

# The City of Lake Worth



## PREQUALIFICATION PROCEDURES & APPLICATION Construction Projects –Excess of \$25,000.00

*Where the Tropics Begin*



## PREQUALIFICATION PROCEDURES TIMETABLE

The anticipated schedule for the prequalification and evaluation process is as follows:

- Prequalification Application & Attachment Due Date January 15, 2016 (5 PM)
- Evaluation by Committee Within 60 Days of Due Date
- Notice of Prequalification Prior to April 1, 2016

The City reserves the right to amend the anticipated schedule as it deems necessary.

## PREQUALIFICATION PERIODS

Prequalification periods will be for one (1) year. Renewals will not require a new application but will require updated data on bonding, safety experience, change in corporate status or address and any other information requested by the City of Lake Worth.

Fully completed Prequalification packages in sealed envelopes will be received by the Public Services Department until 5:00 p.m. on January 15, 2016 in order to be prequalified for projects going out to bid or RFP after April 1, 2016. The City anticipates that most contractors will be prequalified within 60 days of submittal.

The City's prequalification committee will meet twice a year to prequalify contractors. Contractors must submit an application by January 15<sup>th</sup> in order to be prequalified for projects bid after April 1<sup>st</sup> in that year and an application must be submitted by July 31<sup>st</sup> in order to be prequalified for projects bid after October 1.

**Fully completed Prequalification packages should be hand delivered or mailed to:**

**City of Lake Worth  
Attn: Public Services Administration  
1749 3<sup>rd</sup> Avenue South  
Lake Worth, FL 33460**

## **PREQUALIFICATION PROCEDURES**

### **1. GENERAL PROVISIONS**

#### 1.1 Applicability and Scope

All Contractors, for construction projects estimated to exceed \$25,000 in cost and where the bid, RFP or competitive solicitation requires the prequalification, must be prequalified every year in accordance with the provisions of this Procedure to be eligible to be awarded such Construction Projects, **requiring prequalification in the bid, RFP or other competitive solicitation**, EXCEPT that such prequalification is not required if:

- A. The Contractor is prequalified pursuant to a separate prequalification process specific to that project;
- B. The City awards a contract based on piggyback or co-op purchase or other method where the City is not issuing a bid, RFP or other competitive solicitation;
- C. The City waives the requirement for prequalification for good cause shown and in the best interest of the City.

#### 1.2 Definitions

Appeal Board. The board, appointed to hear appeals from the Prequalification Committee which shall consist of the Public Services Director, Water Utility Director and the Electric Utility Director.

Application. The “Contractor’s Prequalification Application” form prepared by the City to be used to request prequalification and provide information upon which the City will rely.

Building Construction. A Construction Project that consists predominately of the construction of a building, but that may include non-building construction work including roadway construction, the installation of traffic signals, landscaping, and/or paving. Such projects include all subcontracted work necessary to complete the project.

Business Days. All days on the calendar except Saturdays, Sundays, and holidays officially recognized by the City of Lake Worth.

City. “City” means the City of Lake Worth.

Claim. Any appeal, proceeding, or other process for additional consideration of a Dispute, including litigation, that is initiated by the Contractor and to which the adverse party (example - project owner) did not consent.

Committee. The Prequalification Committee.

Construction Equipment. Equipment and appurtenances owned or leased by applicant that are required to complete work in category seeking prequalification.

Construction Projects. Projects being developed by the City as stated in the advertisement for bids with a scope of work that encompasses the construction of on-the-ground improvements including roads, bridges, paths, wharves, piers, buildings, underground utilities and other public infrastructure. It does not include planning, appraisal, design, survey or other engineering services unless such services are to be provided by the Contractor and are specifically within the scope of Work.

Contractor. Individuals, partnerships, corporations, limited liability companies, joint ventures or other entities that desire to submit bids on Construction Projects.

Days. Unless the context clearly indicates otherwise, “days” means Business Days.

Deliver or Delivery. “Deliver” or “Delivery” means Receipt by the person to whom the materials are to be delivered, or their authorized representative. See definition of “Received or Receipt”.

Disputes. Disputes include disagreements, matters in question, and differences of opinion between the Contractor (and those working for or through the Contractor) and an adverse party (example - project owner) regarding matters related to the Work including interpretation of and compliance with the contract, compensation and costs, time for performance, and quality.

Filing. “Filing” means Receipt by the person with whom the materials are to be filed, or their authorized representative. See definition of “Received or Receipt”.

Fiscal Year. October 1<sup>st</sup> through September 30<sup>th</sup> of any year.

Key Personnel. Personnel the loss of whom is likely to impact the cost, quality, timeliness, or conformance of project Work provided for the City as reasonably determined by the Contractor.

Marine Construction. A Construction Project that consists predominately of the construction of marine facilities including seawalls, docks, wharves, piers and related waterside or landside facilities, but that may include non-marine construction work including roadway construction and/or paving. Such projects include all subcontracted work necessary to complete the project.

Number and Classifications of Employees. Number of employees for each category, i.e.; skilled laborers, unskilled, supervisors, foreman, equipment operators, administrative, etc.

Predecessor Entities. Any individual or entity that was legally organized at any time during the past five years (even if not operating) and that was previously owned, operated, or controlled to a Significant degree by the Contractor requesting prequalification, or that Contractor’s owners, officers, or Key Personnel.

Predominately. Unless the context clearly indicates otherwise, “predominately” means not less than 50% of cost.

Prequalification Committee. The committee, appointed by the City with primary responsibility and authority to carry out this Procedure. See Section 3.1 of this Procedure.

Prequalification Periods. One (1) year periods starting and ending on October 1<sup>st</sup>.

Procedure. The procedure and requirements contained in this Contractor's Prequalification Procedure and the accompanying Application.

Project Type. The classification of project for which prequalification may be sought or granted as listed in Section 2 of the Application.

Qualifying Bonding Company. For projects under five hundred thousand dollars, an insurance, bonding, and/or surety company that is acceptable and satisfactory to the City and which meets the requirements of Florida Statutes Section 287.0935. For projects exceeding five hundred thousand dollars, an insurance, bonding, and/or surety company must have a Best Rating of no less than A-VII.

Received or Receipt. Actual receipt by either US mail, overnight courier, service in hand, or fax by the person to whom the materials are addressed, or their authorized representative, with confirmation of receipt originating from such person or their authorized representative.

Recreational Facilities Construction. A Construction Project that predominately consists of the construction of recreational facilities including athletic fields and associated appurtenances such as irrigation systems, sports lighting and playground equipment but that may include non-recreational construction work including building construction, landscaping, and/or paving. Such projects include all subcontracted work necessary to complete the project.

Related Entities. All general partners, joint ventures, parent firms, subsidiaries, or sister firms that (a) are currently legally organized (even if not operating), (b) are owned, operated, or controlled to a Significant degree by the Contractor requesting prequalification, or that Contractor's owners, officers, or Key Personnel.

Roadway Construction. A Construction Project that predominately consists of the construction or reconstruction of a roadway, but that may include non-roadway construction work including bridge construction, sidewalks, landscaping, and/or paving. Such projects include all subcontracted work necessary to complete the project.

Significant. The level or degree that would be reasonably relevant to a party who is contemplating contracting with the Contractor and who is therefore attempting to determine the qualifications, experience, competence, and trustworthiness of the Contractor.

Underground Utilities. A Construction Project that predominately consists of buried conduits for the transport of potable water, wastewater, reclaimed water, storm water, electricity, cable, piping or other City operated utility infrastructure components which may include non-underground utility construction work, such as, paving, curbs, sidewalk or surface restoration. Such projects include all subcontracted work necessary to complete the project.

Work. The furnishing of all labor, materials, equipment, supplies, services, personnel, and other incidentals necessary for the completion of the project in conformity with the contract documents.

### 1.3 Authority

The City has full power in the letting of all contracts for work under its jurisdiction and thus has the authority to determine whether bidders on construction contracts are responsible.

Accordingly, the City has approved this Contractor's Prequalification Procedure and hereby delegates all authority necessary to carry it out as provided in this Procedure.

#### 1.4 Contractor Changes

The Contractor has an ongoing duty to notify the Public Services Director within thirty (30) days of any changes to the information provided in the Application that significantly alters, as reasonably determined by the Contractor, the Contractor's ability to perform the Work required for the Project Types for which it is prequalified. Upon notification by the Contractor or upon discovery by the City, the City may require the Contractor to re-apply for prequalification.

Nothing in this Procedure, the accompanying Application, or any communications from the City regarding prequalification shall be interpreted as depriving the City of the authority to disqualify Contractors, or the authority to reject any bid in the best interest of the City, when, in the discretion of the City, changed circumstances have affected the responsibility and/or qualifications of the Contractor.

#### 1.5 Window for Prequalification and Duration

The City shall offer two windows for contractors to prequalify for construction projects that are competitively solicited during the City's fiscal year. Contractors must submit the required application and materials to the City prior to July 31 in order to be prequalified for projects that will be competitively solicited after October 1. The City will open up another prequalification window where contractors must submit the required application and materials to the City prior to January 15<sup>th</sup> in order to be qualified for construction projects that are competitively solicited after April 1 of the following year. Unless disqualified or otherwise barred from bidding by the City or other entity with competent jurisdiction, Contractors prequalified during one of the windows for prequalification, pursuant to this procedure, shall be considered eligible to be awarded Project Types for which the Contractor is prequalified for the fiscal year period that started October 1.

#### 1.6 Termination of Prequalification

The City may, in its sole discretion, terminate a prequalification status to any contractor based on the City's determination that the contractor no longer meets the standards for prequalification. Once a contractor's prequalification status has been terminated, the contractor must wait for a period of one year before applying to become prequalified.

#### 1.7 Award of Construction Projects to a Contractor

If a prequalified contractor is awarded one or more construction projects, where the construction work, or portions of the construction work, will be performed at the same time or the contractor is currently working on a construction contract and is the apparent low bidder on another construction project, the City, in its sole discretion may not consider the contractor's bid if the City determines, in its sole discretion, that the contractor would not have sufficient resources to perform the additional work and the award of another contract would not be in the best interests of the City.

## 1.8 Term of Prequalification

If contractor is prequalified starting October 1 or April 1, the contractor prequalification will expire as of September 30th of same fiscal year.

## 2. **APPLICATION FOR PREQUALIFICATION**

### 2.1 Requirement to Submit Application

A Contractor shall not be allowed to submit a response to a bid, RFP or competitive solicitation on the construction project types attached to this application, with estimated construction costs exceeding \$25,000, and where there was a requirement in the bid, RFP or competitive solicitation that prequalification was required, until the prequalification process has been completed.

### 2.2 Application Schedule

Regarding the time frame after application, the City anticipates that most Contractors will be prequalified within 60 business days of submitting a complete application package. A full appeal process can take about 3 months within the City. As provided in Section 4 of this procedure, Contractors determined to be not qualified are not eligible for contract awards pending appeal.

### 2.3 Project Types for Prequalification

The Contractor must apply for, and the City may prequalify the Contractor for, one or more of the Project Types listed in Section 2 of the Application. The Project Type for individual projects shall be as stated in the advertisement for bids, or if not stated, shall be determined by the Public Services Director or his/her designee.

### 2.4 Submittal Requirements

The Contractor must honestly, accurately and completely supply all information requested in the Application. Applications will not be considered received until the Public Services Director has received a properly completed Application including all required supporting data. Applications shall not be reviewed by the Committee until properly completed, received and accepted.

### **3. PREQUALIFICATION DETERMINATION**

#### **3.1 Prequalification Committee**

##### **3.1.1 Membership**

The City hereby creates a standing committee, to be known as the Prequalification Committee, with primary responsibility and authority to carry out this Procedure. The City appoints the following City personnel, or their successors, as permanent members of the Committee.

Asst. Director of Public Services, Chair  
Asst. Director of Water Utilities, Vice Chair  
Public Services Project Manager  
Electric Utility Engineer

In the event that any of the above members are unable to serve, or in the event that the Chair determines additional members would be of assistance in the fulfillment of the duties of the Committee, the Chair may appoint other City personnel to serve as alternate or additional members.

##### **3.1.2 Committee Administration**

Committee meetings will be called and scheduled when necessary as determined by the Chair. A quorum shall consist of at least three (3) members. The Chair shall preside at all meetings. In the absence of the Chair, the Vice Chair may assume all authority of the Chair. The Chair or designee shall keep minutes of all meetings, record all decisions, and otherwise document the actions of the Committee.

#### **3.2 Review and Investigation**

The Committee shall review all information provided in the Application. The Committee or its designees may (a) contact any person or entity necessary to verify and/or supplement any of the information requested by or provided in the Application and (b) review information from other published sources of industry information, information from governments and any other significant information.

#### **3.3 Interview and Additional Information**

Whenever the Committee determines that the nature or extent of the information provided in the Application is insufficient or indicates that the Contractor is not qualified, the Committee will contact the Contractor to seek additional information and, if desired by the Contractor, to schedule an interview to discuss the specific reasons that have caused that preliminary determination. The Contractor will submit all additional information requested by the Committee.

#### **3.4 Pass-Fail Evaluation System**

The Committee shall evaluate all the information provided or obtained as a whole on a pass-fail basis to determine whether the Contractor is responsible and qualified. In doing so, the Committee will use the following descriptive categories.



QUALIFIED: With respect to the Project Type under consideration, sufficient information exists to determine that the Contractor is likely to complete the construction project in a manner acceptable to the City.

NOT QUALIFIED: With respect to the Project Type under consideration, the information demonstrates that it is unlikely that the Contractor can complete the construction project in a manner acceptable to the City.

### 3.5 Grounds for Determination of "Not Qualified"

A finding by the Committee based upon substantial evidence that any one of the following conditions exists shall be sufficient grounds, though not mandatory grounds, for an overall determination of "Not Qualified".

1. Unsatisfactory and/or insufficient Contractor experience.
2. Unsatisfactory performance on prior awarded City contracts.
3. Number of personnel with applicable knowledge and experience is insufficient to assure successful completion of the project.
4. Insufficient bonding capability.
5. Safety record below industry standards.
6. Environmental record below industry standards.
7. A denial of prequalification or award of contract, disbarment, or other irregularities with respect to any federal, state, or local government or procurement agencies.
8. A pattern of unsupported Claims.
9. A record of excessive change orders or contract additions.
10. Conviction of a bid or other crime or indictment with substantial evidence regarding the same.
11. Deceptive, evasive or fraudulent statements or omissions contained in the Application, made or omitted at any interview or hearing, or otherwise made to or omitted from the City.
12. Other substantial deficiencies that, in the sole judgment of the Committee, demonstrate that the Contractor is "Not Qualified".
13. Ongoing investigation by the State Attorney, Palm Beach County Office of Inspector General or a local government internal auditor.

### 3.6 Notice of Prequalification

#### 3.6.1 Time and Contents of Notice

If the Contractor submits a timely and conforming Application, the City will deliver to the Contractor a “**Notice of Prequalification**” once a decision has been made. The Notice will set forth the Project Types for which the Contractor is eligible to bid, if any. If the City determines that the Contractor is not qualified for any or all Project Types applied for, said Notice will also set forth the reasons therefore to the extent practical.

## 4. APPEAL

### 4.1 Notice of Appeal

To appeal, the Contractor must deliver a written “Notice of Appeal Regarding Prequalification” to the City Clerk on or before 4:00 P. M. by the fifth full Business Day after the date of receipt of the “Notice of Prequalification” provided under Section 3.6. Such notice must be delivered to the City Clerk’s Office located at 7 North Dixie Highway, Lake Worth, Florida. At a minimum, the “Notice of Appeal Regarding Prequalification” must contain:

- A. The specific errors that the Contractor alleges were made by the City regarding prequalification;
- B. The specific relief sought;
- C. A request to submit additional written materials (if desired);
- D. A request for a Hearing (if desired); and
- E. A designation of counsel or any other party that will be representing the Contractor in the appeal (if any).

### 4.2 Submission of Written Materials

Within ten (10) Business Days of the filing of the Notice of Appeal Regarding Prequalification, the Contractor and the Committee must deliver to the Appeal Board, and to each other, all written materials that each party contends is necessary for the Appeal Board to fairly and objectively evaluate and decide the appeal. Such materials can include evidence or arguments and a request for a hearing.

### 4.3 Hearing

If requested by the Contractor, the Committee, or the Appeal Board, a Hearing will take place within twenty (20) Business Days of the filing of additional written materials by the Contractor and/or the Committee, whichever occurs later, at a time and place determined by the Appeal Board. The parties will have at least 72 hour advance notice of such Hearing. The Contractor and the Committee shall each be afforded the opportunity to be heard.

### 4.4 Decision

The Appeal Board may leave the record of the appeal open for the submission of further evidence or arguments for up to ten (10) business days after the conclusion of the hearing, or to such other mutually agreeable date certain. If no hearing is held, the record of the appeal shall close on the date of filing of additional written materials by the Contractor and the Committee, whichever occurs later.

Unless the Appeal Board reasonably determines that special circumstances exist that justify delay of the decision, the Appeal Board will, within twenty (20) Business Days of the closing of the record:

- A. in writing, revise, modify, or reverse the previous determinations regarding prequalification;
- B. in writing, affirm the said determinations;
- C. in writing, state that the Appeal Board does not intend to take further action; or
- D. take no written action, which shall be considered a decision affirming said determination.

#### 4.5 Final Agency Action

Any written revision, modification, reversal, affirmation, or statement that no further action will be taken from the Appeal Board shall be final agency action as of the date of receipt by the Contractor of such writing. If the Appeal Board takes no written action, the City's latest determinations regarding prequalification shall be final agency action as of the date of expiration of the twenty (20) Business Day period for a decision by the Appeal Board provided in Section 4.4 of this Procedure

#### 4.6 Law and Venue

Any action shall be governed by the Laws of the State of Florida and venue shall be in Palm Beach County.

**APPLICATION**

\_\_\_\_\_  
[Legal Name of Contractor Applying for Prequalification, hereafter “Contractor” or “you”]

**The Contractor Seeks Prequalification for the Following**

\_\_\_\_\_ New Submission Package

\_\_\_\_\_ Prequalification Renewal Package

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**CONTENTS - INFORMATION TO BE SUBMITTED**

1. Basic Information
2. Application for Prequalification Types
3. Organizational Structure & History
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7. Bonding
8. Safety
9. Environmental and Civil Rights Information
10. Financial Status
11. Legal Procedures
12. Certifications Under Oath \*

[City Use Only Below This Line]

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Date Application Received: \_\_\_\_\_

**Contractor Prequalified For The Following Project Types**

- \_\_\_\_\_ Roadway Construction (paving, sidewalks, curbing)
- \_\_\_\_\_ Marine Construction (Wharves, Piers. etc.)
- \_\_\_\_\_ Building Construction
- \_\_\_\_\_ Underground Utilities (water, sewer, stormwater, lift stations)
- \_\_\_\_\_ Recreational Facilities Construction

Date of Prequalification: \_\_\_\_\_

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**INSTRUCTIONS**

1. This Application must be filled out in accordance with all requirements of the City's Prequalification Procedure. The Application and Procedure is available from the City's web site at [www.lakeworth.org](http://www.lakeworth.org) or [www.demandstar.com](http://www.demandstar.com) or from the City's Public Services Department, 1749 3<sup>rd</sup> Avenue South, Lake Worth, FL 33460, telephone 561-586-1720. Do not attempt to complete this form without understanding this Procedure.
2. Unless Contractor meets an exception listed in section 1.1 of the Procedure, Contractor must be prequalified to be awarded Construction Contracts, as defined.
3. Regarding the time frame after application, the City anticipates that most Contractors will be prequalified within 60 business days of applying. A full appeal process can take about 3 months within the City.
4. Please print legibly, type, or word process. Sign in ink. When attaching sheets, please place the question number to which you are responding in the upper right hand corner of each sheet and number the sheets.
5. Note that the person signing this Application must swear that the information provided below is true, accurate, and complete.
6. Attached to this Application is **Exhibit 1**, which is a list of the City's anticipated capital improvement projects.

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**1. Basic Information**

Name of Contractor: \_\_\_\_\_  
[Same as on Cover Page of This Application]

Contact Person(s): \_\_\_\_\_

Telephone No: \_\_\_\_\_ Fax No: \_\_\_\_\_ E-mail: \_\_\_\_\_

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

Federal Tax ID No: \_\_\_\_\_

**2. Project Types For Which Prequalification Is Applied**

[See definitions in section 1.2 of Procedure.]

- \_\_\_\_\_ Roadway Construction (paving, sidewalks, curbing)
- \_\_\_\_\_ Marine Construction (Wharves, Piers. etc.)
- \_\_\_\_\_ Building Construction
- \_\_\_\_\_ Underground Utilities (water, sewer, stormwater, lift stations)
- \_\_\_\_\_ Recreational Facilities Construction

**3. Organizational Structure & History**

3.1 The Contractor is duly organized under the laws of the State of \_\_\_\_\_.

3.2 The Contractor has the following organizational structure.

individual                       corporation     partnership  
 limited liability company    joint venture    other: \_\_\_\_\_

3.3 Please provide the year the Contractor (and not any Predecessor Entities or Related Entities) was first organized. \_\_\_\_\_

3.4 Please list all Predecessor Entities below (or on attached sheets if necessary).

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

3.5 Please list all Related Entities below (or on attached sheets if necessary).

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

3.6 If organized in any state other than Florida or in a foreign country, are you in compliance with all laws and regulations necessary to legally do business in the State of Florida?

Note: If organized in the state of Florida please answer N/A.

YES \_\_\_\_\_ NO \_\_\_\_\_ N/A \_\_\_\_\_

3.7 W-9 Submission – Please submit current W-9 if the City has not received.

**4. Officers and Owners**

4.1 Officers Please list the name, title, and address of current Officers, Directors, Partners, Members, and any other persons with analogous positions, in descending order of degree of control.

Name	Title	Address
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

[Attach additional sheets as necessary.]

4.2 Owners. Please list the name, address, and percentage of ownership of all persons or entities owning 10 percent or more of the Contractor, in descending order of percentage of ownership.

Owner	Address	%
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

[Attach additional sheets as necessary.]

Current President or Chief Executive Officer: \_\_\_\_\_ Years in that position: \_\_

Number of full-time, permanent employees: \_\_\_\_\_ office: \_\_\_\_\_ field: \_\_\_\_\_

How many years has your organization been in business in Florida as a general contractor under your present name and license number? \_\_

The name of any officer, director or agent who is also an employee of the City must be disclosed. Further, all proposers must disclose the name of any City employee who owns, directly or indirectly, an interest in the proposer's firm or any of its branches.

Name \_\_\_\_\_ Percentage of Interest \_\_

### 5. Experience

5.1 Summary of Contractor Experience With respect to each the following Project Types, list the approximate number of years of experience that the Contractor has as a prime contractor or as a subcontractor with primary responsibility. Provide a minimum of three contracts with a construction dollar value greater than \$50,000.00 in cost that were successfully completed within the last five years for each project type that you are requesting prequalification approval. Provide the name of the owner's project manager and general construction information for each project.

<u>Project Type</u>	<u>Years</u>
Roadway Construction	_____
Marine Construction (Wharves, Piers. etc.)	_____
Building Construction	_____
Underground Utilities	_____
Recreational Facilities Construction	_____





5. \_\_\_\_\_ 10. \_\_\_\_\_

[Attach additional sheets as necessary.]

5.5 Liquidated Damages Within the last five years, has the Contractor (or any Predecessor Entities or Related Entities) had liquidated damages assessed against it?

YES \_\_\_\_\_ NO \_\_\_\_\_

If YES, please provide full details on attached sheets including the per diem amount of liquidated damages, the original contract time, and the number of days for which liquidated damages were assessed. Please feel free to include a written summary of your position on the matter.

5.6 Terminations / Suspensions / Defaults

(a) Within the last five years, has a contract of the Contractor (or any Predecessor Entities or Related Entities) been terminated or suspended for cause?

YES \_\_\_\_\_ NO \_\_\_\_\_

(b) Within the last five years, has another party (e.g. surety) completed Work which the Contractor (or any Predecessor Entities or Related Entities) was originally responsible to perform?

YES \_\_\_\_\_ NO \_\_\_\_\_

(c) Within the last five years, has the Contractor (or any Predecessor Entities or Related Entities) been considered in default of a contract that was not cured within the time frame allowed by the contract?

YES \_\_\_\_\_ NO \_\_\_\_\_

If the answer to any of questions 5.6(a) -(c) is YES, please provide full details on attached sheets. Please feel free to include a written summary of your position on the matter.

5.7 Denial of Prequalification or Award

(a) Within the last 5 years, has any federal, state, or local government or procurement agency denied the Contractor (or any Predecessor Entities or Related Entities) prequalification?

YES \_\_\_\_\_ NO \_\_\_\_\_

(b) Within the last 5 years, has any federal, state, or local government or procurement agency, after the Contractor (or any Predecessor Entities or Related Entities) submitted the apparent low bid, refused to award a contract for reasons related to the Contractor's qualifications, experience, competence, or financial situation?

YES \_\_\_\_\_ NO \_\_\_\_\_

If the answer to either of questions 5.7(a) or (b) is YES, please provide full details on attached sheets. Please feel free to include a written summary of your position on the matter.

5.8 Debarments, Etc.

(a) Within the last 5 years, has the Contractor (or any Predecessor Entities or Related Entities) been debarred for any reason by any federal, state, or local government or procurement agencies?

YES \_\_\_\_\_ NO \_\_\_\_\_

(b) Within the last 5 years, has the Contractor (or any Predecessor Entities or Related Entities) refrained from bidding for any reason, such as suspension or agreement not to bid, or as part of the settlement of a Dispute of any type with any federal, state, or local government or procurement agencies?

YES \_\_\_\_\_ NO \_\_\_\_\_

If the answer to either of questions 5.8(a) or (b) is YES, please provide full details on attached sheets. Please feel free to include a written summary of your position on the matter.

5.9 Claims History Within the last 5 years, has the Contractor (or any Predecessor Entities or Related Entities) been a party to a Claim with an originally claimed amount in excess of \$50,000?

YES \_\_\_\_\_ NO \_\_\_\_\_

If YES, please provide full details for each Claim on attached sheets including (a) whether the Claim was brought by or against the Contractor (or any Predecessor Entities or Related Entities), (b) the nature of the Dispute underlying the Claim, (c) originally claimed amounts, (d) the resolution of such Claims (including the amount) or if unresolved, the current status of such Claims, and (e) the name, address and phone number of the primary adverse party who can be contacted for additional information, and (f) a written summary of your position on the matter (if desired).

5.10 Bid or Other Crimes Within the last 10 years, has the Contractor (or any Predecessor Entities or Related Entities), or any officers, owners, or Key Personnel of the same ever been indicted on, convicted of, or plead or consented to a violation of a bid crime including bid collusion or any other crime involving fraud or knowing misrepresentation?

YES \_\_\_\_\_ NO \_\_\_\_\_

If YES, please provide full details on attached sheets. Please feel free to include a written summary of your position on the matter.

5.11 Quality Control Does the Contractor have a written organizational-level quality control plan (as opposed to project-level plans)?

YES \_\_\_\_\_ NO \_\_\_\_\_

If YES, please answer the following two questions.

(a) What year was it first adopted? \_\_\_\_\_

(b) In what year was its substance last revised? \_\_\_\_\_

**6. Key Personnel**

6.1 Please provide the following information for all Key Personnel whose duties consist primarily of one or more the following functions: (a) project management, (b) quality control and (c) safety oversight. [Please feel free to provide this information on attached sheets in another format as long as it contains all the information requested.]

Name	Job Duties (a-c above)	Relevant Licenses or Certifications	Experience (# of Yrs)	Education (Degree or # Yrs)
1 _____	_____	_____	_____	_____
2 _____	_____	_____	_____	_____
3 _____	_____	_____	_____	_____
4 _____	_____	_____	_____	_____
5 _____	_____	_____	_____	_____
6 _____	_____	_____	_____	_____

[Attach additional sheets as necessary.]

**7. Bonding**

7.1 Is the Contractor capable of obtaining from a Qualifying Bonding Company a performance bond and a payment bond each in the amount of the bid prices that the Contractor will be submitting to the City? [See definition of “Qualifying Bonding Company” in section 1.2 of Procedure.] Note: For projects exceeding five hundred thousand dollars, an insurance, bonding, and/or surety company must have a Best Rating of no less than A-VII

YES \_\_\_\_\_ NO \_\_\_\_\_

If YES, please attach a letter from a Qualifying Bonding Company that: (a) states that the said company meets the definition of “Qualifying Bonding Company” set forth in section 1.2 of the Procedure and (b) sets forth the bonding capacity of the Contractor including a specific dollar amount for single project and aggregate amount. Letters indicating “unlimited” bonding capacity are not acceptable. (c) States verification that Bonding Company accepts City Bond Form (sample attached).

If NO, please explain why you cannot meet the bonding standards set forth in question 7.1 above on attached sheets.

**8. Safety**

8.1 Does the Contractor have a written safety program?

YES \_\_\_\_\_ NO \_\_\_\_\_

If YES, please answer the following two questions.

- (a) What year was it first adopted? \_\_\_\_\_
- (b) In what year was its substance last revised? \_\_\_\_\_

8.2 Does the Contractor hold regular work site safety meetings for immediate supervisors?

YES \_\_\_\_\_ NO \_\_\_\_\_

If YES, at what frequency? Weekly \_\_\_\_\_ Monthly \_\_\_\_\_ Other \_\_\_\_\_

8.3 For each of the last three (3) full calendar years, provide the following totals from your “Log and Summary of Occupational Injuries and Illnesses” (US City of Labor, Bureau of Labor Statistics, OSHA No. 200). [Please feel free to attach copies of your OSHA No. 200 logs or to provide this information in another format on attached sheets as long as it contains all the information requested.]

OSHA No. 200 Column #	Description	3 Yrs Ago Yearly Total _____	2 Yrs Ago Yearly Total 20 _____	Last Yr Yearly Total 20 _____
1	# of Injury Related Fatalities	_____	_____	_____
2	# of Injuries Involving Lost or Restricted Workdays	_____	_____	_____
3	# of Injuries Involving Days Away From Work	_____	_____	_____
4	# of Days Away From Work Due To Injuries	_____	_____	_____
5	# of Restricted Workdays Due To Injuries	_____	_____	_____
8	# of Illness Related Fatalities	_____	_____	_____
9	# of Illnesses Involving Lost or Restricted Workdays	_____	_____	_____
10	# of Illnesses Involving Days Away From Work	_____	_____	_____
11	# of Days Away From Work Due To Illnesses	_____	_____	_____
12	# of Restricted Workdays Due To Illnesses	_____	_____	_____

On attached sheets, please feel free to provide other information to aid in the interpretation of the above information including, for example, the ratio of the above line items to total days worked.

8.4 Have you had any accident in the past three years that caused over \$ 50,000 in property damage?  
YES \_\_\_\_\_ NO \_\_\_\_\_

If YES, please provide full details of each such accident on attached sheets.

Please feel free to include a written summary of your positions regarding any of the information provided in this section 8 - Safety.

### **9. Environmental and Civil Rights Information**

9.1 Environmental Record. Within the last 5 years, has the Contractor (or any Predecessor Entities or Related Entities) been found to be in violation of any federal, state or local environmental law or regulation in an administrative, civil or criminal proceeding in which the fact finder found that the Contractor intentionally or knowingly committed the violation and/or failed to comply after having been notified of the violation?

YES \_\_\_\_\_ NO \_\_\_\_\_

If YES, please provide full details, including a summary of your position, on attached sheets.

9.2 Civil Rights Record. Within the last 5 years, has the Contractor (or any Predecessor Entities or Related Entities) had any findings and/or rulings of sexual harassment, discrimination, or other civil rights violations against it?

YES \_\_\_\_\_ NO \_\_\_\_\_

If YES, please provide full details, including a summary of your position, on attached sheets.

### **10. Financial Status**

#### **10.1 Financial Statements**

The City requires an indication of the resources and the necessary working capital available and how it will relate to the Applicant Firm's financial stability through the completion of the project. Include the most recent and two (2) years audited financial statements (including notes), with letter from a C.P.A. including Contractor's latest balance sheet and income statement showing the following items:

1. Current assets, i.e., cash, joint venture account, accounts receivable, notes receivable, accrued income, deposits, materials inventory, and prepaid expenses.
2. Net fixed assets.
3. Other assets.

4. Current liabilities, i.e., accounts payable, notes payable, accrued expenses, provision for income taxes, advances, accrued salaries, and accrued payroll taxes.
5. Other liabilities, i.e., capital, capital stock, authorized and outstanding shares par values, earned surplus, and retained earnings.
6. Name of firm preparing financial statement and date thereof.
7. Dun and Bradstreet report with agreement to pay for additional reports as may be required by the City if the Proposer is selected as a finalist. The Dun and Bradstreet report required will be either DNBi Live Report or DNBi Comprehensive Report.

#### 10.2 Bankruptcies

1. Has the Contractor, parent company, or any of its subsidiaries, ever had a Bankruptcy Petition filed in its name, voluntarily or involuntary? (If yes, specify date, circumstances, and resolution).
2. Has any Majority Shareholder ever had a Bankruptcy Petition filed in his/her name, voluntarily or involuntarily? (If yes, specify date, circumstances, and resolution).

#### 10.3 Liquidated Damages

At any time in the last five years, has your firm been assessed and paid liquidated damages after completion of a project, under a construction contract with either a public or private owner? If yes, what was the amount of liquidated damages paid?

#### 10.4 Loans

Is your firm currently in default of any loan agreement or financing agreement with any bank, financial institution, or other entity? (If yes, specify details, circumstances and prospects for resolution).

#### 10.5 Bonding

1. What is the Contractor's current bonding capacity with a contract surety company for a single project? \_\_\_\_\_ In the aggregate? \_\_\_\_\_
2. Please identify the Contractor's surety company and the current line of bonding credit that company has extended to Contractor and attach documentation of bonding capacity from the surety company:
3. Name, address, and telephone number of current surety agent or underwriting contact:
4. Have Performance or Payment Bond claims ever been made to a surety for this Contractor on any project, past or present? If the answer is Yes, how many claims have been made?
5. If the answer to (4) is yes, please describe the claim, the name of the company or person making the claim, and the resolution of the claim.

6. During the last five years, has your firm ever been denied bond credit by a surety in place during a public construction project when one was required? (If answer is yes, specify the reasons given for that refusal, and the name and address of the surety company that refused to bond).

7. In the past five (5) years, has any surety company refused to bond the Contractor's parent, or subsidiaries, on any project? (If answer is yes, please specify the reasons given for that refusal, and the name of the surety company).

8. Is your firm capable of achieving the following criteria for bonds and insurance; A – VIII rating according to the current AM Best published report?

9. If your firm was required to pay a premium of more than one per cent for a performance and payment bond on any project(s) on which your firm worked at any time during the last three years, state the percentage that your firm was required to pay. You may provide an explanation for a percentage rate higher than one per cent, if you wish to do so.

\_\_\_\_\_ %

## 11. Legal Proceedings

### 11.1 Arbitration

List all construction arbitration demands filed by, or against, the Contractor in the last five years, and identify the nature of the claim, the amount in dispute, the parties and the ultimate resolution of the proceeding.

### 11.2 Lawsuits

List all construction-related lawsuits (including but not limited to personal injury litigation) filed by, or against, the Contractor in the last five years, and identify the nature of the claim, the amount in dispute, the parties, and the ultimate resolution of the lawsuit.

### 11.3 Other Proceedings

1. Identify any lawsuits, administrative proceedings, or hearings initiated by the National Labor Relations Board or similar state agency in the past five years concerning any labor practices of the Contractor Identify the nature of any proceeding and its ultimate resolution.

2. Identify any lawsuits, administrative proceedings, or hearings initiated by the Occupational Safety and Health Administration concerning the project safety practices of the Contractor in the last five years. Identify the nature of any proceeding and its ultimate resolution.

**Note: If you have filed an appeal of a citation and the Occupational Safety and Health Appeals Board has not yet ruled on your appeal, you need not include information about it.**

3. Identify below and submit a list of any OSHA citations and any fines that may have been imposed on your company or organization in the past five years if proposer is a joint-venture or partnership, list citation for both firms

**Note: If you have filed an appeal of a citation and the appropriate appeals Board has not yet ruled on your appeal, you need not include information about it.**

4. Has the EPA or any Air Quality Management District or any Regional Water Quality Control Board cited and assessed penalties against either your firm or the owner of a project on which your firm was the contractor, in the past five years?

**Note: If you have filed an appeal of a citation and the Appeals Board has not yet ruled on your appeal, or if there is a court appeal pending, you need not include information about the citation.**

How often do you require documented safety meetings to be held for construction employees and field supervisors during the course of a project?

5. In the last five years, has any insurance carrier, for any form of insurance, refused to renew the insurance policy for your firm?

6. State your current Workers Compensation Experience Modification Factor.

**NOTE: An Insurance Modification factor is issued to your firm annually by your workers' compensation insurance carrier.**

Current year: \_\_\_\_\_

Previous year: \_\_\_\_\_

Year prior to previous year: \_\_\_\_\_

If the EMF for any of these three years is or was 1.00 or higher, you may, if you wish, attach a letter of explanation.

7. Within the last five years, has there ever been a period when your firm had employees but was without workers' compensation insurance or state-approved self-insurance?

8. Identify any lawsuits, administrative proceedings, or hearings initiated by the Internal Revenue Service, or any State revenue department, concerning the tax liability of the Contractor (other than audits) in the last five years. Identify the nature of any proceeding and its ultimate resolution.

9. Have any criminal proceedings or investigations been brought against the Contractor in the last ten years? (If the answer is yes, please attach a complete and detailed report with your responses to this Questionnaire).

## **12. Certifications Under Oath**

By signing below, the person signing below hereby certifies and swears, **ON OATH**, as follows.

1. I have personal knowledge of all the information contained in this Application OR I am responsible for the accuracy of all such information

2. The information contained in this Application is true and complete.

3. I hereby authorize the City to contact any person or entity necessary to verify or supplement any of the information requested by or provided in this Application without liability, and I hereby further authorize any person or entity contacted to provide any and all information requested without liability.



4. The Contractor has read, understands, and agrees to all terms of the Prequalification Procedure and this Application.

5. I am duly authorized by law and by the Contractor to sign this Application on behalf of the Contractor.

\_\_\_\_\_  
Date

CONTRACTOR

\_\_\_\_\_  
Witness

\_\_\_\_\_  
[Signature]

By: \_\_\_\_\_  
[Name and Title Printed]

State of \_\_\_\_\_  
County of \_\_\_\_\_

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

Then personally appeared the person who signed this page above and acknowledged this instrument to be his or her free act and deed and the free act and deed of the Contractor, and further said person swore, ON OATH, that the statements made under the section 10 entitled "Certifications Under Oath" are true and complete.

\_\_\_\_\_  
[Signature of Notary Public]

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

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