises on solicitation lists;
- (2) Assuring that small and minority businesses, and women’s business enterprises are solicited whenever they are potential sources;

- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

### **1.2 No Oral Interpretations of the RFQ**

No Person is authorized to give oral interpretations of, or make oral changes to, this RFQ. Therefore, oral statements about the RFQ by the Town's representatives will not be binding on the Town and should not be relied upon by a firm. Any interpretation of, or change to, this RFQ will be made in the form of a written addendum to the RFQ. Any addendum to this RFQ will be posted on the Town's website and/or on DemandStar. A firm can only rely upon those interpretations of, or changes to, this RFQ that are issued by the Town in an addendum. By submitting qualifications, a firm certifies that its submitted qualifications are made without reliance on any oral representation by the Town, its agents, or employees.

### **1.3 Reviewing the RFQ and Addenda**

Each firm should closely examine all of the documents and requirements in this RFQ. It is the sole responsibility of the firm to ensure that he or she has received and understands all of the pages of the RFQ. In accordance with the provisions of the American with Disabilities Act, this RFQ may be requested in an alternate format.

No later than **2 P.M. on September 18, 2023**, each firm shall deliver to the Town all of the firm's questions concerning the intent, meaning and interpretation of this RFQ. Each firm shall be deemed to have waived all questions that are not submitted to the Town in compliance with this Section. A firm's questions may be delivered to the Town by hand-delivery, mail or e-mail ([rdaniels@sewallspoint.org](mailto:rdaniels@sewallspoint.org)) but all such submittals shall be in writing and addressed to:

Town of Sewall's Point  
Robert Daniels, Town Manager  
1 South Sewall's Point Road  
Sewall's Point, Florida 34996

If revisions to this RFQ become necessary, the Town will issue written addenda. The Town will endeavor to make sure all potential firms receive such addendum by posting the addendum on the Town's website ([www.sewallspoint.org](http://www.sewallspoint.org)) and/or DemandStar for the respective qualification solicitation or by emailing the addendum; however, it is the sole responsibility of every firm to verify with the Town whether any addendum has been issued prior to submitting sealed qualifications. The Town provides this website as a courtesy only and assumes no responsibility for errors or omissions that may affect qualifications submitted in response to this RFQ.

### **1.4 Schedule and Deadlines for the RFQ**

A summary schedule of the major activities associated with this RFQ is presented below. The Town, in its sole discretion, may modify the schedule as the Town deems appropriate. The Town

will provide notification of any changes to the schedule by issuing written addenda as set forth above.

The following is an estimated schedule to be followed for this RFQ.

Advertisement with DemandStar:	
Deadline for Written Questions:	August 25, 2023 at 2 P.M.
Qualifications Due Date:	September 18, 2023 at 2 P.M.
Short List Announcement:	
Oral Presentations (if required):	TBD
Town Commission Approval:	September 26, 2023, or as soon thereafter as possible
Contracts Negotiations & Execution:	TBD

### **1.5 Property of the Town**

All materials submitted in response to this RFQ become the property of the Town. The Town has the right to use any or all ideas presented in any response to this RFQ, whether amended or not, and selection or rejection of a qualifications does not affect this right.

### **1.6 Legal Requirements**

Each firm must comply with all federal, state, and local laws, ordinances, policies, rules and regulations that are applicable to this RFQ and the work to be performed under the Agreement. These legal requirements include, but are not limited to, 2 C.F.R. §§ 200.318 through 200.327, all applicable Federal contract provisions as set forth in **Exhibit I and its Addendum, if applicable**, the Town's Purchasing Code and applicable policies, and any and all requirements set forth in all applicable grants (including any amendments) or required thereunder. The successful firms agree to be bound by the terms of the applicable grants, and all applicable local, state and federal laws and regulations. A firm's lack of knowledge about the applicable laws or grants shall not be grounds for relief from such laws or constitute a defense against the enforcement of such laws.

By submitting qualifications in response to this RFQ, the firm represents that it is familiar with all federal, state, and local laws, ordinances, policies, rules and regulations, and grant requirements that are applicable to the services required under this RFQ. If a firm discovers any provision in this RFQ that is contrary to or inconsistent with any law, ordinance, rule, regulation, or grant provision, the firm shall promptly report it to the Town Manager.

### **1.7 Litigation Concerning the RFQ and Agreement**

By submitting qualifications, the firm agrees that: (a) any and all legal actions necessary to interpret or enforce this RFQ or the Agreement shall be governed by the laws of the State of Florida; and (b) the exclusive venue for any litigation concerning this RFQ or the Agreement shall be the state and federal courts in and for Martin County, Florida.

### **1.8 Public Records; Record Retention**

Any material submitted in response to this RFQ will become a public record and shall be subject to public disclosure consistent with the Florida Public Records Law (Part 119, Florida Statutes), except as may be provided by the Public Records Law or other applicable state or federal law. If a firm contends that part of its qualifications is not subject to disclosure, the firm shall identify specifically any information contained in the qualifications that the firm considers confidential or otherwise exempt from disclosure under the Public Records Law, and the firm shall cite the

specific section of the law creating the exemption for such information. The Town reserves its right to make all determinations concerning the applicability of the Florida Public Records Law to any documents submitted in response to this RFQ. The Town shall have no liability to a firm for the public disclosure of any material submitted to the Town in response to this RFQ.

The awarded firm(s) shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the work for a minimum of five years after completion of the contract. The Town shall have access to all records, documents, and information collected and/or maintained by others in the course of the administration of the contract. This information shall be made accessible at the firm's local place of business to the Town, and applicable state and federal authorities for purposes of inspection, reproduction, and audit without restriction. If records are unavailable locally, it shall be the firm's responsibility to ensure that all required records are provided to the Town and others at the firm's sole expense. This provision is meant to be read in addition to record retention requirements found at Exhibit I.

### **1.9 Drug-Free Work Place**

Preference shall be given to a business with a Drug-Free Work Place (DFW) program. Whenever the Town receives two or more qualifications that are equal with respect to price, quality, and service, the Town may give preference to qualifications received from a business that completes the attached DFW form, see **Exhibit E**, and certifies it is a DFW.

### **1.10 Cone of Silence**

A cone of silence is hereby imposed and made applicable to this RFQ. "Cone of Silence" means a prohibition on any non-written communication regarding this RFQ between any firm or firm's representative and any Town of Sewall's Point employee. The Cone of Silence is in effect as of the submittal deadline. The provisions of this Cone of Silence shall not apply to oral communications at any public proceeding, discussions or oral presentations before the Town Manager/Evaluation Committee, and contract negotiations during any public meeting. The Cone of Silence shall terminate at the time that the Town Commission awards or approves a contract, rejects all qualifications or otherwise takes action which ends the solicitation process. A firm's representative shall include but not be limited to the firm's employee, partner, officer, director or consultant, lobbyist, or any, actual or potential subcontractor or consultant of the firm.

### **1.11 Lobbying**

By submitting a Letter of Interest and Professional Qualifications, each firm certifies that to the best of his or her knowledge and belief:

- i. No Federal appropriated funds have been paid or will be paid, by or on behalf of the firm, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.
- ii. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement,

the firm shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities."

- iii. The firm shall require that this certification be included in the award documents for all subawards (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Sub-Recipients shall certify and disclose accordingly.
- iv. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

If the firm is unable to certify to any of the statements in this certification, such firm shall attach an explanation to its qualifications. Any such explanation or a violation of this requirement may cause the firm to be disqualified and prohibited from participating further in the RFQ process. The Firm shall complete the Certification regarding Lobbying attached hereto as **Exhibit H** (and incorporated herein).

### **1.12 Debarment**

By submitting a Letter of Interest and Professional Qualifications, each firm, on behalf of it and its principals, certifies that to the best of its knowledge and belief, that it and its principals:

- i. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or Board.
- ii. Have not within a three-year period preceding this qualifications been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
- iii. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any offenses enumerated in subparagraph ii of this section.
- iv. Have not within a three-year period preceding this qualification had one or more public transactions (Federal, State or local) terminated for cause or default.

If the firm is unable to certify to any of the statements in this certification, such firm shall attach an explanation to its qualifications. Any such explanation or a violation of this requirement may cause the firm to be disqualified and prohibited from participating further in the RFQ process. The Firm shall complete the Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion attached hereto as **Exhibit G** (and incorporated herein).

### **1.13 Prohibition on Scrutinized Companies**

As provided in section 287.135, Florida Statutes, by submitting Professional Qualifications, or entering into any agreement with the Town, or performing any work in furtherance hereof, the firm

certifies that it is compliance with said statute and shall complete the Scrutinized Companies Certification Form which is attached hereto as **Exhibit F** (incorporated herein).

#### **1.14 Cost of Qualifications Preparation**

The firm assumes all risks and expenses associated with the preparation and submittal of qualifications in response to this RFQ. The Town shall not be liable for any expenses incurred by the firm when responding to this RFQ, including but not limited to the cost of making presentations to the Town.

#### **1.15 Protest Procedures**

Firms may protest in accordance with the Town's Code of Ordinances, section 2-263(j).

#### **1.16 Non-collusion**

The firm certifies that this Qualifications is made without prior understanding, agreement, or connection with any individual, firm, partnership, corporation or other entity submitting a qualification for the same services, and is in all respects fair and without collusion or fraud. No premiums, rebates, or gratuities are permitted with, prior to, or after any provisions of services. Any violation of this provision may result in contract cancellation or discontinuation of services, and the possible inability of firm to bid on future projects.

#### **1.17 Code of Ethics**

This RFQ is subject to the State of Florida Code of Ethics and the Town of Sewall's Point Standards of Conduct Procurement Policy. Accordingly, there are prohibitions and limitations on the employment of Town officials and employees and contractual relationships providing a benefit to the same. Firms are highly encouraged to review these documents in order to ensure compliance with the same. If any firm violates or is a party to a violation of an applicable Code of Ethics, such firm may be disqualified from performing the work described in this RFQ or from furnishing the goods or services for which this RFQ is submitted and may be further disqualified from bidding on any future RFQs (or other procurement requests and invitations) for work or for goods or services for the Town.

#### **1.18 Conflict of Interest**

The award of a contract under this RFQ is subject to any and all applicable conflict of interest provisions found in the Town of Sewall's Point Standards of Conduct Procurement Policy or Code of Ordinances of the Town and found in the Florida Statutes. All firms must complete the Conflict of Interest Form attached hereto as **Exhibit D**.

#### **1.19 Insurance**

Prior to execution of the resulting contract derived from this RFQ, the awarded firm(s) shall obtain and maintain in force at all times during the term of the resulting contracts insurance coverage as required herein. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The Certificates shall clearly indicate that the firm has obtained insurance of the type, amount, and classification as required for strict compliance with this provision and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the Town. Compliance with the foregoing requirements shall not relieve the selected firms of their liability and obligations under the resulting contract.



- A. The selected firms shall maintain during the term of the contract, standard Professional Liability Insurance in the minimum amount of \$1,000,000.00 per occurrence.
- B. The selected firms shall maintain, during the life of the contract, commercial general liability, including public and contractual liability insurance in the amount of \$1,000,000.00 per occurrence (\$2,000,000.00 aggregate) to protect the firm from claims for damages for bodily and personal injury, including wrongful death, as well as from claims of property damages which may arise from any operations under the contract, whether such operations be by the firm or by anyone directly or indirectly employed by or contracting with the firm.
- C. The selected firms shall carry Workers' Compensation Insurance and Employer's Liability Insurance for all employees as required by Florida Statutes.
- D. The selected firms shall maintain comprehensive automobile liability insurance in the minimum amount of \$1,000,000 combined single limit for bodily injury and property damages liability to protect from claims for damages for bodily and personal injury, including death, as well as from claims for property damage, which may arise from the ownership, use, or maintenance of owned and non-owned automobiles, including rented automobiles whether such operations be by the firm or by anyone directly or indirectly employed by the firm.
- E. If any applicable grant requires greater coverage than established herein, the grant requirements shall govern.

All insurance, other than Professional Liability and Workers' Compensation, to be maintained by the selected Respondent shall specifically include the "Town of Sewall's Point, its employees, agents, affiliates and commissioners" as an "Additional Insured."

### **1.20 Disclosure and Disclaimer**

The information contained herein is provided solely for the convenience of responding firms. It is the responsibility of a firm to assure itself that information contained herein is accurate and complete. Neither the Town, nor its advisors provide any assurances as to the accuracy of any information in this RFQ. Any reliance on the contents of this RFQ, or on any communications with Town representatives or advisors, shall be at each firm's own risk. Firms should rely exclusively on their own investigations, interpretations and analyses in connection with this matter. The RFQ is being provided by the Town without any warranty or representation, express or implied, as to its content, accuracy or completeness and no firm or other party shall have recourse to the Town if any information herein contained shall be inaccurate or incomplete. No warranty or representation is made by the Town that any qualifications conforming to these requirements will be selected for consideration, negotiation or approval.

In its sole discretion, the Town may withdraw this RFQ either before or after receiving qualifications, may accept or reject qualifications, and may accept qualifications which deviate from the non-material provisions of this RFQ. In its sole discretion, the Town may determine the qualifications and acceptability of any firm or firms submitting qualifications in response to this RFQ. The Town will consider each proposal to the maximum extent practicable and will document the reason for any rejection. Following submission of qualifications, the firm agrees to promptly deliver such further details, information and assurances, including, but not limited to, financial and disclosure data, relating to the Qualifications and/or the firm, including the firm's affiliates, officers, directors, shareholders, partners and employees, as requested by the Town. Any action

taken by the Town in response to qualifications made pursuant to this RFQ or in making any award or failure or refusal to make any award pursuant to such qualifications, or in any cancellation of award, or in any withdrawal or cancellation of this RFQ, either before or after issuance of an award, shall be without any expense, liability or obligation on the part of the Town, or its advisors.

Any recipient of this RFQ who responds hereto fully acknowledges all the provisions of this Disclosure and Disclaimer and agrees to be bound by the terms hereof. Any qualifications submitted pursuant to this RFQ is at the sole risk and responsibility of the firm submitting such qualifications.

### **1.21 Subconsultants**

The Town reserves the right to pre-approve all subconsultants, if any, for any services performed under a resulting contract.

### **1.22 Responsible Vendor Determination.**

Pursuant to Section 287.05701, Florida Statutes, the Town may not request documentation of or consider a firm's social, political, or ideological interests when determining if the firm is responsible. Further, the Town may not give a preference to a firm based on the firm's social, political, or ideological interests.

## **II. THE SUBMITTAL PACKAGE:**

The RFQ is designed to provide the necessary information about your firm. Each submittal must include the checklist attached as **Exhibit B**. This checklist must appear immediately after the Letter of Transmittal. To ensure that all submittals may be evaluated on an equitable basis, the RFQ requires each firm to provide the requested information in a prescribed format and organization that excludes supplemental materials. Any supplemental information included with the qualifications must appear **after** the required materials and tabbed "Additional RFQ Information", or under separate cover.

The submission of qualifications must be submitted electronically through DemandStar by firms responding to this RFQ. E-proposals will be done through a secure locked box. The submitting firm may only view/submit its E-proposal and will not have access to any other firm's submittal. The firm's E-proposal may be changed at the proposer's discretion until the RFQ due date and time is reached. A firm may withdraw its qualifications by removing all documents from DemandStar prior to the deadline. Modifications offered after the deadline will not be considered. The firm will no longer be allowed to change or have access to the electronic proposal submittal after the RFQ due date and time. Any firm who is submitting an E-proposal for the first time is strongly encouraged to contact DemandStar by emailing questions to [demandstar@demandstar.com](mailto:demandstar@demandstar.com). The RFQ DemandStar number for this RFQ is 2023-002.

**2.1 Contents.** The submittal package should be organized as listed below with one tab for each item.

### **A. Letter of Transmittal (not to exceed three single-sided pages)**

This letter will summarize in a brief and concise manner the following:

- General summary of the firm; how long in business; general approach to tasks and projects; and summary of the firm's qualifications.

- List each Town project (see **Exhibit A**) the firm is applying for and whether the firm is seeking to provide the Professional Engineering Services or the CEI Services for each. See **Exhibit A** for details.
- The firm’s brief understanding of the scope of work to be considered for Qualification.
- The letter must name all persons or entities interested in award as principals. Identify all of the persons authorized to make representations for the firm, including the titles, addresses, and telephone numbers of such persons.
- An authorized agent of the firm must sign the Letter of Transmittal and must indicate the agent’s title or authority.
- The individual or firm identified on the Letter of Transmittal will be considered the primary firm.

**B. Addenda (unlimited pages)**

This section shall include a statement acknowledging receipt of each addendum issued by the town. Each firm is responsible for contacting the Town to obtain addenda.

**C. References & Materials (not to exceed 30 double-sided pages plus the form).**

1. Evidence of integrity, ability, experience and skill: firms shall provide a summary of the firm’s capability, experience and skill to provide the requested services (which shall not exceed three pages) and include the firm’s organizational structure and office locations. This section shall also include a general statement regarding the volume of work previously awarded to each firm by the Town (with the object of effecting an equitable distribution of contracts among qualified firms as required by the CCNA, provided such distribution does not violate the principle of selection of the most highly qualified firms). Bullet point format is appreciated. Include evidence of adequate personnel to perform the work. Firms shall provide one page summaries or resumes of key personnel to be assigned to provide services to the Town. Resumes should include a description of:

- Training, education and degrees.
- Related experience and for whom.
- Professional certifications, licenses and affiliations.

Emphasis will be placed on individual past experience on similar projects and federal and state grants, within the past five years, individual’s ability to have similar projects completed on time and within budget, and knowledge of federal, state, county and Town codes and regulations.

2. Evidence of successful past performance for similar projects and federal and state grants: Firms shall identify successful past performance for similar projects and federal and state grants. Firms shall provide a minimum of three (3) references demonstrating their successful past performance. Prior experience with Florida municipalities is desirable. Firms are responsible for verifying correct phone numbers and contact information provided. Failure to provide accurate information may result in the reference not being obtained or considered. Emphasis will be placed on firm’s past experience with similar projects and federal and state grants within the past five years; similar projects being completed on time and within budget; and knowledge of state, county and Town codes and regulations.

**D. Evidence of Ability to Deliver on Time and within Budget (limited to three pages)**

Firms shall provide a three-page summary regarding their ability to deliver the requested services in a specific timeframe and within a specific budget. The firm’s summary regarding the ability to deliver within a specific budget shall **NOT** include any prices, proposals, or rates for the services

requested hereunder, but should include cost control techniques and other techniques implemented by the firm to ensure that services are provided within a given budget. Information regarding financial and technical resources, dedicated staff and recent, current, and projected firm workloads should be provided. Emphasis will be placed on firm's identification of individuals to provide services and their availability for the same. Firms should include a statement or two regarding the willingness and ability of personnel to make themselves available to Town staff during the project, e.g., telephone calls, meetings with staff, meetings with the Town Commission, etc.

#### **E. Proof of Licenses (unlimited)**

Firms shall provide proof of required licenses for the firm and scope of work to be performed. This shall include:

- Proof of all applicable licenses for services/work to be rendered (including registration with State of Florida Division of Corporations if applicable);
- Statement or proof of required insurance; and,
- Proof of firm's Business Tax Receipt (as applicable).

#### **F. Litigation and/or Terminations (unlimited)**

Firms shall provide a summary of any litigation filed against their firm or key personnel in the past five (5) years which is related to the type of services sought under this RFQ and that the firm provides in the regular course of business. The summary shall state the nature of the litigation, a brief description of the case, the outcome or projected outcome, and the monetary amount involved. If none, state as such.

Firms shall also state if the firm has had contracts for the services sought under this RFQ which were terminated for default, non-performance or delay, in the past five (5) years. Firms shall describe all such terminations, including the name and address of the other contracting party for each such occurrence. If none, state as such.

#### **G. Evidence of minority business enterprise (unlimited)**

Firms shall provide their certification as a minority business enterprise in accordance with Chapter 287, Florida Statutes.

### **2.2 Additional Documents.**

The firm shall also include the following documents in its Submittal Package: Checklist (see **Exhibit B**), Acknowledgment of Business Type and Insurance (**Exhibit C**), Conflict of Interest Form (see **Exhibit D**), Drug Free Workplace Form (see **Exhibit E**), Scrutinized Companies Certification Form (see **Exhibit F**), Certification regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusions (see **Exhibit G**), and Certification regarding Lobbying (see **Exhibit H**).

### **2.3 Representations by Submittal of Qualifications.**

By submitting Qualifications, the firm warrants, represents, certifies, and declares that:

- A. Person(s) designated as principal(s) of the firm are named and that no other person(s) other than those therein mentioned has (have) any interest in the proposal or in the anticipated contract.
- B. The Qualifications are submitted without connection, coordination or cooperation with any other persons, company, firm or party submitting Qualifications, and that the Qualifications are, in all respects, true and correct without collusion or fraud.

- C. The firm understands and agrees to all elements of the RFQ unless otherwise indicated or negotiated, and that the RFQ and all federally required contract provisions (see **Exhibit I and Addendum I** attached hereto and incorporated herein) shall become part of any contract entered into between the Town and the firm.
- D. By signing and submitting Qualifications, firm certifies that it and any parent corporations, affiliates, subsidiaries, members, shareholders, partners, officers, directors or executives thereof (1) are not presently debarred, proposed for debarment or declared ineligible to bid or participate in any federal, state or local government agency projects and (2) are not in violation of any federal lobbying laws.
- E. Pursuant to section 287.133, Florida Statutes, a person or affiliate who has been placed on the convicted firm list maintained by the State of Florida may not submit Qualifications to the Town for 36 months following the date of being placed on the convicted firm list. The firm certifies that submittal of its Qualifications does not violate this statute.
- F. Pursuant to section 287.135, Florida Statutes, the firm is not participating in a boycott of Israel, is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; and the firm does not have business operations in Cuba or Syria.
- G. The firm recognizes and agrees that the Town will not be responsible or liable in any way for any losses that the firm may suffer from the disclosure or submittal of its Qualifications to third parties.

#### **2.4 Copies and Deadlines.**

Qualifications packages shall be submitted no later than by **2:00 p.m. on September 18, 2023**. A firm's failure to submit a qualifications package as required before the deadline shall cause their qualifications package to be disqualified. Under no circumstances shall qualifications packages delivered to or received by the Town after the RFQ due date and time be accepted or considered. It is the sole responsibility of the submitting firm that the qualifications package is uploaded to DemandStar on or before the RFQ due date and time. The Town shall in no way be responsible for any delays arising from or caused by any occurrence whatsoever in its receipt of any qualifications packages after the RFQ due date and time. Each qualification submitted shall be valid for a period of one hundred twenty (120) days after the RFQ submission deadline date to allow time for evaluation, selection and any unforeseen delays. The 120 days may be extended upon agreement of the parties.

### **III. EVALUATION, SCORING, AND AWARD OF CONTRACT:**

Selection will be in accordance with the Consultant's Competitive Negotiations Act, section 287.055, Florida Statutes, all applicable grants, and any other applicable federal, state or local law, policy, rule or regulation. The Town will consider each qualification submitted to the maximum extent practicable and will consider all listed evaluation criteria.

If a respondent is submitting qualifications for consideration specific to one or more projects, this should be made known in the qualifications package.

#### **3.1 Certification of Qualified Firms.**

The Town Manager or an Evaluation Committee will evaluate and rank each respondent based on the competitive negotiations evaluation criteria below and make a recommendation of at least the top three (3) firms to the Town Commission for each of the two disciplines (i.e., Project Engineering Services and CEI Services). A firm must score at least a 70 based on the criteria below to be considered qualified.

If less than three (3) firms submit qualifications or if less than three (3) firms qualify, the Town Manager, in his sole discretion, or the Evaluation Committee may move forward with a recommendation of less than (3) firms to the Town Commission if it has been documented that the solicitation was adequately advertised.

### **3.2 Competitive Selection.**

The competitive negotiations evaluation criteria follow:

Ability, integrity, experience, skill of professional personnel	35 points
Successful past performance for similar projects/federal and state grant programs	30 points
Willingness and ability to meet time and budget requirements (per project)	20 points
Required licensing and certifications	5 points
Terminations and/or litigation	5 points
Completeness and responsiveness of qualifications	5 points

The selection process consists of evaluation and scoring by the Town Manager or an Evaluation Committee and the ranking of the top three (3) firms for each of the two disciplines. Each category will be scored and when the scores awarded for all categories are totaled, the scores will be tabulated and added to achieve the total points awarded to each firm. The total points will be used to rank each firm 1, 2, 3, 4, etc. If desired, the Town Manager or Evaluation Committee may require public presentations by the top three or more firms. The ranking of the top three or more firms shall be presented to and approved by the Town Commission at a duly noticed public meeting. It is anticipated that the Town Commission will award the RFQ to the firm(s) that submits the best overall qualifications(s), subject to the negotiation of fair and reasonable compensation. The Town, in its sole discretion, reserves the right to award a contract for each of the two disciplines to one or more firms.

The Town Commission, with input from the Town Manager and/or the Evaluation Committee, shall have the exclusive authority to select the best overall qualifications and make any determinations concerning the responsiveness of the firms, the value of their qualifications, the firms' respective abilities to satisfactorily perform the work specified in the Town's RFQ, and all other related matters.

### **3.3 Negotiations.**

After the Town Commission has approved the ranking of the top firms, the Town Manager may negotiate a contract with the highest ranked firm for each of the two disciplines at compensation determined to be fair, competitive and reasonable. The terms and conditions of the resulting contracts will be negotiated with the successful firms; however, such contracts must comply with all FEMA requirements, executive orders, grant documents, federal, state, and local laws, ordinances, policies, regulations, and codes. Such contracts shall include the federally required contract provisions set forth in **Exhibit I and Addendum I, if applicable**. If the Town and a successful firm cannot agree on the terms and conditions of the resulting contract or fees, the Town reserves the right to terminate negotiations with said successful firm and move to the next ranked

firm to commence negotiations. Negotiations may continue in this process until the Town is able to enter into a contract with a firm that best meets the needs of the Town. The resulting contracts shall be for a term commensurate with the satisfactory completion of work under each Town project and associated grant(s) unless otherwise terminated earlier. Such contracts shall be in compliance with all applicable federal, state, and local laws, ordinances, policies, rules and regulations and with the grants. The contracts shall include a not to exceed amount, hourly rates for personnel, and allowable for reasonable costs and expenses, as authorized by the Town, and shall provide for the issuance of notices to proceed for each of the projects or for the different phases of each project, as determined in the discretion of the Town.

#### **3.4 Miscellaneous Evaluation Process Information.**

Qualifications must be fully responsive to the requirements described in this RFQ and to any subsequent requests for clarification or additional information made by the Town through written addenda to this RFQ. Qualifications failing to comply with the submission requirements, or those unresponsive to any part of this RFQ, may be disqualified. As part of the evaluation process, the Town may conduct an investigation of references, including, but not limited to, a record check of consumer affairs complaints. By submitting qualifications, a firm acknowledges this process and consents to the Town's investigation.

**EXHIBIT A**  
**TOWN OF SEWALL'S POINT**  
**TOWN PROJECTS**  
**GENERAL SCOPES OF WORK**

The Town of Sewall's Point requires all necessary (1) Project Engineering Services and (2) Construction Engineering and Inspection (CEI) Services to complete each of the following Town Projects in accordance with all awarded (current and future) grants. The existing and future grants involved in the Town Projects are hereby incorporated herein as if set forth in full. A firm may apply for any or all projects but may only be awarded a contract(s) for Project Engineering Services or CEI Services, but not both. In other words, a firm may be awarded one or more projects for Project Engineering Services or one or more projects for CEI Services. Firms providing Project Engineering Services may not perform CEI Services and vice versa. Which project(s) and what services each firm is seeking should be made clear in the firm's proposal. The only exception is that it is anticipated (not guaranteed) that the same firm will be awarded the South Sewall's Point Road (Phase 2) Project and the Septic to Sewer Project (both described in **Exhibit A**) as these two projects involve the placement of infrastructure in the same locations and must be coordinated accordingly. Therefore, if a firm applies for one of these projects, it must also apply for the other.

**1. S. Sewall's Point Road – Phase 2 Project:**

***Project & Project Engineering Services:*** This project is referred to by the Town as Phase 2 of the South Sewall's Point Road Project; however, in the Hazard Mitigation Grant Program, described below, FEMA refers to this project as Phase 1. The awarded firm will provide all necessary engineering, designs and calculations, surveys, plans preparation, environmental compliance, permitting, bidding, and notices for this project. The project shall be designed to provide protection against a 25-year storm event. The purpose of this project is to raise South Sewall's Point Road to help reduce street flooding on this street and adjacent roadways during severe storms and King High Tides. The project will also include increasing the size of the conveyance system to properly transmit the stormwater controlled by weirs, baffle boxes and backflow devices; the installation of new RCP pipe; conversion of baffle boxes, inlets, curb and gutter; and driveway replacement and repair. The project should prevent repetitive flooding to the properties in the area and the road, which make it impassable for residents and emergency vehicles. The Project location is approximately from the west corner of South Sewall's Point Road and Pineapple Lane to its intersection with Henry Sewall Way, tying into side streets as required.

***CEI Services:*** No construction has been approved or funded; however, if and when construction proceeds, the Town will need construction engineering and inspection services for this project which may include but not be limited to: project administration, daily inspection, project documentation, submittal review, design support, constructability reviews, value engineering, critical path review, materials testing, cost estimating, and claims analysis. CEI personnel responsibilities may also include but not be limited to the following: monitoring installations, testing them, and recommending acceptance of as-built documentation prepared by the contractor for the project.

***Grants:*** This project has state and federal funding through the following grants: Federal Emergency Management Agency's (FEMA) Hazard Mitigation Grant Program (HMGP) (construction activities (Phase 2 of the FEMA grant) have not yet been approved by FEMA) and the Florida Department of Environmental Protection's (FDEP) Resilient Florida Program. These grants are hereby incorporated herein and are on file in the Office of the Town Clerk. The Town has also applied for funding from the Florida Department of Environmental Protection and may apply for other additional funding. For more details, the HMGP grant is on file with the Town Clerk.

**2. S. Sewall's Point Road – Phase 4 Project:**



***Project & Project Engineering Services:*** The purpose of this project is similar to that of the Phase 2 project described above. The purpose is to raise South Sewall's Point Road (Phase 4) to help reduce street flooding on this street and adjacent roadways during severe storms and King High Tides. Additionally, the construction will provide a stormwater treatment train; improving water quality through an exfiltration pipe area, developing retention areas for stormwater treatment and modifying baffle boxes which will outfall through weirs discharging treated water into the Indian River Lagoon. The approximate location of Phase 4 is from just north of Ridgeland Drive to S.E. Ocean Blvd., tying into side streets as required.

***CEI Services:*** No construction has been approved or funded; however, if and when construction proceeds, the Town will need construction engineering and inspection services for this project which may include but not be limited to: project administration, daily inspection, project documentation, submittal review, design support, constructability reviews, value engineering, critical path review, materials testing, cost estimating, and claims analysis. CEI personnel responsibilities may also include but not be limited to the following: monitoring installations, testing them, and recommending acceptance of as-built documentation prepared by the contractor for the project.

***Grants:*** The Town anticipates applying or has applied for local, state and federal funding for this project.

### **3. N. Sewall's Point Road Project:**

***Project & Project Engineering Services:*** The purpose of this project is to provide better stormwater drainage to prevent local flooding of streets and properties from the west corner of North Sewall's Point Road, a Martin County roadway, and Lofting Way to its intersection with S.E. Ocean Blvd./Highway A1A, tying into streets as required. The work includes but is not limited to surveying, engineering, design, plans preparation, permitting and bidding for the proposed project for the approval of the next phase of work. No construction activities for this project have been approved by the funding agency yet. The scope is similar to that of project no. 1 above (Phase 2 of the S. Sewall's Point Road project).

***CEI Services:*** No construction has been approved or funded; however, if and when construction proceeds, the Town will need construction engineering and inspection services for this project which may include but not be limited to: project administration, daily inspection, project documentation, submittal review, design support, constructability reviews, value engineering, critical path review, materials testing, cost estimating, and claims analysis. CEI personnel responsibilities may also include but not be limited to the following: monitoring installations, testing them, and recommending acceptance of as-built documentation prepared by the contractor for the project.

***Grants:*** This Phase 4 project has federal funding through FEMA's HMGP. The Town anticipates applying or has applied for additional local, state and federal funding for this project. For more details, this grant is on file with the Town Clerk.

### **4. Septic to Sewer (STS) Project:**

***Project & Project Engineering Services:*** The purpose of this project is to bring Martin County Utility sewer services to the residents of South Sewall's Point through the conversion of septic tank properties to a systematic sewer for human waste treatment. Property owners will abandon their septic systems and connect to a central sanitary sewer system for wastewater treatment by the Martin County Utilities (MCU) facility. This project may include but is not limited to the construction of the low-pressure force mains, gravity mains, and other appurtenances to include testing/flushing in the public rights-of-way/easements throughout South Sewall's Point and the hook-ups on the private residential properties by MCU. Where possible, properties will be connected within public rights-of-ways or easements. The awarded firm will provide all necessary engineering, designs and calculations, surveys, plans preparation, environmental compliance, permitting, bidding, and notices for this project. There are approximately 652 properties in South Sewall's Point.

***CEI Services:*** If and when construction proceeds, the Town will need construction engineering and inspection services for this project which may include but not be limited to: project administration, daily inspection, project documentation, submittal review, design support, constructability reviews, value engineering, critical path review, materials testing, cost estimating, and claims analysis. CEI personnel responsibilities may also include but not be limited to the following: monitoring installations, testing, and recommending acceptance of as-built documentation prepared by the contractor for the project.

***Grants:*** The Town anticipates applying or has applied for additional local, state and federal funding for this project.

**EXHIBIT B**  
**CONSULTANT CHECKLIST**

Note:

- 1) This Exhibit must be included in RFQ Package immediately after the Letter of Transmittal.
- 2) RFQ Package must be put together in order of this checklist.
- 3) Any supplemental materials must appear after those listed below and tabbed “Additional RFQ Information”

- \_\_\_\_\_ Letter of Transmittal
- \_\_\_\_\_ Copy of this Checklist (Exhibit B)
- \_\_\_\_\_ Addenda Acknowledgment
- \_\_\_\_\_ References & Materials
- \_\_\_\_\_ Evidence of Ability to Deliver on Time and within Budget
- \_\_\_\_\_ Proof of Licenses
- \_\_\_\_\_ Litigation and/or Terminations
- \_\_\_\_\_ Minority Business Enterprise/Women’s Business Enterprise
- \_\_\_\_\_ Acknowledgment of Business Type and Insurance (Exhibit C)
- \_\_\_\_\_ Conflict of Interest Statement (Exhibit D)
- \_\_\_\_\_ Drug Free Workplace form (Exhibit E)
- \_\_\_\_\_ Scrutinized Companies Certification Form (Exhibit F)
- \_\_\_\_\_ Certification regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion (Exhibit G)
- \_\_\_\_\_ Certification regarding Lobbying (Exhibit H)

**EXHIBIT C**

**ACKNOWLEDGEMENT OF BUSINESS TYPE AND INSURANCE**

1. SUBMITTING FIRM NAME: \_\_\_\_\_

2. TYPE OF FIRM:  
CORPORATION \_\_\_\_\_ INDIVIDUAL \_\_\_\_\_ OTHER \_\_\_\_\_

3. IF CORPORATION, COMPLETE THE FOLLOWING:

A. Date Incorporated: \_\_\_\_\_

B. State Incorporated: \_\_\_\_\_

C. Date Authorized in Florida: \_\_\_\_\_

D. President: \_\_\_\_\_

E. Vice President: \_\_\_\_\_

IF PARTNERSHIP, COMPLETE THE FOLLOWING:

A. Date organized: \_\_\_\_\_

B. Type: General \_\_\_\_\_ Limited \_\_\_\_\_

C. Name of Partners \_\_\_\_\_

5. SECRETARY OF STATE'S CHARTER NUMBER \_\_\_\_\_  
(Attach Copy)

6. FLORIDA STATE BOARD OF PROFESSIONAL ENGINEERING REGISTRATION  
NUMBER \_\_\_\_\_ (DATE: \_\_\_\_\_ Attach Copy)

7. FEDERAL EMPLOYERS IDENTIFICATION NUMBER \_\_\_\_\_

8. PROFESSIONAL LIABILITY INSURANCE? YES \_\_\_\_ NO \_\_\_\_

IF YES, ANSWER THE FOLLOWING:

A. Policy Number: \_\_\_\_\_

B. Company Name: \_\_\_\_\_

C. Amount: \_\_\_\_\_

D. Expiration Date: \_\_\_\_\_

**EXHIBIT D**

**CONFLICT OF INTEREST STATEMENT**

This Request for Qualifications is subject to the conflict of interest provisions of the policies and Code of Ordinances of the Town of Sewall’s Point and the Florida Statutes. The firm shall disclose to the Town any possible conflicts of interests. The firm’s duty to disclose is of a continuing nature and any conflict of interest shall be immediately brought to the attention of the Town.

CHECK ALL THAT APPLY.

To the best of our knowledge, the undersigned business has **NO** potential conflict of interest for this RFQ due to any other clients, contracts, or property interests.

To the best of our knowledge, the undersigned business has **NO** potential conflict of interest for this RFQ as set forth in the policies and Code of Ordinances of the Town of Sewall’s Point, as amended from time to time.

To the best of our knowledge, the undersigned business has **NO** potential conflict of interest for this RFQ as set forth in Chapter 112, Part III, Florida Statutes, as amended from time to time.

**IF ANY OF THE ABOVE STATEMENTS WERE NOT CHECKED**, the undersigned business, by attachment to this form, shall submit information which may be a potential conflict of interest due to any of the above listed reasons or otherwise.

THE UNDERSIGNED UNDERSTANDS AND AGREES THAT THE FAILURE TO CHECK THE APPROPRIATE BLOCKS ABOVE OR TO ATTACH THE DOCUMENTATION OF ANY POSSIBLE CONFLICTS OF INTEREST MAY RESULT IN DISQUALIFICATION OF YOUR QUALIFICATIONS OR IN THE IMMEDIATE CANCELLATION OF YOUR AGREEMENT, IF ONE IS ENTERED INTO.

\_\_\_\_\_  
COMPANY OR INDIVIDUAL NAME

\_\_\_\_\_  
AUTHORIZED SIGNATURE

\_\_\_\_\_  
NAME (PRINT OR TYPE)

\_\_\_\_\_  
TITLE, IF A COMPANY

**EXHIBIT E**

**CONFIRMATION OF DRUG-FREE WORKPLACE**

In accordance with Section 287.087, Florida Statutes, whenever two or more bids are equal with respect to price, quality, and service which are received by any political subdivision for the procurement of commodities or contractual services, a bid received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. In order to have a drug-free workplace program, a business shall:

- (1) Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
- (2) Inform employees about the dangers of drug abuse in the workplace, the business’s policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
- (3) Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
- (4) In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than 5 days after such conviction.
- (5) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee’s community by, any employee who is so convicted.
- (6) Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign this statement on behalf of \_\_\_\_\_,  
I certify that \_\_\_\_\_ complies fully with the above requirements.

\_\_\_\_\_  
Authorized Representative’s Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Position:

**EXHIBIT F**

**SCRUTINIZED COMPANIES CERTIFICATION FORM**

By execution below, I, \_\_\_\_\_, on behalf of \_\_\_\_\_ (hereinafter, the “Contractor”), hereby swear or affirm to the following certifications:

The following certifications apply to all procurements and resulting contracts:

1. The Contractor has reviewed section 215.4725, Florida Statutes, section 215.473, Florida Statutes and section 287.135, Florida Statutes, and understands the same.
2. The Contractor and its subcontractors are not on the Scrutinized Companies that Boycott Israel List nor is the Contractor or its subcontractors engaged in a boycott of Israel.
3. (Applies to procurements/contracts one million dollars or more) The Contractor and its subcontractors are not on the Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged in business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes.
4. If awarded a contract, the Contractor and its subcontractors agree to require these certifications for applicable subcontracts entered into for the performance of work/services under this procurement.
5. The Contractor agrees that if it or any of its subcontractors’ status changes in regards to any certification herein, the Contractor shall immediately notify the Town of the same.
6. If awarded a contract, the Contractor agrees that the certifications in this section shall be effective and relied upon by the Town for the entire term of any resulting contract, including any and all renewals.
7. Pursuant to section 287.135, Florida Statutes, the Town may immediately terminate any resulting contract at its sole option if the Contractor or any of its subcontractors are found to have submitted a false certification; or if the Contractor or any of its subcontractors, are in violation of these provisions or the statute during the term of any resulting contract including any renewals.

**CONTRACTOR:**

By: \_\_\_\_\_ Date: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was sworn to (or affirmed) [ ] in person or [ ] online and subscribed before this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by \_\_\_\_\_, who is the \_\_\_\_\_ of \_\_\_\_\_, who is personally known to me or who has produced \_\_\_\_\_ as identification.

NOTARY PUBLIC  
Printed Name of Notary \_\_\_\_\_  
My Commission expires: \_\_\_\_\_

**EXHIBIT G**  
**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—  
Lower-Tier Covered Transactions**

“Non-federal entities and contractors are subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR 180. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.” (2 CFR 200.212)

This certification is required by regulations implementing Executive Order 12549, Debarment and Suspension, for all lower-tier transactions meeting the threshold and tier requirements. (2 CFR 180.300)

**Terms Defined**

- *Nonprocurement Transaction*: A transaction under federal non-procurement programs, which can be either a primary covered transaction or a lower-tier covered transaction. (2 CFR 180.970)
- *Lower-Tier Covered Transaction*: (1) Any transaction between a participant and a person other than a procurement contract for goods or services, regardless of type, under a primary covered transaction; (2) any procurement contract for goods or services between a participant and a person, regardless of type, expected to equal or exceed \$25,000; (3) any procurement contract for goods or services between a participant and a person under a covered transaction, regardless of amount
- *Participant*: Any person who submits a proposal for or who enters into a covered transaction, including an agent or representative of a participant. (2 CFR 180.980)
- *Principal*: An officer, director, owner, partner, principal investigator, or other person within a participant with management or supervisory responsibilities related to a covered transaction; or a consultant or other person, whether or not employed by the participant or paid with federal funds, who (1) is in a position to handle federal funds; (2) is in a position to influence or control the use of those funds; or (3) occupies a technical or professional position capable of substantially influencing the development or outcome of an activity required to perform the covered transaction. (2 CFR 180.995)
- *System for Award Management (SAM) Exclusions*: The list maintained and disseminated by the General Services Administration (GSA) containing names and other information about persons who are ineligible. (2 CFR 180.945).
- *Debarment*: Action taken by a debarring official to exclude a person from participating in covered transactions and transactions covered under the Federal Acquisition Regulation (48 CFR chapter 1). A person so excluded is debarred. (2 CFR 180.925)
- *Suspension*: Action taken by a suspending official that immediately prohibits a person from participating in covered transactions and transactions covered under the Federal Acquisition Regulation (48 CFR chapter 1) for a temporary period, pending completion of an agency investigation and any judicial or administrative proceedings that may ensue. A person so excluded is suspended. (2 CFR 180.1015)



- *Ineligible or Ineligibility*: A person or commodity is prohibited from covered transactions because of an exclusion or disqualification. (2 CFR 180.960)
- *Person*: Any individual, corporation, partnership, association, unit of government, or legal entity, however organized. (2 CFR 180.985)
- *Proposal*: A solicited or unsolicited bid, application, request, invitation to consider, or similar communication by or on behalf of a person seeking to participate or to receive a benefit, directly or indirectly, in or under a covered transaction.
- *Voluntary Exclusion*: A person's agreement to be excluded under the terms of a settlement between the person and one or more agencies. Voluntary exclusion must have governmentwide effect. (2 CFR 180.1020)
- *Voluntarily Excluded*: The status of a person who has agreed to a voluntary exclusion. (2 CFR 180.1020)

### **Instructions for Certification**

1. By signing or certifying and submitting this application, the prospective lower-tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower-tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower-tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower-tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, lower-tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower-tier participant agrees by signing or certifying and submitting this application that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower-tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower-tier participant further agrees by signing or certifying and submitting this application that it will include the clause titled Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower-Tier Covered

Transactions, without modification, in all lower-tier covered transactions and in all solicitations for lower-tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower-tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the non-procurement list.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower-tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—  
Lower-Tier Covered Transactions**

1. The prospective lower-tier participant certifies, by signing or certifying and submitting this application, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

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Contractor Name

---

Contract Number

---

Name

---

Title

---

Signature

---

Date

**Exhibit H**  
**Certification Regarding Lobbying**

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

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The firm shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The undersigned, on behalf of the firm, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the firm understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

\_\_\_\_\_  
Firm Name

\_\_\_\_\_  
Signature of Firm's Authorized Official

\_\_\_\_\_  
Name and Title of Contractor's Authorized Official

\_\_\_\_\_  
Date

**EXHIBIT I**  
**TOWN OF SEWALL'S POINT**  
**FEDERALLY REQUIRED CONTRACT PROVISIONS**

These Federal Contract Terms are hereby incorporated herein and made a part of this Contract with the Town of Sewall's Point (the "Town"):

The term "Contractor", as used throughout this document shall mean the Contractor, Provider, Consultant, etc., as applicable with respect to the Contract or Agreement.

The term "Contract" as used throughout this document shall mean the underlying contract or agreement, as applicable.

Contractor provides services that the Town may require in the event of a hurricane or other disaster or that otherwise will likely be funded through Federal programs. Contractor acknowledges and agrees that in such event, the Town may apply to the State of Florida or the federal government for funds which will be used to pay Contractor or reimburse the Town for payments made to Contractor.

The Federal Emergency Management Agency (FEMA) will only consider reimbursing contracts which contain the requisite FEMA provisions. Contractor desires to be eligible to be awarded disaster work and be compensated through federal funds. The Town and Contractor agree that with respect to any services or work performed or provided by Contractor or its subcontractors under the Contract arising or related to a disaster event, the provisions set forth in this Exhibit (including Form FHWA-1273) (collectively, the "FEMA Requirements") shall apply. The FEMA Requirements shall only modify the Contract upon the provision by Contractor of work or services required as a result of a disaster or otherwise funded by FEMA. The terms and conditions of the Contract and the FEMA Requirements should be read to operate in concert, except where directly in conflict. In the event of a conflict between the terms of the Contract and the FEMA Requirements, the FEMA Requirements shall govern and prevail.

A. Contracts to received funding derived from federal grants must comply with federal guidelines. The federal funds appropriated by FEMA will be administered through the State of Florida.

B. In the event of a conflict between the FEMA Requirements listed in this Exhibit and other provisions of the Contract, the FEMA Requirements will govern and prevail.

C. Payment. Payment shall be based on the unit rates/hourly rate prices pursuant to the Contract Fee Schedule. Contractor shall submit invoices covering no more than a 30 day period.

D. Additional Remedies. In addition to any other remedies provided for in the Contract or to which the Town may be entitled at law or in equity, in the event of a breach or violation of the Contract by Contractor, Contractor may be disqualified from consideration for the award of additional contracts from the Town, including but not limited to contracts related to disaster relief or recovery.

E. Termination for Convenience. The Town may terminate this Contract at its convenience with or without cause upon written notice of termination to Contractor. In the event of such a termination by the Town, the Town shall be liable for the payment of all Work properly performed prior to the effective date of termination and for all portions of materials, supplies, services, and facility orders which cannot be cancelled and were placed prior to the effective date of termination and other reasonable costs associated with the termination. Notwithstanding the preceding, under no circumstances shall the Town be liable to Contractor for lost profits or overhead for work, materials or services not performed or delivered to the Town.

F. Termination for Cause. If Contractor defaults under the Contract, the Town may either terminate this Agreement, withhold or suspend payment of all or any part of a request for payment, or allow Contractor to cure the default, if it deems doing so is in the Town's best interest. The Town's right to terminate the Contract and to withhold or suspend payment are cumulative of all rights and remedies which exist now or in the future.

G. No Obligation by the Federal Government  
(Applicable to all FEMA contracts)

- (1) Absent the express written consent by the Federal Government, the Federal Government or FEMA is not a party to the Contract and shall not be subject to any obligations or liabilities to the Town, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.
- (2) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FEMA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

H. Access to Records

(Applicable to all FEMA contracts)

- (1) The Contractor agrees to provide the Town, State, FEMA, the Comptroller General of the United States, any other Funding Agency, or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to the contract for the purposes of making audits, examinations, excerpts and transcriptions.
- (2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- (3) The Contractor agrees to provide the FEMA Administrator (or other Federal agency equivalent) or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
- (4) The Contractor agrees to maintain all books, records, accounts and reports required under the Contract for a period of not less than three (3) years after the date of termination or expiration of the Contract, except in the event of litigation or settlement of claims arising from the performance of the Contract, in which case Contractor agrees to maintain same until the Town, the State, FEMA, the Comptroller General, any other Funding Agency, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.
- (5) In compliance with the Disaster Recovery Act of 2018, the Town and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

I. Procurement of Recovered Materials

(Applicable to all FEMA contracts, Appendix II, K; 2 CFR 200.322)

- (1) In the performance of this Contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—
  - (i) Competitively within a timeframe providing for compliance with the contract performance schedule;
  - (ii) Meeting contract performance requirements; or
  - (iii) At a reasonable price.
- (2) Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- (3) The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

J. DHS Seal, Logo and Flags

(Applicable to all FEMA contracts)

The Contractor shall not use the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials without specific FEMA approval.

K. Compliance with Federal Law, Regulations, and Executive Orders

(Applicable to all FEMA contracts)

This is an acknowledgement that FEMA financial assistance will be used to fund the Contract only. The Contractor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives as applicable, including but not limited to:

1. The Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, 42 USC Sec. 5121, et. seq.
2. Resource Conservation and Recovery Act
3. National Historic Preservation Act
4. Mandatory Standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act

L. Fraud and False or Fraudulent or Related Acts

(Applicable to all FEMA contracts)

The Contractor acknowledges that 31 USC Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this Contract.

M. Indemnity of Funding Entities.

(Applicable to all FEMA contracts)

Contractor hereby agrees to indemnify and hold harmless the State of Florida, the Government of the United States of America (including but not limited to FEMA and the Federal Highway Administration) and the Town and their officers, agents, employees and elected officials from and against any and all liability, claims, damages, demands, expenses, fees, fines, penalties, suits, proceedings, actions and cost of actions, including attorneys' fees for trial and appeal, and for the preparation of same arising out of Contractor's, its officers, agents, employees and subcontractors' acts or omissions associated with this Contract.

N. Performance and Payment Bonds.

(Applicable to all FEMA contracts)

If not already required under the Contract, and if requested by the Town, the Contractor shall, prior to the commencement of operations, furnish a Performance and Payment Bond, executed by a surety company authorized to do business in the State of Florida, in the amount of the estimated contract value, which bond shall be conditioned upon the successful completion of all work, labor, services and materials to be provided and furnished under the contract and the payment of all subcontractors, materials and laborers. Said bonds shall be subject to the approval by the Town.

O. Equal Employment Opportunity

(Applicable to All FEMA Construction Contracts)

During the performance of the resulting contract, the Contractor agrees as follows:

- (1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

- (2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.
- (4) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a Contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity

clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

P. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion

(Applicable to All FEMA Contracts and Subcontracts; Executive Order 12549, Executive Order 12689, 2 CFR Part 180; 2 CFR Part 3000)

- (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the Contractor is required to verify that none of the Contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- (2) The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (3) This certification, as laid out in Exhibit G, is a material representation of fact relied upon by the City. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State of Florida or the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- (4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Q. Clean Air Act and the Federal Water Pollution Control Act

(Applicable to Contracts in Excess of \$150,000)

Clean Air Act

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- (2) The Contractor agrees to report each violation to the Town and understands and agrees that the Town will, in turn, report each violation as required to assure notification to the State, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- (2) The Contractor agrees to report each violation to the Town and understands and agrees that the Town will, in turn, report each violation as required to assure notification to the State, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

R. Certification Regarding Use of Contract Funds for Lobbying

(Byrd Anti-Lobbying (31 USC s. 1352)--Applicable to contracts in excess of \$100,000. 2 CFR Part 200, Appendix II)(1)



Contractors who apply or bid for an award of \$100,000 or more shall file the required certification as set out in Exhibit H of this Agreement. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

S. Contract Work Hours and Safety Standards Act

(Applicable to all FEMA contracts in excess of \$100,000 that involve the employment of mechanics or laborers; 29 CFR Part 5; 2 CFR Part 22, Appendix II, E)

- (1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
- (3) Withholding for unpaid wages and liquidated damages. The Town shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
- (4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

T. Domestic Preferences for Procurements

- (i) As appropriate, and to the extent consistent with law, Contractor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products.
- (ii) For purposes of this clause:
  - a. *Produced in the United States* means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
  - b. *Manufactured products* mean items and construction materials composed in whole or in part of non-

ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

U. Prohibition on Contracting for Covered Telecommunications Equipment or Services.

(a) *Definitions.* As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), as used in this clause—

(b) *Prohibitions.*

(1) Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.

(2) Unless an exception in paragraph (c) of this clause applies, the contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:

(i) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

(ii) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

(iii) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or

(iv) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(c) *Exceptions.*

(1) This clause does not prohibit contractors from providing—

(i) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) By necessary implication and regulation, the prohibitions also do not apply to:

(i) Covered telecommunications equipment or services that:

i. Are not used as a substantial or essential component of any system; and

ii. Are not used as critical technology of any system.

(ii) Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

(d) *Reporting requirement.*

- (1) In the event the contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the contractor is notified of such by a subcontractor at any tier or by any other source, the contractor shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.
- (2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause:
  - (i) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.
  - (ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

*Subcontracts.* The Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts and other contractual instruments.

V. License and Delivery of Works Subject to Copyright and Data Rights

The Contractor grants to the Town, a paid-up, royalty-free, nonexclusive, irrevocable, worldwide license in data first produced in the performance of this contract to reproduce, publish, or otherwise use, including prepare derivative works, distribute copies to the public, and perform publicly and display publicly such data. For data required by the contract but not first produced in the performance of this contract, the Contractor will identify such data and grant to the Town or acquires on its behalf a license of the same scope as for data first produced in the performance of this contract. Data, as used herein, shall include any work subject to copyright under 17 U.S.C. § 102, for example, any written reports or literary works, software and/or source code, music, choreography, pictures or images, graphics, sculptures, videos, motion pictures or other audiovisual works, sound and/or video recordings, and architectural works. Upon or before the completion of this contract, the Contractor will deliver to the Town data first produced in the performance of this contract and data required by the contract but not first produced in the performance of this contract in formats acceptable by the Town.

W. Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms.

If contractor intends to subcontract any portion of the work covered by this contract, it must take all necessary affirmative steps to assure that small and minority businesses, women's business enterprises and labor surplus area firms are solicited and used when possible. Affirmative steps must include:

- (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and

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

X. Subcontracts.

To the extent applicable, the Contractor shall cause the inclusion of the provisions of this Exhibit in all subcontracts.

Y. Other required provisions. Contractor agrees to comply with any and all federally required contract provisions, including but not limited to those referenced above. If Coronavirus State and Local Fiscal Recovery Funds (SLFRF), as administered under the American Rescue Plan Act (ARPA), are used in any one or more of the Town Projects, then Addendum 1 to this Exhibit shall apply.

## **Addendum 1 to Exhibit I**

### **American Rescue Plan Act (ARPA)**

**Notice:** If a Town Project is funded using federal assistance by the US Department of Treasury under the American Rescue Plan Act (“ARPA”), Sections 602(b) and 603(b) of the Social Security Act, Pub. L. No. 117-2 (March 11, 2021), through the Coronavirus State and Local Fiscal Recovery Fund (SLFRF), this Addendum, in addition to the Federal terms included at Exhibit I, applies to any procurement document and resulting contract.

The following terms and conditions apply to you as a consultant of the Town (referred to as Contractor), according to the applicable ARPA grant documents, its implementing regulations, and as otherwise established by the Treasury Department.

1. Contractor acknowledges that federal financial assistance will be used to fund all or a portion of this Agreement, and that it shall comply with all applicable federal law, regulations, executive orders, federal policies, procedures and directives, including without limitation *31 C.F.R. part 35 as well as requirements of section 603 of the Social Security Act, regulations adopted by Treasury pursuant to section 603(f) of the Act, and guidance issued by Treasury regarding the foregoing.* Federal regulations applicable to this funding include, without limitation, the following:
  - a. American Rescue Plan Act of 2021, Subtitle M-Coronavirus State and Local Fiscal Recovery Funds (“SLFRF”), SLFRF Interim and Final Rules as implemented by Secretary of the Treasury, and any subsequently issued guidance applicable to SLFRF funding.
  - b. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
  - c. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
  - d. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
  - e. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury’s implementing regulation at 31 C.F.R. Part 19.
  - f. Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
  - g. Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
  - h. New Restrictions on Lobbying, 31 C.F.R. Part 21.
  - i. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.
  - j. Generally applicable federal environmental laws and regulations.

2. Period of Performance. Contractor agrees that the Period of Performance of this Agreement will in no event result in the provision of services beyond December 31, 2026. As set forth in Treasury’s implementing regulations, the funds may be used to cover eligible costs incurred during the period that begins on March 3, 2021 and ends on December 31, 2024, although funds may be expended through December 31, 2026.
3. Reporting. Contractor agrees to assist the Town with complying with all reporting requirements established by Treasury as they relate to this project, including financial, performance, and compliance reporting as described in the latest version of *Coronavirus State and Local Fiscal Recovery Funds Guidance on Recipient Compliance and Reporting Responsibilities* published by Treasury and available at <https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf> (“Treasury Reporting Guidance”).
  - a. Expenditures may be reported on a cash or accrual basis, as long as the methodology is disclosed and consistently applied.
  - b. Reporting must be consistent with the definition of expenditures in 2 C.F.R. § 200.1.
  - c. Contractor must appropriately maintain accounting records for compiling and reporting accurate, compliant financial data, in accordance with the appropriate accounting standards and principles.
  - d. Contractor must establish controls to ensure completion and timely submission of all mandatory performance and/or compliance reporting.
  - e. Contractor must provide the City with the information necessary for the City to produce and submit a quarterly Project and Expenditure Report to Treasury.
  - f. *Due Dates.* Project Expenditure Reports are due from the City to Treasury on April 30, July 31, October 31, and January 31, beginning April 30, 2022 through October 31, 2026, with a final report due March 31, 2027. In order for the City to meet these deadlines, Contractor must provide the required information to the City for inclusion in the report no later than 15 calendar days prior to the City’s deadline. For each project, the Contractor shall provide, as applicable, the following:
    - i. Contractor identifying and demographic information (e.g., DUNS number and location).
    - ii. Award number (e.g., Agreement number, Loan number).
    - iii. Award date, type, amount, and description.
    - iv. Award payment method (reimbursable or lump sum payment(s)).
    - v. For loans, expiration date (date when loan expected to be paid in full).
    - vi. Primary place of performance.
    - vii. Related project name(s).
    - viii. Related project identification number(s) (created by the City).
    - ix. Period of performance start date.
    - x. Period of performance end date.
    - xi. Quarterly obligation amount.

- xii. Quarterly expenditure amount.
- xiii. Project Name and Description (projects should be defined to include only closely related activities directed toward a common purpose; project descriptions must describe the project in sufficient detail to provide understanding of the major activities that will occur and will be required to be between 50 and 250 words).
- xiv. Additional programmatic performance indicators for select Expenditure Categories as indicated in Treasury’s Reporting Guidance, as laid out in the Treasury Compliance and Reporting Guidance, Part 2, Subsection B.3.i.
- xv. Contractor is responsible for providing any additional information as might be required under future changes to SLFRF reporting requirements or subsequently issued policy adopted by the Department of Treasury, or as is required by the City, in its sole discretion.

4. Protections For Whistleblowers

- a. In accordance with 41 U.S.C. § 4712, Contractor may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.
- b. The list of persons and entities referenced in the paragraph above includes the following:
  - i. A member of Congress or a representative of a committee of Congress;
  - ii. An Inspector General;
  - iii. The Government Accountability Office;
  - iv. A Treasury employee responsible for contract or grant oversight or management;
  - v. An authorized official of the Department of Justice or other law enforcement agency;
  - vi. A court or grand jury; or
  - vii. A management official or other employee of Recipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.
- c. Contractor shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

5. Publications. Any publications produced with funds from this award must display the following language: “This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to [name of Recipient] by the U.S. Department of the Treasury.” Contractor will not create or issue publications pertaining to projects or programs under this contract without Town pre-approval.

6. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Contractor is encouraged to adopt and enforce on-the-job seat belt policies and programs for your employees when operating company-owned, rented or personally owned vehicles.

7. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Contractor is encouraged to adopt and enforce policies that ban text messaging while driving, and establish workplace safety policies to decrease accidents caused by distracted drivers.

8. Notification of Termination (2 CFR § 200.340). In accordance with 2 CFR § 200.340, in the event that the Agreement is terminated prior to the end of the period of performance due to the contractor's or subcontractor's material failure to comply with Federal statutes, regulations or the terms and conditions of this Agreement or the Federal award, the termination shall be reported to the Office of Management and Budget (OMB)-designated integrity and performance system, accessible through System for Award Management (SAM) currently the Federal Awardee Performance and Integrity Information System (FAPIIS). The Town will notify the contractor of the termination and the Federal requirement to report the termination in FAPIIS. See 2 CFR § 200.340 for the requirements of the notice and the contractor's rights upon termination and following termination.

9. Additional Lobbying Requirements.

- A. The Contractor certifies that no funds provided under this Agreement have been used or will be used to engage in the lobbying of the Federal Government or in litigation against the United States unless authorized under existing law.
- B. The Lobbying Disclosure Act of 1995, as amended (2 U.S.C. §1601 et seq.), prohibits any organization described in Section 501(c)(4) of the Internal Revenue Code, from receiving federal funds through an award, grant (and/or subgrant) or loan unless such organization warrants that it does not, and will not engage in lobbying activities prohibited by the Act as a special condition of such an award, grant (and/or subgrant), or loan. This restriction does not apply to loans made pursuant to approved revolving loan programs or to contracts awarded using proper procurement procedures.
- C. Pursuant to 2 CFR §200.450 and 2 CFR §200.454(e), the Contractor is hereby prohibited from using funds provided by this Agreement for membership dues to any entity or organization engaged in lobbying activities.

10. Compliance with Assurances. Contractor shall comply with all applicable assurances made by the Town to the Federal Government during the Grant application process.

11. Civil Rights Compliance. Contractors receiving Federal financial assistance from the Treasury are required to meet legal requirements relating to nondiscrimination and nondiscriminatory use of Federal funds. Those requirements include ensuring that entities receiving Federal financial assistance from the Treasury do not deny benefits or services or otherwise discriminate on the basis of race, color, national origin, (including limited English proficiency), disability, age, or sex (including sexual orientation and gender identity), in accordance with the following: Title VI of Civil Rights Acts of 1973 (Section 504), Public Law 93-112, as amended by Public Law 93-516, 29 U.S.C. 794; Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. 1681 et seq., and the Department's implementing regulations, 31 CFR 28; Age Discrimination Act of 1975, Public Law 94-135, 42 U.S.C. 6101 et seq., and the Department of Treasury implementing regulations at 31 CFR part 23.

12. Equipment and Real Property Management. Any purchase of equipment or real property with SLFRF funds must be consistent with the Uniform Guidance at 2 CFR Part 200, Subpart D. Equipment and real property acquired under this program must be used for the originally authorized purpose. Consistent with 2 CFR 200.311 and 2 CFR 200.313, any equipment or real property acquired using SLFRF funds shall vest in the Town. Any acquisition and maintenance of equipment or real property must also be in compliance with relevant laws and regulations.

13. SLFRF Infrastructure Projects. For all infrastructure projects, Contractor must assist the Town, as applicable, with providing the following project information on a quarterly basis to the Department:

- i. Projected/actual construction start date (month/year)
- ii. Projected/actual initiation of operation date (month/year)
- iii. Location details

14. SLFRF **Infrastructure Projects Over \$10 Million.** For infrastructure projects over \$10 million, the following provisions apply:

- 1. Wage Certification. Contractor must assist the Town with providing certification that all laborers and mechanics employed on the project are paid wages at the rates not less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with the Davis-Bacon Act, for the corresponding classes of laborers and mechanics employed projected of a character similar to the contract work in the civil



subdivision of Florida in which the work is to be performed. If this information is not available, Contractor must assist the Town with providing a project and substantiating employment and local impact report detailing:

- i. The number of employees of contractors and sub-contractors working on the project;
  - ii. The number of employees on the project hired directly and hired through a third party;
  - iii. The wages and benefits of workers on the project by classification; and
  - iv. Whether those wages are at rates less than those prevailing.
2. Project Labor Agreements. The Town may provide a certification that the project includes a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with the section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)). If this information is not available, Contractor will assist the Town with providing a project workforce continuity plan, detailing:
- i. How the Town will ensure the project has ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure high-quality construction throughout the life of the project;
  - ii. How the Town will minimize risks of labor disputes and disruptions that would jeopardize timeliness and cost-effectiveness of the project;
  - iii. How the Town will provide a safe and healthy workplace that avoids delays and costs associated with workplace illnesses, injuries, and fatalities;
  - iv. Whether workers on the project will receive wages and benefits that will secure and appropriately skilled workforce in the context of the local or regional labor market; and
  - v. Whether the project has completed a labor agreement.
3. Other Reporting Requirements. The Town must report whether the project prioritizes local hires and whether the project has a Community Benefit Agreement, with a description of any such agreement, if applicable. Contractor must assist Town with providing this information, if applicable.

15. SLFRF Water & Sewer Projects. For water and sewer projects, Contractor must, to the extent practicable, assist the Town with providing the following information to the Department once the project starts, as applicable:

- i. National Pollutant Discharge Elimination System (NPDES) Permit Number, for projects aligned with the Clean Water State Revolving Fund
- ii. Public Water System (PWS) ID number, for projects aligned with the Drinking Water State Revolving Fund.

16. Disclaimer. The United States expressly disclaims any and all responsibility or liability to the Town, Contractor, or third persons for the actions of the Town, Contractor, or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award. The acceptance of this award by the Town and the contract executed between the Town and Contractor does not in any way establish an agency relationship between the United States and the Town or Contractor.