

# REQUEST FOR PROPOSALS

## Financial Advisory Services RFP #2020-130/01



345 Tequesta Drive  
Tequesta, FL 33469

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# PUBLIC NOTICE

**Village of Tequesta  
REQUEST FOR PROPOSALS  
RFP #2020-130/01  
FINANCIAL ADVISORY SERVICES**

The Village of Tequesta is seeking proposals from qualified firms to provide Financial Advisory Services in accordance with the terms, conditions, and specifications contained in this Request for Proposals (RFP).

Request for Proposals documents are available on the Village of Tequesta's website at [Village Website](#), **Error! Hyperlink reference not valid.**, or by contacting the Village Clerk's office at (561) 768-0443.

Sealed Proposals must be clearly marked "**RFP #2020-130/01, Financial Advisory Services**" and delivered to the Village Clerk at 345 Tequesta Drive, Tequesta, Florida 33469. The deadline for submission of Proposals is **August 28, 2020 at 2:00 P.M. local time**. Late Proposals will not be accepted and will be returned to the sender unopened.

A public meeting of the Village's Selection Committee is expected to convene at 11:00 A.M. EST on Wednesday, September 9, 2020 in the Council Chambers at 345 Tequesta Drive, Tequesta, Florida 33469 to review and discuss rankings of the proposers.

It is the responsibility of the Proposer to ensure that all pages are included in the submission. All Proposers are advised to closely examine the request for proposal documents. Any questions regarding the completeness or substance of the request for proposal documents or the scope of services must be submitted in writing via email to Lori McWilliams, Village Clerk, [lmcwilliams@tequesta.org](mailto:lmcwilliams@tequesta.org) by 5 P.M. local time on August 17, 2020.

The Village reserves the right to accept or reject any or all Proposals, in whole or in part, with or without cause, to waive any irregularities and/or technicalities, and to award the contract on such coverage and terms it deems will best serve the interests of the Village.

## **SECTION 1 - INTRODUCTION AND INFORMATION**

### **1.1 Purpose**

The Village of Tequesta, Florida (the Village) is actively seeking qualified and experienced firms to provide financial advisory services to assist the Village in developing and implementing strategies to meet the Village's near-term and long-term capital financing needs.

It is the intention of the Village to award a single contract to the first ranked Proposer responding to this Request for Proposals (RFP). However, the Village reserves the right to award the Contract to more than one (1) successful Proposer.

### **1.2 Village Background Information**

The Village is the northeastern-most community in Palm Beach County and it borders the Atlantic Ocean to the East, the Town of Jupiter to the South, the Loxahatchee River to the West, and Jonathan Dickinson State Park to the North.

The Village of Tequesta is located on the world famous Gold Coast of Southeast Florida with a population of approximately 6,000 residents. The Village offers a small town feel with an incredible sense of community within one of the state's largest urban environments. The Village provides its residents and businesses with a variety of programs and services through its departments which include: Parks & Recreation; Police; Fire Rescue; Public Works; Utilities; Planning; Building; Village Clerk; Finance; Human Resources; and Information Technology.

### **1.3 Point of Contact**

All inquiries concerning this RFP, questions, and requests for additional information shall be sent in writing via mail, e-mail, or facsimile to:

Village of Tequesta  
Village Clerk  
345 Tequesta Drive  
Tequesta, FL 33469  
lmcwilliams@tequesta.org  
Fax: (561) 768-0697

All responses to questions pertaining to the scope of services, specifications, or proposal requirements shall be issued through an official addendum.

### **1.4 Contract Term**

#### **1.4.1 Initial Term and Renewal Options**

The initial contract term shall be for three (3) years and shall commence upon final execution of the Contract by the Village or as otherwise indicated in the final contract. The Village reserves the right to extend the contract for two (2) additional one (1) year renewal terms providing all terms conditions and specifications remain the same, both parties agree to the extension, and such extension is approved by the Village.

#### **1.4.2 Contract Extension**

In the event services are scheduled to end because of the expiration of the contract, the Contractor shall continue the service upon the request of the Village Manager or designee. The extension period shall not extend for more than ninety (90) days beyond the expiration date of the existing contract. The Proposer shall be compensated for the service at the rate in effect when this extension clause is invoked by the Village.

### **1.5 Proposer Qualifications**

Proposer shall be in the business of providing **Financial Advisory Services** and must possess sufficient financial support, equipment and organization to ensure that it can satisfactorily perform the services if awarded a Contract. Proposers must demonstrate that they, or the principals assigned to the project, have successfully provided services with similar magnitude to those specified in the Scope of Services to at least one municipality similar in size and complexity to the Village of Tequesta or can demonstrate that they have the experience with large scale private sector clients and the managerial and financial ability to successfully perform the services.

Proposers shall satisfy each of the following requirements cited below. Failure to do so will result in the Proposal being deemed non-responsive.

#### **1.5.1 Minimum Qualifications**

- Must have been a financial advisor for municipal government offerings totaling over \$200,000,000 in par amount within the last five (5) years.
- Minimum of ten (10) years of experience in providing financial advisory services to Florida governments.
- Evidence of similar client services to local Florida governments.

#### **1.5.2 Required Licenses and Certifications**

To be considered responsive to this RFP the Proposer must possess the following licenses and certifications at the time of submittal: Evidence that your firm and/or persons performing the work are licensed to do business in the State of Florida and Palm Beach County, if applicable.

The Financial Advisor(s) must have been registered with the U.S. Securities and Exchange Commission (the "SEC") and the Municipal Securities Rulemaking Board ("MSRB") as a Municipal Advisor prior to the issuance of this RFP.

Proposer shall disclose any pending investigations of the firm or disciplinary actions taken within the past three (3) years by SEC, FINRA, MSRB or other regulatory bodies.

## SECTION 2 - STANDARD TERMS AND GENERAL CONDITIONS

### 2.1 Independent Contractor

The Proposer represents itself to be an independent firm offering such services to the general public and shall not represent itself or its employees to be employees of the Village of Tequesta. Therefore, the Proposer shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers compensation, employee insurance, minimum wage requirements, overtime, and other expenses, and agrees to indemnify, save, and hold the Village of Tequesta, its officers, agents, and employees, harmless from and against, any and all loss; cost (including attorney fees); and damage of any kind related to such matters.

### 2.2 Sub-Contractors

If the Proposer proposes to use subcontractors in the course of providing these services to the Village, this information shall be a part of the Proposer's response. Such information shall be subject to review, acceptance and approval of the Village, prior to any Contract award. The Village reserves the right, in its sole and exclusive discretion, to approve or disapprove of any proposed subcontractor in its best interest.

### 2.3 Addenda, Changes and Interpretations

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

No later than **5:00 PM EST on Monday, August 17, 2020**, each Proposer shall deliver to the Village all of the Proposer's questions concerning the intent, meaning and interpretation of this RFP. Each Proposer shall be deemed to have waived all questions that are not submitted to the Village in compliance with this Section. A Proposer's questions may be delivered to the Village by hand, mail or e-mail but all such submittals shall be submitted by the date outlined above and in writing and addressed to:

Village of Tequesta, Village Clerk  
345 Tequesta Drive  
Tequesta, FL 33469  
lmcwilliams@tequesta.org

If revisions to this RFP become necessary, the Village will issue written addenda. All addenda must be acknowledged by each Proposer. A proposal may be rejected as non-responsive if the Proposer fails to submit a "Proposal Certification/Acknowledgement of Addendum" form (Exhibit A) with its proposal. Addenda may be downloaded from the Village's website at **Error! Hyperlink reference not valid.** or [www.demandstar.com](http://www.demandstar.com). The Village provides this website as a courtesy only and assumes no responsibility for errors or omissions that may affect a proposal submitted in response to this RFP.

### 2.4 Multiple Proposals

More than one proposal from an individual, firm, partnership, corporation, or association under the same or different names will not be considered. Such a circumstance will lead to rejection of all responses in which the proposer is involved except for sub-proposers. If there is reason to believe that collusion exists between proposers, those parties' proposals will be rejected and deemed for Village purposes to be a conviction of a public entity crime.

### 2.5 Variances

For purposes of proposal evaluation, Proposers must indicate any variances, no matter how slight, from the RFP General Conditions, Special Conditions, Specifications or Addenda. No variations or

exceptions by a Proposer will be considered or deemed a part of the Proposal submitted unless such variances or exceptions are listed in the proposal and referenced in the space provided in the RFP. If variances are not stated, or referenced as required, it will be assumed that the product or service fully complies with the Village's terms, conditions, and specifications.

By receiving a proposal, the Village does not necessarily accept any variances contained in the proposal. All variances submitted are subject to review and approval by the Village. The Village reserves the right in its sole discretion to accept or reject any variance. If any Proposal contains material variances that in the Village's sole opinion, makes that Proposal conditional in nature, the Village reserves the right to reject the Proposal or part of the Proposal that is declared, by the Village, as conditional.

## **2.6 Omission of Details**

The apparent silence of the specifications and any amendment regarding any details or the omission from the specifications of a detailed description concerning any services or material requested, shall be regarded as unintentional and should not serve to alleviate the contractor of their performance responsibilities.

## **2.7 Mistakes**

Proposers are cautioned to examine all terms, conditions, specifications, drawings, exhibits, addenda, delivery instructions, and special conditions pertaining to the RFP. Failure of the Proposer to examine all pertinent documents shall not entitle them to any relief from the conditions imposed in the contract and may lead to rejection of a proposal.

## **2.8 Proposer's Cost**

The Village shall not be liable for any costs incurred by Proposers in responding to this RFP.

## **2.9 Proposal Acceptance**

Any proposal may be withdrawn up until the proposal opening date and time (due date). Any proposal not so withdrawn shall upon opening constitute as an irrevocable offer to the Village to provide the services set forth in the RFP. Proposer warrants by virtue of submitting the Proposal that the Proposal and the prices quoted in the Proposal will be firm for acceptance by the Village for a period of ninety (90) days from the date of RFP opening unless otherwise agreed upon by the Village and Proposer.

## **2.10 Rejection of Proposals**

The Village reserves the right to accept or reject any or all proposals, part of proposals, and to waive minor irregularities or variations to specifications contained in proposals, and minor irregularities in the proposal process.

## **2.11 Proposer Qualifications**

Proposer shall be in the business of providing the products and/or services required and must possess sufficient financial support, equipment and organization to ensure that it can satisfactorily perform the services if awarded a Contract. Proposers shall satisfy each of the following requirements cited below. Failure to do so may result in the Proposal being deemed non-responsive.

Proposer shall have no record of judgments, pending lawsuits against the Village or criminal activities involving moral turpitude and not have any conflicts of interest that have not been waived by the Village Council.

Neither Proposer nor any principal, officer, or stockholder of Proposer(s) shall be in arrears or in default of any debt or contract involving the Village, (as a party to a contract, or otherwise); nor have failed to perform faithfully on any previous contract with the Village.

**2.12 Proposer's Experience Record**

The Village shall have the right to investigate the financial condition and experience record of each prospective Contractor and determine to its satisfaction the competency of each to undertake the services requested by this proposal.

**2.13 Licenses and Certifications**

The Proposer shall be appropriately licensed to perform the work and scope of services. Proposer shall possess at the time of proposal opening all required licenses and certifications. The Proposer shall be responsible for all costs associated with obtaining and maintaining all required licenses, certifications, and permits. Copies of all licenses and certifications shall be submitted with the Proposal Package.

**2.14 Insurance**

The Proposer's response shall include evidence of insurability meeting the minimum insurance requirements stated in the Special Terms and Conditions. The successful Proposer shall not commence operations pursuant to the terms of this RFP and the resulting Contract, until a certificate of insurance naming the Village of Tequesta as additionally insured has been received and approved. The Proposer shall assume full responsibility and expense to obtain all necessary insurance.

**2.15 Indemnification**

The Contractor shall at all times indemnify, hold harmless and, at Village Attorney's option, defend or pay for an attorney selected by Village Attorney to defend the Village of Tequesta, its officers, agents, servants, and employees from and against any and all causes of action, demands, claims, losses, liabilities and expenditures of any kind, including attorney fees, court costs, and expenses, caused or alleged to be caused by intentional or negligent act of, or omission of the Contractor, its employees, agents, servants, or officers, or accruing, resulting from, or related to the subject matter of this Contract including, without limitation, any and all claims, losses, liabilities, expenditures, demands or causes of action of any nature whatsoever resulting from injuries or damages sustained by any person or property. In the event any lawsuit or other proceeding is brought against the Village by reason of any such claim, cause of action or demand, the Contractor shall, upon written notice from the Village, resist and defend such lawsuit or proceeding by counsel satisfactory to the Village or, at Village's option, pay for an attorney selected by the Village Attorney to defend Village. The provisions and obligations of this section shall survive the expiration or earlier termination of this Contract. To the extent considered necessary by the Contract Administrator and the Village Attorney, any sums due Contractor under this Contract may be retained by Village until all of Village's claims for indemnification pursuant to this Contract have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by Village.

**2.16 Protest Procedures**

After posting of the recommended awardee, any bidder or proposer who is aggrieved in connection with the recommended award may protest in writing to the Village Clerk. The right to protest is limited to those procurements of goods or services solicited through an invitation for bid, request for proposals or other competitive solicitation procedures. The protest shall be submitted within three (3) business days after posting of the award recommendation. The protest shall be in writing (which includes emails) and shall identify the protestor and the solicitation, and shall include a factual summary of the basis of the protest. Such protest is considered filed when it is received by the Village Clerk. Received means that the protest documents must be delivered to the Village Clerk's office by the cut off time period. The Village Manager shall have the sole and exclusive authority to uphold or deny the protest. The Village Manager shall issue a written statement of their determination within a reasonable period of time. The written statement shall provide the general rationale for said determination and shall be provided to the protestor and to any other party to the protest.

**2.17 Inspector General**

In accordance with Palm Beach County Ordinance No. 2011-009, any resulting contract with the selected firm may be subject to investigation and/or audit by the Palm Beach County Inspector General. Proposers should review such ordinance in order to be aware of its rights and/or obligations under such ordinance and as applicable.

**2.18 Legal Requirements**

Applicable provisions of all federal, state, and county laws, and local ordinances, rules and regulations, shall govern development, submittal and evaluation of all proposals received in response hereto and shall govern any and all claims and disputes which may arise between person(s) attaching a proposal response hereto and the Village by and through its officers, employees and authorized representatives, or any other person, natural or otherwise. Lack of knowledge by any Proposer shall not constitute a cognizable defense against the legal effect thereof.

**2.19 Drug-Free Workplace**

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

**2.20 Cone of Silence**

Pursuant to Section 2-355 of Palm Beach County Ordinance No. 2011-039 (the "Palm Beach County Lobbyist Registration Ordinance") and the purchasing policies of the Village of Tequesta, all Solicitations, once advertised and until the appropriate authority has approved an award recommendation, are under the "Cone of Silence". This limits and requires documentation of communications between potential Bidders or Proposers on Village Solicitations, with the Village's professional staff, and the Village Council members. The Cone of Silence is in effect as of the submittal deadline and shall terminate at the time the Village Council awards or approves an agreement, rejects all proposals or otherwise takes action which ends the solicitation process. The Village reserves the right to reject an offer from any vendor who violates the Cone of Silence.

**2.21 Lobbying**

All Proposers are advised that the Village falls under the Palm Beach County Lobbyist Registration Ordinance and all Proposers must comply with that ordinance. Any violation of this requirement may cause the Proposer to be disqualified and prohibited from participating further in the RFP process.

**2.22 Prohibition on Scrutinized Companies**

As provided in F.S. 287.135, by entering into any agreement with the Village, or performing any work in furtherance hereof, the Successful Proposer/Consultant certifies that Consultant and Consultant's affiliates, suppliers and subcontractors that will perform hereunder, have not been placed on the Scrutinized Companies With Activities in Sudan List or Scrutinized Companies With Activities in The Iran Petroleum Energy Sector List created pursuant to Section 215.473, Florida Statutes. The Successful Proposer/Consultant further certifies that it is not on the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes, and that it is not engaged in a boycott of Israel. If the Village determines, using credible information available to the public, that a false certification has been submitted by the Successful Proposer/Contractor, the Village's Agreement may be terminated and a civil penalty equal to the greater of \$2 million or twice the amount of the Agreement shall be imposed, pursuant to Section 287.135, Florida Statutes.

**2.23 Public Records/Confidential Information**

Florida law provides that municipal records shall at all times be open for personal inspection by any person, unless otherwise exempt. Information and materials received by the Village in connection with a Proposer's response shall be deemed to be public records subject to public inspection. However, certain exemptions to the public records law are statutorily provided for in Section 119.07, F.S. Section 119.07, F.S. provides an exemption from public records law for sealed bids, proposals, or replies received by an agency pursuant to a competitive solicitation until such time as the agency provides notice of an intended decision or until 30 days after opening the bids, proposals, or final replies, whichever is earlier.

If the Proposer believes any of the information contained in the response is exempt from the Public Records Law, then the Proposer must in the response specifically identify the material which is deemed to be exempt and cite the legal authority for the exemption. The Village reserves its right to make all determinations concerning the applicability of the Florida Public Records Law to any documents submitted in response to this RFP. The Village shall have no liability to a Proposer for the public disclosure of any material submitted to the Village in response to this RFP.

**IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, PLEASE CONTACT THE VILLAGE CLERK, RECORDS CUSTODIAN FOR THE VILLAGE, AT (561) 768-0685, OR AT [lmwilliams@tequesta.org](mailto:lmwilliams@tequesta.org), OR AT 345 TEQUESTA DRIVE, TEQUESTA, FLORIDA 33469.**

**2.24 Public Entity Crimes Information Statement**

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

**2.25 Anti-Collusion**

The Proposer certifies that it has not divulged, discussed or compared its proposal with other proposers, except sub-proposers if they form part of the response and has not colluded with any other proposers or parties to a proposal whatsoever. No premiums, rebates or gratuities are permitted either with, prior to, or after any delivery of material or service. Any violation of this provision will result in the immediate cancellation of the contract and removal from the proposer's list.

Each Proposer shall complete the Non-Collusion Affidavit Form (Exhibit "D") and shall submit the form with the Proposal. The Village considers the failure of the Proposer to submit this document to be a major irregularity and shall be cause for rejection of the Proposal.

**2.26 Conflict of Interest**

The award is subject to any and all applicable conflict of interest provisions found in the policies or Code of Ordinances of the Village, the Palm Beach County Code of Ethics, and found in the Florida Statutes. All Proposers must complete the Conflict of Interest Form attached hereto as Exhibit "E".

**2.27 ADA Accessibility**

The Village of Tequesta strives to be an inclusive environment. As such, it is the Village's policy to comply with the requirements of Title II of the American with Disabilities Act of 1990 ("ADA") by ensuring that the Contractor's [agreement/bid documents and specifications] are accessible to individuals with disabilities. To comply with the ADA, the Contractor shall provide a written statement indicating that all [agreement/bid documents and specifications], from Contractor, including files, images, graphics, text, audio, video, and multimedia, shall be provided in a format that ultimately conforms to the Level AA Success Criteria and Conformance Requirements of the Web Content Accessibility Guidelines 2.0 (Dec. 11, 2008) ("WCAG 2.0 Level AA"), published by the World Wide Web Consortium ("W3C"), Web Accessibility Initiative ("WAI"), available at [www.w3.org/TR/WCAG/](http://www.w3.org/TR/WCAG/). Such ADA Compliancy Statement is attached hereto as Exhibit "K". By signing Exhibit "K," you are acknowledging that you have submitted an ADA compliant proposal and that proposal includes an ADA Accessibility Reporting from Adobe showing the document is compliant or a PAC report from an ADA remedial company. Documents can be made compliant using Adobe Acrobat Pro or via a third party company. The Village Clerk's Office can provide you with the contact for the company the Village uses.

**2.28 No Contingent Fee**

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

**2.29 Special Conditions**

Any and all Special Conditions contained in this RFP that may be in variance or conflict with the General Conditions shall have precedence over the General Conditions. If no changes or deletions to General Conditions are made in the Special Conditions, then the General Conditions shall prevail in their entirety.

**2.30 Award of the Contract by Village Council**

As soon as practicable after the Selection Committee completes its assessment of the proposals, the Selection Committee's recommendation shall be presented to the Village of Tequesta Council ("Village Council") at a duly noticed public meeting. It is anticipated that the Village Council will award the RFP to the Proposer(s) that submits the best overall proposal, based on the Village Council's determination of the Village's best interests and the best overall value for the Village. The Village Council shall have the exclusive authority to select the best overall proposal and make any determinations concerning the responsiveness of the Proposers, the value of their proposals, the Proposers' respective abilities to satisfactorily perform the work specified in the Village's RFP, and all other related matters. After the Village Council selects the successful Proposer(s), the successful Proposer(s) and the Village shall execute the Agreement. It is the intention of the Village to award a single contract to the first ranked Proposer responding to this Request for Proposals (RFP). However, the Village reserves the right to award the Contract to more than one (1) successful Proposer.

**2.31 Entire Agreement**

This Request for Proposal, all attachments and exhibits, addenda, and the resulting Contract (draft attached) states the entire contract between the parties hereto with respect to the subject matter hereof, and all prior and contemporaneous understandings, representations and agreements are merged herein or superseded hereby. No alterations, modifications, release or waiver of this contract or any provisions hereof shall be effective unless executed in writing by the parties.

**2.32 Nonexclusive Contract/Additional Services**

Proposer agrees and understands that the Contract shall not be construed as an exclusive arrangement and further agrees that the Village may, at any time, secure similar or identical services at its sole option.

**2.33 Assignment**

Contractor shall not transfer or assign or subcontract the performance required by this RFP without the prior written consent of the Village. Any award issued pursuant to this RFP, and the monies, which may become due hereunder, are not assignable except with the prior written approval of the Village Manager or selected designee.

## **2.34 Warranty**

### **2.34.1 Warranty of Intellectual Property**

The Successful Bidder warrants that there has been no violation of copyright, patent, or other intellectual property rights either in the United States of America or in foreign countries in connection with the work of the contract.

## **2.35 Waiver**

It is agreed that no waiver or modification of this contract or of any covenant, condition or limitation contained in it shall be valid unless it is in writing and duly executed by the party to be charged with it, and that no evidence of any waiver or modification shall be offered or received in evidence in any proceeding, arbitration, or litigation between the parties arising out of or affecting the contract, or the right or obligations of any party under it, unless such waiver or modification is in writing, duly executed as above. The parties agree that provisions of this paragraph may not be waived except by a duly executed writing.

## **2.36 Survivorship Rights**

This contract shall be binding on both parties to the benefit of the respective parties and their executors, administrators, heirs, personal representative, successors and assignees.

## **2.37 Severability**

If any term or provision of this contract is found to be illegal and unenforceable, such term(s) shall be deemed stricken and the remainder of the contract shall remain in full force and effect.

## **2.38 Default and Termination**

### **2.38.1 Termination for Cause**

In the event the Contractor shall default in any of the terms, obligations, restrictions or conditions in the contract documents, the Village shall give the Contractor written notice by registered, certified mail of the default and that such default shall be corrected or actions taken to correct such default shall be commenced within three (3) calendar days thereof. In the event the Contractor has failed to correct the conditions(s) of the default or the default is not remedied to the satisfaction and approval of the Village, the Village shall have all legal remedies available to it, including, but not limited to termination of the Contract in which case the Contractor shall be liable for any and all damages permitted by law arising from the default and breach of the contract.

### **2.38.2 Termination for Convenience**

Upon thirty (30) calendar days written notice to the Contractor, the Village may without cause and without prejudice to any other right or remedy, terminate the contract for the Village's convenience whenever the Village determines that such termination is in the best interest of the Village. Where the contract is terminated for the convenience of the Village the notice of termination to the Contractor must state that the contract is being terminated for the convenience of the Village under the termination clause and the extent of termination. The Contractor shall discontinue all work on the appointed last day of service.

**2.38.3 Cancellation for Unappropriated Funds**

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

**2.39 Contract Administration**

Overall performance under the resultant contract shall be supervised by the Finance Director or designee. If at any time during the contract period, performance is deemed to be unsatisfactory, the Village shall issue a formal letter to the Contractor. Upon notification by the Village, Contractor shall take such steps necessary to perform as per contract requirements.

**2.40 Advertising**

In submitting a proposal, the proposer agrees not to use the results therefrom as a part of any commercial advertising without the prior written consent of the Village.

**2.41 Venue; Choice of Law**

The parties waive the privilege of venue and agree that all litigation between them in the state courts shall take place in Palm Beach County, Florida and that all litigation between them in the federal courts shall take place in the US District Court for the Southern District of Florida. This RFP, any contract that results therefrom and any other matter associated herewith shall be governed by the laws of the State of Florida.

**2.42 Service Test Period**

If the Proposer has not previously performed the services to a municipality, the Village reserves the right to require a test period to determine if the Proposer can perform in accordance with the requirements of the Contract, and to the Village's satisfaction. Such test period may be from sixty (60) to one-hundred twenty (120) days, and will be conducted under all specifications, terms and conditions contained in the Contract

**2.43 Transfer of Responsibility**

Upon expiration, termination, or cancellation of the contract, the contractor shall assist Village of Tequesta to ensure an orderly transfer of responsibility and/or continuity of those services required under the terms of the contract to an organization designated by Village of Tequesta, if requested in writing. The contractor shall provide and/or perform any or all of the following responsibilities:

**2.43.1** The contractor shall deliver, FOB destination, prepaid, all records, documentation, reports, data, recommendations, master, or printing elements, etc., which were required to be produced under the terms of the contract to Village of Tequesta and/or to Village of Tequesta's designee within seven (7) calendar days after receipt of the written request. Any and all records which are on electronic media must be delivered in a format which is compatible with the system(s) currently in use by Village of Tequesta.

**2.43.2** Upon the request of the Village Manager or designee, the contractor agrees to continue providing any part or all of the services in accordance with the terms and conditions of the contract for a period not to exceed ninety (90) calendar days after the expiration, termination or cancellation date of the contract for a price not to exceed those prices set forth in the contract.

### SECTION 3 - SPECIAL TERMS AND CONDITIONS

#### 3.1 RFP Schedule

The Village will use the following tentative schedule in the competitive solicitation process. The Village reserves the right to change and/or delay scheduled events.

<u>Event</u>	<u>Date/Deadline</u>
Issuance of RFP Package	July 31, 2020
Deadline for Written Questions	August 17, 2020 – 5:00 PM, EST
Proposal Due Date	August 28, 2020 – 2:00 PM, EST
Selection Committee Meeting	September 9, 2020 – 11:00 AM, EST
Consideration / Award by Village Council	October 8, 2020 – 6:00 PM, EST
Contract Commencement	November 1, 2020

#### 3.2 Submission and Receipt of Proposals

Proposals will only be accepted from registered plan holders who have obtained the RFP document(s) directly from the Village of Tequesta. One (1) clearly marked original, four (4) copies of the proposal and one (1) electronic copy of the proposal shall be submitted on or before the due date and time in one single sealed envelope or package. Faxed proposals will not be accepted under any circumstances. The Village shall not be responsible for the premature opening of a Proposal not properly marked and identified as required herein. The envelope shall be clearly marked on the exterior with the following information:

- 1) Financial Advisory Services RFP #2020-130/01
- 2) Due Date: Wednesday, August 28, 2020, 2 P.M. EST
- 3) Company/Proposer's Name, Point of Contact, Address, and Phone Number
- 4) Village of Tequesta  
345 Tequesta Drive  
Tequesta, FL 33469

- 3.2.1** Any erasures or corrections on the proposal must be made in ink and initialed by the Proposer in ink. All information submitted by the Proposer shall be printed, typewritten or filled in with pen or ink. Proposers shall use the proposal forms provided by the Village. Failure to use the forms may cause the proposal to be rejected and deemed non- responsive.
- 3.2.2** Proposals must contain a manual signature in pen or ink of the authorized representative of the Proposer. The address, e-mail and telephone number for communications regarding the Proposal must be shown.
- 3.2.3** Proposals by corporations must be executed in the corporate name by the President or other corporate officer accompanied by evidence of authority to sign. The corporate address and state of incorporation must be shown below the signature.
- 3.2.4** Proposals by partnerships must be executed in the partnership name and signed by a partner, whose title must appear under the signature and the official address of the partnership must be shown below the signature.
- 3.2.5** All Proposals received from Proposers in response to the Request for Proposal will become the property of the Village of Tequesta and will not be returned to the Proposers. In the event of Contract award, all documentation produced as part of the Contract shall become the exclusive property of the Village.
- 3.2.6** Proposals will be publicly opened in the Village Council Chambers; 345 Tequesta Drive; Tequesta, FL 33469. The Proposer's name will be read aloud. Proposers and the public are invited to attend. Proposals will be tabulated and made available for review by the public at such time as the Village provides notice of an intended decision or until 30 days after the proposal opening, whichever is earlier.

### **3.3 Proposer Qualifications**

Proposers must demonstrate that they, or the principals assigned to the project, have successfully provided services of a similar magnitude to those specified in the Scope of Services to at least one municipality similar in size and complexity to the Village of Tequesta or can demonstrate that they have the experience with large scale private sector clients and the managerial and financial ability to successfully perform the services.

- 3.3.1** Before awarding the Contract, the Village reserves the right to require that a Proposer submit additional evidence of his/her qualifications as the Village may deem necessary. Further, the Village may consider any evidence of the financial, technical, and other qualifications and abilities of a Proposer, including previous experiences of same with the Village and performance evaluation for services, in making the award in the best interest of the Village.
- 3.3.2** Each Proposer shall complete the Qualifications Statement contained in the Proposal Package. Failure to submit the Qualifications Statement and the documents required thereunder with the Proposal may constitute grounds for rejection of the Proposal.

### **3.4 Evaluation Procedures**

Evaluation of the Proposals will be conducted by an Evaluation Committee of qualified Village Staff, or other persons selected by the Village Manager or designee. Proposals shall be evaluated based upon the information and references contained in the Proposals as submitted. The Evaluation Committee will evaluate all responsive proposals based on the following weighted criteria:

#### **3.4.1 Weighted Criteria**

<b>Criterion</b>	<b>Weight</b>
Qualifications of the firm and key personnel assigned to this engagement	25
Overall Methodology and Approach	20
Schedule of fees	30
Experience in similar work, including governmental experience	25
<b>Total Possible Points</b>	<b>100</b>

- 3.4.2** The Committee may short list no fewer than three (3) Proposals, assuming that three Proposals have been received, that it deems best satisfy the weighted criteria set forth herein. The committee may then conduct interviews and/or require oral presentations from the short listed Proposers. The Evaluation Committee shall then re-rank the short listed firms in accordance with the weighted criteria.
- 3.4.3** The Village may require visits to the Proposer's facilities to inspect record keeping procedures, staff, facilities and equipment as part of the evaluation process.
- 3.4.4** The Evaluation Committee shall make a recommendation to the Village Council based on its final ranking. The Village Council shall, in its sole discretion, have the authority to either (1) approve the evaluation committee's ranking/evaluation and recommendation; (2) recommend rejection of all submittals based upon a stated reason; or (3) send the ranking/evaluation back to the evaluation committee to conduct further evaluations consistent with the requirements of the RFP or RFQ and the evaluation committee may either ratify the ranking/evaluation or re-rank the firms.

### **3.5 Contract Award**

- 3.5.1** The Village reserves the right to award the contract to that Proposer who will best serve the interest of the Village. The Village reserves the right, based upon its deliberations and in its opinion, to accept or reject any or all Proposals, or terminate the competitive solicitation process at any time and secure the required services by any other lawful means. The Village also reserves the right to waive minor irregularities or variations to the specifications and in the proposal process.
- 3.5.2** Upon award of a Contract by the Village Council, the Mayor is authorized to execute the Contract on behalf of the Village.

### **3.6 Required Documents and Information**

The following shall be submitted in the order listed below as a condition of this RFP. Proposals should seek to avoid information in excess of that requested, must be concise, and must specifically address the issues of this RFP. The proposal shall be organized and divided into the sections indicated below. The following is not inclusive of all the information that may be necessary to properly evaluate the proposal and meet the requirements of the scope of services. Additional documents and information should be provided as deemed appropriate by the Proposer in response to specific requirements of this RFP.

#### **3.6.1 Cover Letter**

Each Proposer must submit a cover letter identifying the entity, principals, and those who will be directly involved with the work. An authorized representative of the entity must sign the cover letter.

#### **3.6.2 Executive Summary**

Each proposal must contain an Executive Summary that summarizes the key

elements of the proposal. In addition, the Executive Summary must include a statement that explains why the Proposer would be the best selection. The executive summary shall include the corporate mission and vision statements.

### **3.6.3 Experience and Qualifications**

Describe the entities experience and qualifications. Include resumes of key individuals and staff, including their location and availability. Provide information on how your firm meets or exceeds the Minimum Qualifications required in this RFP.

### **3.6.4 Operations Plan and Approach**

Provide in concise narrative form your understanding of the Village's needs, goals and objectives as they relate to the project, and your overall approach to accomplishing the project. Give an overview of your proposed vision, ideas and methodology. Describe your proposed approach to the project. As part of the project approach, the proposer shall propose a scheduling methodology (timeline) for effectively managing and executing the work in the optimum time. Also, please provide information on your firm's current workload and how this project will fit into your workload. Describe available facilities, technological capabilities and other available resources that you offer for the project. Additionally, the proposal should specifically address the following:

- Who
- What
- When
- Where
- Why
- How

### **3.6.5 Financial Plan, Capital, and Capabilities**

Demonstrate your financial soundness and history of meeting financial obligations. Provide a general description of their financial condition and identify any conditions (e.g. bankruptcy, pending litigation, impending mergers) that may affect your firm's ability to perform and/or complete the work.

### **3.6.6 References**

Provide at least three (3) references, preferably government agencies, for projects with similar scope as listed in this RFP. Information should include the following:

Client's name, address, contact person telephone and e-mail addresses.

Description of work.

Year the project was completed.

Total cost of the project, estimated and actual.

**Note:** Do not include Village of Tequesta work or staff as references to demonstrate your capabilities. The Committee is interested in work experiences and references other than the Village of Tequesta.

**3.6.7 Required Forms (Proposal Package)**

- a) Proposer's Certification (Exhibit A) – *Complete and attach Proposal Certification provided herein.*
- b) Cost Proposal (Exhibit B) - *Provide firm, fixed costs for all services/products using the form provided in this RFP. These firm fixed costs for the project include any costs for travel and miscellaneous expenses. No other costs will be accepted.*
- c) Qualification Statement (Exhibit C) – *This form is to be completed and submitted along with proposal package.*
- d) Non-Collusion Affidavit (Exhibit D)
- e) Conflict of Interest Statement (Exhibit E)
- f) Confirmation of Drug-Free Workplace (Exhibit F)
- g) Reference Form (Exhibit G) - *This form is to be completed and submitted along with proposal package. **Please provide at least three (3) references.***
- h) Variances to the RFP (if applicable) – (Exhibit H)
- i) Notification of Public Entity Crimes Law (Exhibit I)
- j) Truth-In-Negotiation Certificate (Exhibit J)
- k) Village Clerk's Office ADA Compliancy Statement (Exhibit K)
- l) W-9 Form
- m) Sample Insurance Certificate – *Demonstrate your firm's ability to comply with insurance requirements. Provide a current certificate or other evidence listing the insurance companies' names for the required coverage limits.*
- n) Copies of licenses and certifications as required in Section 3.9 – Required Licenses and Certifications.

**3.7 Price**

Proposer shall quote a firm, fixed price for the items listed in the scope of services and on the schedule of proposal prices. Prices shall include all costs associated with the project including labor, equipment, supplies, management, travel, etc.

**3.8 Cost Adjustments**

**3.8.1** Costs for all services purchased under this contract shall remain firm for the initial contract term. Costs for subsequent optional renewal terms and any extension terms shall be subject to an adjustment only if increases in the industry occur. However, unless very unusual and significant changes have occurred in the industry, such increases shall not exceed five percent (5%) per year or, whichever is less, the latest yearly percentage increase in the Producer Price Index Industry Data, Investment Advice (PPI – Series Id PCU52393-52393) as published by the Bureau of Labor Statistics, U.S. Department of Labor. The yearly increase or decrease in the PPI shall be the latest index published and available ninety (90) days prior to the end of the contract term then in effect compared to the index for the same month one (1) year prior. Any requested price increase shall be fully documented and submitted to the Village at least ninety (90) days prior to the expiration of the current contract term. Any approved cost adjustment shall become effective on the first date of the renewal contract term.

- 3.8.2** In the event the PPI or industry costs decline, the Village shall have the right to receive from the Contractor a reasonable reduction in the costs of services that reflect the cost change in the PPI or industry.
- 3.8.3** The Village has the right to refuse to accept the requested cost increase or decrease if it is not properly documented, submitted less than ninety (90) days from the contract expiration date, or considered by the Village to be excessive or insufficient. In the event the Village does not wish to accept the adjusted prices and the matter cannot be resolved to the satisfaction of the Village, the contract can be cancelled by the Village upon giving thirty (30) days written notice to the Contractor.

### **3.9 Insurance Requirements**

#### **3.9.1 General**

- a.** Such policy or policies shall be without any deductible amount unless otherwise noted in this Contract and shall be issued by approved companies authorized to do business in the State of Florida, and having agents upon whom service of process may be made in Palm Beach County, Florida. Contractor shall pay all deductible amounts, if any. Contractor shall specifically protect Village and the Tequesta Village Council by naming Village and the Tequesta Village Council as additional insured under the Commercial Liability Policy as well as on any Excess Liability Policy coverage.
- b.** Contractor shall furnish to the Village a Certificate of Insurance or endorsements evidencing the insurance coverage specified herein within fifteen (15) calendar days after notification of award of the Contract. The required Certificates of Insurance shall name the types of policies provided, refer specifically to this Contract, and state that such insurance is as required by this Contract. Contractor's failure to provide to Village the Certificates of Insurance or endorsements evidencing the insurance coverage within fifteen (15) calendar days shall provide the basis for the termination of the Contract.
- c.** Coverage is not to cease and is to remain in force (subject to cancellation notice) until all performance required of Contractor is complete including all renewal terms. All policies must be endorsed to provide Village with at least thirty (30) days' notice of expiration, cancellation and/or restriction. If any of the insurance coverages will expire prior to the completion of the work, copies of renewal policies shall be furnished at least thirty (30) days prior to the date of their expiration.
- d.** Village reserves the right to review and revise any insurance requirements at the time of renewal or amendment of this Contract, including, but not limited to, deductibles, limits, coverage, and endorsements based on insurance market conditions affecting the availability or affordability of coverage, or changes in the scope of work or specifications that affect the applicability of coverage. If Contractor uses a subcontractor, Contractor shall ensure that subcontractor names Village as an additional insured.

### 3.9.2 Coverages

Successful Proposer shall, at a minimum, provide, pay for, and maintain in force at all times during the term of this Contract the following insurance:

#### Commercial Liability Insurance

A Commercial Liability Insurance Policy shall be provided which shall contain minimum limits of One Million Dollars (\$1,000,000.00) per occurrence combined single limit for bodily injury liability and property damage liability and shall contain minimum limits of Two Million Dollars (\$2,000,000.00) per aggregate. Coverage must be afforded on a form no more restrictive than the latest edition of the Commercial Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office and must include:

- Premises and/or operations
- Independent contractors
- Products and/or completed operations for contracts
- Broad form contractual coverage applicable to this specific Contract, including any hold harmless and/or indemnification Contract
- Personal injury coverage with employee and contractual exclusions removed, with minimum limits of coverage equal to those required for bodily Injury liability and property damage liability.

#### Professional Liability Insurance (Errors and Omissions)

Professional Liability Insurance with the limits of liability provided by such policy for each claim and on a claim made basis to be no less than one million Dollars (\$1,000,000) per occurrence with a combined single limit of two million dollars (\$2,000,000) per occurrence. Proposer shall notify the Village in writing within thirty (30) days of any claim filed or made against its Professional Liability Insurance Policy.

#### Business Automobile Liability

Business Automobile Liability shall be provided with minimum limits of One Million Dollars (\$1,000,000.00) per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include:

- Owned Vehicles, if applicable.
- Hired and Non-Owned Vehicles, if applicable.
- Employers' Non-Ownership, if applicable.

#### Workers Compensation Insurance

Workers' Compensation insurance to apply for all employees in compliance with Chapter 440, Florida Statutes, as may be amended from time to time, the "Workers' Compensation Law" of the State of Florida, and all applicable federal laws. In addition, the policy(ies) must include Employers' Liability with a limit of One Million Dollars (\$1,000,000.00) each accident.

## **SECTION 4 - SCOPE OF SERVICES**

### **4.1 General**

The primary purpose of this public solicitation is to select a qualified firm with which the Village can contract for the opportunity to provide professional consulting services that covers the full spectrum of services customarily provided to governmental entities by financial advisors, but may be generally divided into three (3) categories: services related to financial planning, services related to debt structuring and issuance, services related to cost-benefit /risk analysis and related analytical due diligence relative to proposals for major public/private development projects.

On an as needed basis, the consultant will perform financial/analytical services for a variety of assignments as requested by the Village Manager and the Village of Tequesta Finance Department. At a minimum, the services provided may include, but need not necessarily be limited to the following:

### **4.2 Services Related To Financial Planning**

**4.2.1** The financial advisor should also review all indebtedness of the Village and provide recommendations relative to the refinancing or early extinguishment of said obligations.

**4.2.2** Provide an analysis of all available financing options. As stated previously, this analysis should not be limited to a consideration of which type of debt should be issued to finance a particular project, but should also consider whether or not a financing alternative to debt exists.

**4.2.3** In the event that the issuance of debt is determined to represent the most viable financing alternative, this analysis should not necessarily be limited to the more traditional forms of financing available to governmental entities, but should also recognize some of the alternative financing methods available, such as sale/leaseback, pooled debt participation, even taxable instruments, new markets tax credit, and federal, state and local grants.

### **4.3 Services Related To Debt Structuring and Issuance**

Prepare a Debt Financing Structure. This is a complex function which will generally consist of, but need not necessarily be limited to, development of the following structural components:

- 4.3.1** Establishment of sizing parameters for the debt to be issued, taking into consideration both the cash flow requirements associated with the capital improvements being financed, as well as reinvestment yields estimated to be available during the term of the project.
- 4.3.2** Determination of a maturity schedule for the proposed debt. This evaluation should take into account the estimated useful life of the project to be constructed utilizing the proceeds of the debt, as well as future demands upon the funds pledged for the repayment of the debt. Functionally related to the proposed maturity schedule is a determination of whether or not to use exclusively serial instruments or an appropriate combination of term and serial obligations.
- 4.3.3** Recommendation of an appropriate credit structure. One of the most critical elements in the design of any capital facility debt financing is a determination of source of funds to be used to repay the debt which is acceptable from the perspective of both the issuer and the purchaser. This evaluation will include recommendations as to appropriate primary as well as secondary revenue sources to be pledged for the repayment of the debt, and should also give serious consideration to the form of the pledge (i.e. Revenue vs. General Obligation).
- 4.3.4** Evaluate the use of appropriate types of credit enhancements. This analysis should result in recommendations relating to, among other things, the use of letters of credit.
- 4.3.5** Make recommendations concerning the timing of the issuance of debt obligations to fund the improvements. This analysis includes a review not only of when to issue the debt to take advantage of the most favorable market conditions, but also should include a recommendation as to the desirability of utilizing interim financing techniques, such as bond or revenue anticipation notes or lines of credit.
- 4.3.6** Design and implement appropriate mechanical features of the debt issued. This item includes making recommendations pertaining to the physical form of the obligations issued, including recommendations relating to the feasibility of issuing book entry only obligations.
- 4.3.7** The final task in preparing the debt financing structure is to determine whether the obligations should be sold competitively, negotiated, or placed privately. In the event that a negotiated sale is the preferred method, the financial advisor will be responsible for the preparation of a request for proposals, and will assist the Village in the selection and award process.
- 4.3.8** Assist the Village and bond counsel, as necessary, in any required validation proceedings.

- 4.3.9** Prepare, and assist presentations on behalf of the Village, to one or more of the nationally recognized credit rating organizations in order to obtain the highest possible credit rating for the obligations of the Village. This task envisions not only obtaining a rating for the Village but also ensuring the maintenance of the ratings obtained, where possible.
- 4.3.10** Assist the Village and the Village Attorney in the procurement of various types of professional services required in conjunction with the issuance of the obligations, including, but not limited to, the following:
- a.** Investment Banking (Underwriting) Services (negotiated sale only)
  - b.** Bond Counsel
  - c.** Printing Services (for both the official statements as well as the actual bond forms)
  - d.** Bond Registration, Paying Agent, and Trustee Services (if applicable)
  - e.** Verification Services (for refunding issues)
  - f.** Arbitrage Rebate Calculation Services
  - g.** Disclosure Services

*It is intended that this responsibility includes being a member of the evaluation committee and evaluation of proposals received by the Village for services competitively solicited by the Village.*

- 4.3.11** Provide continuing updates on the impact of current or proposed state or federal legislation, or the effects of changing market conditions that could potentially affect the Village's financing plans.
- 4.3.12** Attend Village Council meetings and other scheduled Village meetings as requested, with reasonable advance notice.
- 4.3.13** Evaluate the projected cash flow from any revenue sources that may constitute security for any obligation incurred.
- 4.3.14** Work with the Village and bond counsel to recommend size, financial structure, specific terms and conditions of any financial arrangement.
- 4.3.15** Assist the Village in the formation of a financing team along with a list of the required services of underwriter, trustee, bond rating agency, legal counsel, and any other professional service as required.
- 4.3.16** Assist the Village with determining the costs required to underwrite any proposed financing arrangement.

#### **4.4 Services Related to Cost-Benefit/Risk Analysis**

- 4.4.1** On an as needed basis, the consultant will perform specialized financial/analytical services in relation to proposed public/private development projects.
- 4.4.2** Provide economic analysis of proposed development property that illustrates the economic and real estate value of the property if developed as expected (the assumed baseline) and the economic and real estate potential if developed to maximize the economic development potential to the Village, including assessing options to leverage public actions and investments. A successful product for the Village shall include:
- a.** Highest and best use analyses; alternative financing options; cost benefit analysis; fair market value and re-use analyses; evaluation of development cost; evaluation of financial projections and corporate due diligence.
  - b.** Identification and linkages between public-policy options and public benefit.
  - c.** Sensitivity analysis of uncertain variables.
  - d.** Discussion of risk and trade-offs from the Village and Developer's perspective.
  - e.** Evaluation of development scenario to determine whether there are additional opportunities that could increase the return on investment and provide significant economic development to the Village of Tequesta beyond that proposed in the developer's baseline scenario.
  - f.** Ensure the appropriate level of due diligence is completed to provide assurance the developer has the financial capability and strength to complete the proposed development project; and the developer is in compliance with all regulatory bodies.
  - g.** Ensure the Village only provides a level of public subsidy consistent with the anticipated return on investment (including economic development) and receives a level of return appropriate for the inherent risks associated with the proposed phased strategy of the development project.
  - h.** Assist in the negotiation of appropriate levels of Return on Investment (ROI) on the Village's behalf consistent with the amount of risk and level of subsidy being requested by the developer.
  - i.** Analyze and report on the advantages and disadvantages of each proposed financing arrangements.

## **SECTION 5 - OTHER TERMS AND CONDITIONS**

### **5.1 Financial Condition and Outlook**

As of September 30, 2019, the Village had over \$4.6 million in outstanding bonds and notes. Of this amount, \$1.1 million represented governmental activities debt and \$3.5 million was for business-type activities. The Village's total long-term debt includes bonds and notes as well as capital leases.

The Village's fiscal year 2020 operating budget is \$23.5 million. The General Fund unassigned fund balance for the last audited fiscal year (FY2019) was \$1.5 million.

### **5.2 Capital and Financing Plan**

The Village prepares a five-year capital and financing plan which shows the anticipated funding sources from federal and state grants, Village funds and bond proceeds. The adopted five-year CIP for FY 2021 – 2025 is \$9.6 million for governmental activities and \$14.9 million for business-type activities.

**SECTION 6 - PROPOSAL PACKAGE**

**Financial Advisory Services  
RFP #2020-130/01**

**Submitted By:**

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

Street Address: \_\_\_\_\_

Village/State/Zip: \_\_\_\_\_

Point of Contact: \_\_\_\_\_

Phone No.: \_\_\_\_\_ Fax: \_\_\_\_\_ E-Mail: \_\_\_\_\_

**EXHIBIT A - Proposal Certification**

I have received, read and agree to the all terms and conditions as set forth in RFP #2020-130/01, Financial Advisory Services. I hereby recognize and agree that upon execution by an authorized officer of the Village of Tequesta, this Proposal Package, together with the RFP, the resulting Contract, and all other documents prepared by or on behalf of the Village of Tequesta for this solicitation, shall become a binding agreement between the parties for the services to be provided in accordance with the terms and conditions set forth herein. I further certify that all information and documentation contained within this Proposal to be true and correct.

---

**Printed Name / Signature**

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**Addendum Acknowledgment** (if applicable):

Proposer acknowledges that the following addenda have been received and are included in his/her Proposal Package:

<u>Addendum No.</u>	<u>Date Issued</u>
_____	_____
_____	_____
_____	_____
_____	_____

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**Statement of No Proposal** (if applicable):

The above named company does not intend to submit a proposal for the following reason: insufficient time to respond, do not offer product or service, unable to meet specifications, schedule will not permit or any other reason as stated:

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**EXHIBIT B - Proposal Fee Schedule**

The undersigned hereinafter called the Proposer, hereby proposes to provide the products and services in accordance with the terms, conditions and specifications of the RFP, which are hereby referred to and made a part hereof, at the prices listed herein.

1	Annual Retainer (Assume at least two (2) financial option analysis per year as well as work performed, including work with financial models as well as with rating agencies)	
2	<p><i>Assume a revenue bond issue in the principal amount of \$7,000,000</i></p> <p>\$ _____/\$1,000, first \$ _____ =</p> <p>+\$ _____</p> <p>\$ _____/\$1,000, next \$ _____ =</p> <p>+\$ _____</p> <p>\$ _____/\$1,000, next \$ _____ +</p> <p>+\$ _____</p> <p>Out of pocket expenses (not-to-exceed amount), if charged +\$ _____</p> <p>= \$ _____</p>	
<b>Estimated Grand Total (Items 1 - 2)</b>		<b>\$</b>

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

Proposer's Name: \_\_\_\_\_

Proposer's Title: \_\_\_\_\_

Proposer's Signature: \_\_\_\_\_

**EXHIBIT C - Qualification Statement**

The undersigned certifies under oath the truth and correctness of all statements and of all answers to questions made hereinafter:

Submitted to: Village of Tequesta  
Office of the Village Clerk  
345 Tequesta Drive  
Tequesta, Florida 33469

**Circle One:**

- Corporation
- Partnership
- Individual
- Other

Submitted By: \_\_\_\_\_

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

Address: \_\_\_\_\_

City, St., Zip \_\_\_\_\_

**Note:** Additional sheets may be attached if necessary.

1. State the true, exact, correct and complete name of the partnership, corporation, trade or fictitious name under which you do business and the address of the place of business.

The correct name of the Proposer is: \_\_\_\_\_

The address of the principal place of business: \_\_\_\_\_

\_\_\_\_\_

2. If Proposer is a corporation, answer the following:

a. Date of Incorporation: \_\_\_\_\_

b. State of Incorporation: \_\_\_\_\_

c. President's name: \_\_\_\_\_

d. Vice President's name: \_\_\_\_\_

e. Secretary's name: \_\_\_\_\_

f. Treasurer's name: \_\_\_\_\_

g. Name and address of Registered Agent: \_\_\_\_\_  
\_\_\_\_\_

3. If Proposer is an individual or a partnership, answer the following:

a. Date of organization: \_\_\_\_\_

b. Name, address and ownership units of all partners: \_\_\_\_\_  
\_\_\_\_\_

c. State whether general or limited partnership: \_\_\_\_\_

4. If Proposer is other than an individual, corporation or partnership, describe the organization and give the name and address of principals:

\_\_\_\_\_  
\_\_\_\_\_

5. If Bidder is operating under a fictitious name, submit evidence of compliance with the Florida Fictitious Name Statute.

6. How many years has your organization been in business under its present business name? \_\_\_\_\_

a. Under what other former names has your organization operated?  
\_\_\_\_\_

b. How many years has your company been in business providing the products and services that are subject to this RFP? \_\_\_\_\_

c. How many government agencies does your company currently provide these services for and which ones?  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. Indicate registration, license numbers or certificate numbers for the businesses or professions which are the subject of this Proposal. Please attach certificate of competency and/or state registration/licenses.

\_\_\_\_\_

8. Have you ever failed to complete any work awarded to you? If so, state when, where, and why?

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9. Will you be using any subcontractors? Yes \_\_\_\_\_ or No \_\_\_\_\_

a. If so, state the name, address, phone number, and tasks to be performed for each?

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b. Identify specific individuals who will perform the services and provide a description of the tasks they will perform.

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10. For purposes of determining any possible conflicts of interest, all bidders must disclose if any Village of Tequesta employee is also an owner, or employee of their business. Indicate either "yes" or "no". If yes, give person(s) names(s) and position(s) and you must file a statement with the Supervisor of Elections, pursuant to Florida Statutes 112.313.with your business.

Yes \_\_\_\_\_ No \_\_\_\_\_ Name (s) and Position (s) \_\_\_\_\_

11. List the pertinent experience of the key individuals of your organization (continue on additional sheets, if necessary).

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12. State the name of the individual who will have personal supervision of the work with phone number and e-mail:

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13. Provide evidence of your company's financial stability and of its probability of remaining viable throughout the term of the contract.

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The Proposer acknowledges and understands that the information contained in response to this qualifications statement shall be relied upon by the Village in awarding the Contract and such information is warranted by the Proposer to be true. The discovery of any omission or misstatement that materially affects the Proposer's qualifications to perform under the contract shall cause the Village to reject the proposal, and if after the award, to cancel and terminate the award and /or contract.

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**Proposer's Signature**

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**Date**

**EXHIBIT D - Non-Collusion Affidavit**

\_\_\_\_\_ (Proposer’s Name) being first duly sworn, deposes and says that:

1. He/she is the \_\_\_\_\_ (Owner, Partner, Officer, Representative or Agent) of \_\_\_\_\_ the Proposer that has submitted the attached proposal;
2. He/she is fully informed respecting the preparation and contents of the attached proposal and of all pertinent circumstances respecting such proposal;
3. Such proposal is genuine and is not a collusive or sham proposal;
4. Neither the said Proposer nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, have in any way colluded, conspired, connived or agreed, directly or indirectly, with any other Proposer, firm, or person to submit a collusive or sham proposal in connection with the work for which the attached proposal has been submitted; or to refrain from bidding in connection with such work; or have in any manner, directly or indirectly, sought by agreement or collusion, or communication, or conference with and Proposer, firm or person to fix the price or prices in the attached proposal or of any other Proposer, or to fix an overhead, profit, or cost elements of the proposal price or the proposal price of any other Proposer, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against (Recipient), or any person interested in the proposed work;
5. The price or prices quoted in the attached proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Proposer or any other of its agents, representatives, owners, employees or parties in interest, including this affiant.

<b>Proposer’s Name</b>	<b>Signature</b>	<b>Date</b>
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STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2020 by \_\_\_\_\_ who is personally known to me or who has produced \_\_\_\_\_ (type of identification), as identification.

NOTARY'S SEAL: \_\_\_\_\_

NOTARY PUBLIC, STATE OF FLORIDA  
(Signature of Notary Taking Acknowledgment)

\_\_\_\_\_  
(Name of Acknowledger Typed, Printed or Stamped)

My Commission Expires: \_\_\_\_\_

**EXHIBIT E - Conflict of Interest Statement**

This Request for Proposal is subject to the conflict of interest provisions of the policies and Code of Ordinances of the VILLAGE OF TEQUESTA, the Palm Beach County Code of Ethics, and the Florida Statutes. The Bidder shall disclose to the VILLAGE OF TEQUESTA any possible conflicts of interests. The Bidder's duty to disclose is of a continuing nature and any conflict of interest shall be immediately brought to the attention of the VILLAGE OF TEQUESTA.

CHECK ALL THAT APPLY:

- To the best of our knowledge, the undersigned business has no potential conflict of interest for this Proposal 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 Proposal as set forth in the policies and Code of Ordinances of the Village of Tequesta, as amended from time to time.
- To the best of our knowledge, the undersigned business has no potential conflict of interest for this Proposal as set forth in the Palm Beach County Code of Ethics, as amended from time to time.
- To the best of our knowledge, the undersigned business has no potential conflict of interest for this Proposal 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 proposal 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 F - Drug-Free Workplace Form**

The undersigned vendor in accordance with *Florida Statutes*, Chapter 287, Section 287.087 hereby certifies that \_\_\_\_\_ does:  
(Name of Business)

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 *Florida Statutes*, Chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

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

\_\_\_\_\_  
**Proposer's Name**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

**EXHIBIT G – Reference Form**

**Company under Review:** \_\_\_\_\_

**RFP No.:** 2020-130/01

**Reference (Name):** \_\_\_\_\_

**RFP Title:** Financial Advisory Services

**Name/Title:** \_\_\_\_\_

**Phone:** \_\_\_\_\_

**Project:** \_\_\_\_\_

**Fax:** \_\_\_\_\_

**Project Manager:** \_\_\_\_\_

**Total Project Cost:** \_\_\_\_\_

**Other Key Project Personnel:** \_\_\_\_\_

Describe the scope of work of the contract awarded by your company/agency to this firm. Please include year of project completion:

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No.	Questions	Rating	Comments
1.	Rate the level of commitment of the firm to your project. Did they devote the time and management staff necessary for successful and timely work?		
2.	Rate the quality of customer service and the competence and accessibility of the personnel.		
3.	Rate how well the firm listened and understood the project specific needs of your organization.		
4.	Rate how well the firm met the major schedule milestones for the project.		
5.	Rate the firm's success at minimizing and controlling potential mistakes.		
6.	Rate the overall quality of the work.		
7.	Rate the technical competence of the firm and its consultants.		
8.	Rate the integrity and professionalism of the firm.		
9.	If you have a similar contract to undertake in the future, would the firm be considered?  Yes <input type="checkbox"/> No <input type="checkbox"/>		

*Rating:            1=Poor        2=Fair        3=Average        4=Good        5=Excellent*

Signature \_\_\_\_\_

Date \_\_\_\_\_



**EXHIBIT I – Notification of Public Entity Crimes Law**

Pursuant to Section 287.133, *Florida Statutes*, you are hereby notified that a person or affiliate who has been placed on the convicted contractors list following a conviction for a public entity crime may not submit a Proposal on a contract to provide any goods or services to a public entity; may not submit a Proposal on a contract with a public entity for the construction or repair of a public building or public work; may not submit Qualifications on leases or real property to a public entity; may not be awarded or perform work as a contractor, supplier, sub-Proposer, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017 [F.S.] for Category Two [\$35,000.00] for a period of thirty-six (36) months from the date of being placed on the convicted contractors list.

Acknowledged by:

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Firm Name

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Signature

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Name and Title (Print or Type)

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Date

**EXHIBIT J – Truth-in-Negotiation Certificate**

The undersigned warrants:

- i) that it has not employed or retained any company or person, other than bona fide employees working solely for the undersigned, to solicit or secure the Agreement and
- ii) that it has not paid or agreed to pay any person, company, corporation, individual, or firm other than its bona fide employees working solely for the undersigned or agreed to pay any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of the Agreement.

The undersigned certifies that the wage rates and other factual unit costs used to determine the compensation provided for in the Agreement are accurate, complete, and current as of the date of the Agreement.

This document must be executed by a Corporate Officer.

Name:

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Title:

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Date:

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Signature:

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**EXHIBIT K – Village Clerk’s Office ADA Compliancy Statement**

The Village of Tequesta strives to be an inclusive environment. As such, it is the Village’s policy to comply with the requirements of Title II of the American with Disabilities Act of 1990 (“ADA”) by ensuring that the Contractor’s [agreement /bid documents and specifications] are accessible to individuals with disabilities. To comply with the ADA, the Contractor shall provide a written statement indicating that all [ agreement /bid documents and specifications], from Contractor, including files, images, graphics, text, audio, video, and multimedia, shall be provided in a format that ultimately conforms to the Level AA Success Criteria and Conformance Requirements of the Web Content Accessibility Guidelines 2.0 (Dec. 11, 2008) (“WCAG 2.0 Level AA”), published by the World Wide Web Consortium (“W3C”), Web Accessibility Initiative (“WAI”), available at the Web Content Accessibility Guidelines [page \(http://www.w3.org/TR/WCAG\)](http://www.w3.org/TR/WCAG).

**Required Confirmation:**

I, \_\_\_\_\_, have read the above compliancy statement and confirm the agreement, bid documents and specifications, including files, images, graphics, text, audio, video, and multimedia, contained within this bid packet are accessible to individuals with disabilities and conforms to the Level AA Success Criteria and Conformance Requirements of the Web Content Accessibility Guidelines 2.0.

\_\_\_\_\_  
Representative Signature

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

## EXHIBIT L - Palm Beach County "Cone of Silence" Code

### **Sec. 2-355. - Cone of silence.**

*(a) "Cone of silence" means a prohibition on any communication, except for written correspondence, regarding a particular request for proposal, request for qualification, bid, or any other competitive solicitation between:*

*(1) Any person or person's representative seeking an award from such competitive solicitation; and*

*(2) Any county commissioner or commissioner's staff, any member of a local governing body or the member's staff, a mayor or chief executive officer that is not a member of a local governing body or the mayor or chief executive officer's staff, or any employee authorized to act on behalf of the commission or local governing body to award a particular contract.*

*(b) For the purposes of this section, a person's representative shall include but not be limited to the person's employee, partner, officer, director, consultant, lobbyist, or any actual or potential subcontractor or consultant of the person.*

*(c) The cone of silence shall be in effect as of the deadline to submit the proposal, bid, or other response to a competitive solicitation. The cone of silence applies to any person or person's representative who responds to a particular request for proposal, request for qualification, bid, or any other competitive solicitation, and shall remain in effect until such response is either rejected by the county or municipality as applicable or withdrawn by the person or person's representative. Each request for proposal, request for qualification, bid or any other competitive solicitation shall provide notice of cone of silence requirements and refer to this article.*

*(d) The provisions of this article shall not apply to oral communications at any public proceeding, including pre-bid conferences, oral presentations before selection committees, contract negotiations during any public meeting, presentations made to the board or local municipal governing body as applicable, and protest hearings. Further, the cone of silence shall not apply to contract negotiations between any employee and the intended awardee, any dispute resolution process following the filing of a protest between the person filing the protest and any employee, or any written correspondence at any time with any employee, county commissioner, member of a local municipal governing body, mayor or chief executive officer that is not a member of the local municipal governing body, or advisory board member or selection committee member, unless specifically prohibited by the applicable competitive solicitation process.*

*(e) The cone of silence shall not apply to any purchases made in an amount less than the competitive bid threshold set forth in the county purchasing ordinance (County Code, chapter 2, article III, division 2, part A, section 2-51 et seq.) or municipal ordinance as applicable.*

*(f) The cone of silence shall terminate at the time the board, local municipal governing body, or a county or municipal department authorized to act on behalf of the board or local municipal governing body as applicable, awards or approves a contract, rejects all bids or responses, or otherwise takes action which ends the solicitation process.*

*(g) Any contract entered into in violation of the cone of silence provisions in this section shall render the transaction voidable.*

**EXHIBIT M – Draft Contract**

THIS CONTRACT is entered into by and between the VILLAGE OF TEQUESTA (VILLAGE), a municipal corporation and \_\_\_\_\_ (CONTRACTOR), as follows

WITNESSETH:

**WHEREAS**, pursuant to RFP #2020-130/01 (the RFP) the VILLAGE accepted competitive proposals for Financial Advisory Services (the Services); and

**WHEREAS**, the Services are delineated in the RFP; and

**WHEREAS**, this Contract, the RFP and the CONTRACTOR's Response constitute the entire Contract and describe the Services to be provided; and

**WHEREAS**, after evaluation of price and other evaluation criteria specified in the RFP, the evaluation committee and the Village Council of the Village of Tequesta, Florida, the VILLAGE has determined that the most responsive and responsible proposal was submitted by CONTRACTOR and that CONTRACTOR has the necessary resources, experience and ability to perform the contract at a competitive price; and

**WHEREAS**, the VILLAGE has awarded the contract to CONTRACTOR for the Services on \_\_\_\_\_, 20\_\_\_, Resolution No 20\_\_\_/\_\_\_;

**NOW THEREFORE**, be it agreed by and between the parties as follows:

ARTICLE I

INTRODUCTION AND SCOPE OF SERVICES

- 1.1 The above referenced Whereas clauses are true and correct and made a part hereof.
- 1.2 This Contract, the RFP, together with the response to the RFP of CONTRACTOR shall constitute the entire Contract, except to the extent specifically modified on Attachment "A" Additional Terms and Conditions. The parties agree that the scope of services is a description of CONTRACTOR's obligations and responsibilities and is deemed to include preliminary considerations and prerequisites, and all labor, materials, equipment, and tasks which are such an inseparable part of the work described that exclusion would render performance by CONTRACTOR impractical, illogical, or unconscionable.
- 1.3 Except as specifically modified herein, CONTRACTOR shall be bound by the terms and conditions and prices as set forth in the RFP and the CONTRACTOR'S Response to the RFP. When the terms and conditions of this Contract may be read as consistent with the RFP, then and in that respect, the terms of both the RFP and this Contract shall be read as being consistent and shall be binding on both parties. Where terms and conditions of this Contract contradict anything as set forth in the RFP or the response to

the RFP, then the terms and conditions of this Contract shall be binding and in full force and effect to the extent of any inconsistency.

- 1.4 This is a non-exclusive contract. The VILLAGE may, in its sole and absolute discretion, utilize other parties to provide any of the services listed in the RFP, or any aspect of the Services if the VILLAGE deems it to be in the best interest of the VILLAGE.
- 1.5 CONTRACTOR acknowledges and agrees that the Contract Administrator has no authority to make changes that would increase, decrease, or otherwise modify the Scope of Services to be provided under this Contract.

## ARTICLE 2

### TERM AND TIME OF PERFORMANCE

- 21 The initial term of the Contract shall be three (3) years, beginning November 1, 2020 and ending October 31, 2023. The Village reserves the right in its sole discretion, and upon mutual consent of both parties, to renew the contract for two (2) additional one (1) year renewal terms.
- 22 Time shall be deemed to be of the essence in performing the duties, obligations and responsibilities required by this Contract.

## ARTICLE 3

### COMPENSATION

- 31 The VILLAGE shall compensate the CONTRACTOR for services provided by the CONTRACTOR, VILLAGE agrees to pay CONTRACTOR, in the manner specified in the RFP, the amounts set forth in CONTRACTOR's Response for work actually performed and completed pursuant to this Contract, which amount shall be accepted by CONTRACTOR as full compensation for all such work. It is acknowledged and agreed by CONTRACTOR that this amount is the maximum payable and constitutes a limitation upon VILLAGE's obligation to compensate CONTRACTOR for its services related to this Contract. This amount, however, does not constitute a limitation, of any sort, upon CONTRACTOR's obligation to perform all items of work required by or which can be reasonably inferred from the Scope of Services. No amount shall be paid to CONTRACTOR to reimburse its expenses.
- 32 The CONTRACTOR and the VILLAGE shall abide by the Local Government Prompt Payment Act, FL SS. 218.70-218.80.

ARTICLE 4

TERMINATION OR SUSPENSION

- 4.1 This Contract may be terminated for convenience by the VILLAGE. Termination for convenience by the VILLAGE shall be effective on the termination date stated in written notice provided by VILLAGE, which termination date shall be not less than thirty (30) days after the date of such written notice. This Contract may also be terminated by the Village Manager upon such notice as the Village Manager deems appropriate under the circumstances in the event the Village Manager determines that termination is necessary to protect the public health or safety. The parties agree that if VILLAGE erroneously, improperly or unjustifiably terminates for cause, such termination shall be deemed a termination for convenience, which shall be effective thirty (30) days after such notice of termination for cause is provided.
- 4.2 This Contract may be terminated for cause for reasons including, but not limited to, CONTRACTOR's repeated (whether negligent or intentional) submission for payment of false or incorrect bills or invoices, failure to suitably perform the work; or failure to continuously perform the work in a manner calculated to meet or accomplish the objectives as set forth in this Contract.
- 4.3 Notice of termination shall be provided in accordance with the "NOTICES" section of this Contract except that notice of termination by the Village Manager, which the Village Manager deems necessary to protect the public health, safety, or welfare may be verbal notice that shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Contract.
- 4.4 In the event this Contract is terminated for convenience, CONTRACTOR shall be paid for any services properly performed under the Contract through the termination date specified in the written notice of termination. CONTRACTOR acknowledges and agrees that it has received good, valuable and sufficient consideration from VILLAGE, the receipt and adequacy of which are, hereby acknowledged by CONTRACTOR, for VILLAGE's right to terminate this Contract for convenience.
- 4.5 In the event this Contract is terminated for any reason, any amounts due CONTRACTOR shall be withheld by VILLAGE until all documents are provided to VILLAGE pursuant to Section 6.2 of Article 6.
- 4.6 Should at any time during the term of this contract, including any option terms, the CONTRACTOR is in violation of any of the terms and conditions of this contract, the Village shall have the right to suspend the CONTRACTOR until the violation is resolved to the satisfaction of the Village. If the violation is not promptly resolved or is of such serious nature that the Village determines that suspension is not adequate, the Village reserves the right to terminate for cause.
- 4.6.1 In the event a CONTRACTOR is terminated, the Village may assign the contract to another CONTRACTOR, or seek a new CONTRACTOR, until the contract is re-let, or until the end of the contract term then in effect, at its sole option and shall reserve all legal remedies for damages and other relief.

ARTICLE 5EEO AND ADA COMPLIANCE

- 5.1 CONTRACTOR shall not unlawfully discriminate on the basis of race, color, national origin, sex, religion, age, political affiliation or disability in the performance of this Contract, the solicitation for or purchase of goods or services relating to this Contract, or in subcontracting work in the performance of this Contract. CONTRACTOR shall include the foregoing or similar language in its contracts with any subcontractors or subconsultants, except that any project assisted by the U.S. Department of Transportation funds shall comply with the non-discrimination requirements in 49 C.F.R. Parts 23 and 26, as amended. Failure to comply with the foregoing requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as VILLAGE deems appropriate.
- 5.2 CONTRACTOR shall not unlawfully discriminate against any person in its operations and activities or in its use or expenditure of funds in fulfilling its obligations under this Contract. CONTRACTOR shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded by VILLAGE, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards. In addition, CONTRACTOR shall take affirmative steps to ensure nondiscrimination in employment against disabled persons.

ARTICLE 6MISCELLANEOUS

- 6.1 RIGHTS IN DOCUMENTS AND WORK  
Any and all reports, photographs, surveys, and other data and documents provided or created in connection with this Contract are and shall remain the property of VILLAGE; and, if a copyright is claimed, CONTRACTOR grants to VILLAGE a non-exclusive license to use the copyrighted item(s) indefinitely, to prepare derivative works, and to make and distribute copies to the public. In the event of termination of this Contract, any reports, photographs, surveys, and other data and documents prepared by CONTRACTOR, whether finished or unfinished, shall become the property of VILLAGE and shall be delivered by CONTRACTOR to the Contract Administrator within seven (7) days of termination of this Contract by either party. Any compensation due to CONTRACTOR shall be withheld until all documents are received as provided herein.
- 6.2 AUDIT RIGHT AND RETENTION OF RECORDS  
VILLAGE shall have the right to audit the books, records, and accounts of CONTRACTOR and its subcontractors that are related to this Project. CONTRACTOR and its subcontractors shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Project. All books, records, and accounts of CONTRACTOR and its subcontractors shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, CONTRACTOR or its subcontractor, as applicable, shall make same available at no cost to VILLAGE in written form.

CONTRACTOR and its subcontractors shall preserve and make available, at reasonable times for examination and audit by VILLAGE, all financial records, supporting documents, statistical records, and any other documents pertinent to this Contract for the required retention period of the Florida Public Records Act, Chapter 119, Florida Statutes, as may be amended from time to time, if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Contract. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is applicable to CONTRACTOR's and its subcontractors' records, CONTRACTOR and its subcontractors shall comply with all requirements thereof; specifically to:

- a. Keep and maintain public records that ordinarily and necessarily would be required by the public agency in order to perform the service.
- b. Provide the public with access to public records on the same terms and conditions that the public agency would provide the records and at a cost that does not exceed the cost provided in Chapter 119 or as otherwise provided by law.
- c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.
- d. Meet all requirements for retaining public records and transfer, at no cost, to the public agency all public records in possession of the contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the public agency in a format that is compatible with the information technology systems of the public agency.
- e. If Contractor does not comply with this section, the Village shall enforce the contract provisions in accordance with the contract and may unilaterally cancel this contract in accordance with state law.

No confidentiality or non-disclosure requirement of either federal or state law shall be violated by CONTRACTOR or its subcontractors. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for VILLAGE's disallowance and recovery of any payment upon such entry.

CONTRACTOR shall, by written contract, require its subcontractors to agree to the requirements and obligations of this Section 6.2.

### 6.3 COMPLAINTS AND DISPUTES:

All complaints concerning misconduct on the part of the Contractor or disputes between Village staff and the Contractor are referred to the Village Manager or his designee, who shall conduct investigations and inquiries, including discussions with the Contractor and involved staff. The determinations of the Village Manager or designee shall be binding upon the parties, and failure of the CONTRACTOR to follow any such determination could be considered a material breach and subject the CONTRACTOR to termination for cause. The CONTRACTOR agrees that any complaints received by the Village concerning misconduct on the part of the CONTRACTOR, such as excessive charges, poor business practices etc., will be

referred to the Office of the Village Manager for appropriate action. The CONTRACTOR agrees to make any complaints concerning the Village of Tequesta available to the Office of the Village Manager for action as required.

6.3.1 INDEMNIFICATION: The Contractor shall at all times indemnify, hold harmless and, at Village Attorney’s option, defend or pay for an attorney selected by Village Attorney to defend the Village of Tequesta, its officers, agents, servants, and employees from and against any and all causes of action, demands, claims, losses, liabilities and expenditures of any kind, including attorney fees, court costs, and expenses, caused or alleged to be caused by intentional or negligent act of, or omission of the Contractor, its employees, agents, servants, or officers, or accruing, resulting from, or related to the subject matter of this Contract including, without limitation, any and all claims, losses, liabilities, expenditures, demands or causes of action of any nature whatsoever resulting from injuries or damages sustained by any person or property. In the event any lawsuit or other proceeding is brought against the Village by reason of any such claim, cause of action or demand, the Contractor shall, upon written notice from the Village, resist and defend such lawsuit or proceeding by counsel satisfactory to the Village or, at Village’s option, pay for an attorney selected by the Village Attorney to defend Village. The provisions and obligations of this section shall survive the expiration or earlier termination of this Contract. To the extent considered necessary by the Contract Administrator and the Village Attorney, any sums due Contractor under this Contract may be retained by Village until all of Village’s claims for indemnification pursuant to this Contract have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by Village.

6.4 THIRD PARTY BENEFICIARIES

Neither CONTRACTOR nor VILLAGE intends to directly or substantially benefit a third party by this Contract. Therefore, the parties agree that there are no third party beneficiaries to this Contract and that no third party shall be entitled to assert a right or claim against either of them based upon this Contract.

6.5 NOTICES

Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail, postage prepaid, return receipt requested, or sent by commercial express carrier with acknowledgement of delivery, or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

FOR VILLAGE:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

FOR CONTRACTOR:

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6.6 MATERIALITY AND WAIVER OF BREACH

VILLAGE and CONTRACTOR agree that each requirement, duty, and obligation set forth herein was bargained for at arms-length and is agreed to by the parties in exchange for quid pro quo, that each is substantial and important to the formation of this Contract and that each is, therefore, a material term hereof.

VILLAGE's failure to enforce any provision of this Contract shall not be deemed a waiver of such provision or modification of this Contract. A waiver of any breach of a provision of this Contract shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Contract.

6.7 SEVERANCE

In the event a portion of this Contract is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless VILLAGE or CONTRACTOR elects to terminate this Contract. An election to terminate this Contract based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

6.8 JOINT PREPARATION

Each party and its counsel have participated fully in the review and revision of this Contract and acknowledge that the preparation of this Contract has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other. The language in this Contract shall be interpreted as to its fair meaning and not strictly for or against any party.

6.9 WAIVER OF JURY TRIAL

By entering into this contract, CONTRACTOR, and VILLAGE hereby expressly waive any rights either party may have to a trial by jury of any civil litigation related to this contract.

6.9.1 VENUE; CHOICE OF LAW

The parties waive the privilege of venue and agree that all litigation between them in the state courts shall take place in Palm Beach County, Florida and that all litigation between them in the federal courts shall take place in the US District Court for the Southern District of Florida. This RFP, any contract that results therefrom and any other matter associated herewith shall be governed by the laws of the State of Florida.

6.10 AMENDMENTS

No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Contract and executed by the Board and CONTRACTOR or others delegated authority to or otherwise authorized to execute same on their behalf.

6.11 PRIOR CONTRACTS

This document represents the final and complete understanding of the parties and incorporates or supersedes all prior negotiations, correspondence, conversations, Contracts, and understandings applicable to the matters contained herein. The parties agree that there is no commitment, Contract, or understanding concerning the subject matter of this Contract that is not contained in this written document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representation or Contract, whether oral or written.

6.12 REPRESENTATION OF AUTHORITY

Each individual executing this Contract on behalf of a party hereto hereby represents and warrants that he or she is, on the date he or she signs this Contract, duly authorized by all necessary and appropriate action to execute this Contract on behalf of such party and does so with full legal authority.

6.13 MULTIPLE ORIGINALS

Multiple copies of this Contract may be executed by all parties, each of which, bearing original signatures, shall have the force and effect of an original document.

6.14 OFFICE OF THE INSPECTOR GENERAL

Pursuant to Article XII of the Palm Beach County Charter, the Office of the Inspector General has jurisdiction to investigate municipal matters, review and audit municipal contracts and other transactions, and make reports and recommendations to municipal governing bodies based on such audits, reviews or investigations. All parties doing business with the Village shall fully cooperate with the inspector general in the exercise of the inspector general's functions, authority and power. The inspector general has the power to take sworn statements, require the production of records and to audit, monitor, investigate and inspect the activities of the Village, as well as contractors and lobbyists of the Village in order to detect, deter, prevent and eradicate fraud, waste, mismanagement, misconduct and abuses.

6.15 PUBLIC RECORDS

In accordance with Sec. 119.0701, Florida Statutes, Contractor must keep and maintain this Agreement and any other records associated therewith and that are associated with the performance of the work described herein and in Contractor's proposal. Upon request from Village's custodian of public records, Contractor must provide Village with copies of requested records, or allow such records to be inspected or copied, within a reasonable time in accordance with access and cost requirements of Chapter 119, Florida Statutes. Should Contractor fail to provide the public records to Village, or fail to make them available for inspection or copying, within a reasonable time, Contractor may be subject to attorney's fees and costs pursuant to Sec. 119.0701, Florida Statutes, and other penalties under Sec. 119.10, Florida Statutes. Further, Contractor shall ensure that any exempt or confidential records associated with this Agreement or associated with the performance of the work described herein and in Contractor's proposal are not disclosed except as authorized by law for the duration of the Agreement term, and following completion of the Agreement if Contractor does not transfer the records to the Village. Finally, upon completion of the Agreement, Contractor shall transfer, at no cost to the Village, all public records in possession of Contractor, or keep and maintain public records required by the Village. If Contractor transfers all public records to the Village upon completion of the Agreement, Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.

Contractor shall be entitled to retain a copies of documents it creates for record purposes, pursuant to the requirements of this Article and Chapter 119, Florida Statutes. If Contractor keeps and maintains public records upon completion of the Agreement, Contractor shall meet all applicable requirements for retaining public records. Records that are stored electronically must be provided to Village, upon request from Village's custodian of public records, in a format that is compatible with Village's information technology systems.

**IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, PLEASE CONTACT THE VILLAGE CLERK, RECORDS CUSTODIAN FOR THE VILLAGE, AT (561) 768-0685, OR AT [lmcwilliams@tequesta.org](mailto:lmcwilliams@tequesta.org), OR AT 345 TEQUESTA DRIVE, TEQUESTA, FLORIDA 33469.**

**IN WITNESS WHEREOF** the parties have caused these presents to be executed.

Witnesses:

\_\_\_\_\_  
\_\_\_\_\_

**VILLAGE OF TEQUESTA**

By: \_\_\_\_\_  
ABIGAIL BRENNAN, MAYOR

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

ATTEST:

\_\_\_\_\_  
LORI MCWILLIAMS, MMC, VILLAGE CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
KEITH W. DAVIS, ESQ., VILLAGE ATTORNEY

**CONTRACTOR MUST EXECUTE THIS CONTRACT AS INDICATED BELOW. USE CORPORATION OR NONCORPORATION FORMAT, AS APPLICABLE.**

[If incorporated sign below.]

CONTRACTOR

ATTEST:

\_\_\_\_\_  
(Name of Corporation)

\_\_\_\_\_  
(Secretary)

By \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Corporate Seal)

\_\_\_\_\_  
(Type Name/Title Signed Above)

\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

[If not incorporated sign below.]

CONTRACTOR

WITNESSES:

\_\_\_\_\_

\_\_\_\_\_  
(Name)

\_\_\_\_\_

By (Signature)

\_\_\_\_\_  
(Type Name Signed Above)

\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

VILLAGE REQUIRES THREE (3) FULLY-EXECUTED CONTRACTS, FOR DISTRIBUTION