

**Request for Proposal  
No. 2020-001**

**Five Corners Architecture and History Intensive Survey  
& National Register Nomination  
City of Charleston, WV**

Nancy Bliss  
Interim Purchasing Director  
City of Charleston  
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[bids@cityofcharleston.org](mailto:bids@cityofcharleston.org)

**Please be sure the following documents are included in this bid package:**

1. Purchasing Affidavit
2. Purchasing Affidavit for Local Vendor Preference (If applicable)
3. Signed Protest Page
4. Addendum Acknowledgement Form, if an addendum was issued
5. List of Stockholders
6. Warranty Information
7. Manufacturer's Brochures

## INTENT

These specifications are intended to describe the completion of the 5 Corners Architecture and History Intensive Survey and the nomination of the 5 Corners Historic District to the National Register of Historic Places. The details contained in the following specifications are not designed to exclude any manufacturer from bidding but are offered as a means of describing the needs of the City of Charleston. Where brand names are used, the words "or equal" are assumed to follow. All specifications are minimum requirements unless otherwise stated. Any deviations from the stated specifications must be described in detail. The merit of such deviations will be considered with regard to the City of Charleston's intended use.

## INFORMATION FOR BIDDERS

### 1. Receipt and Opening of Bids

The City of Charleston, West Virginia (hereinafter called the City) invites bids on the attached forms. Sealed bids will be received by the City Manager until:

**10:30 a.m., Thursday, February 13, 2020**

The bidding will then be closed. The bid opening will be held immediately following in the City Manager's Office, City Hall Building, 501 Virginia Street, East, Room 101; Charleston, West Virginia. All bidders are invited to attend.

The City may consider incomplete any bid not prepared and submitted in accordance with the provisions herein outlined and may reject any or all bids. Any bid may be withdrawn prior to the above scheduled time for the opening of bids or authorized postponement thereof. Any bid received after the time and date specified will not be opened. No bidder may withdraw a bid after the actual bid opening.

### 2. Preparation of Bid

Each bid must be submitted in a sealed envelope bearing on the outside the name of the bidder, his/her address and **name of the project** for which the bid is submitted with the **bid opening date and time**. Where sealed bids are forwarded by mail, they shall be enclosed in another envelope addressed to the **City Manager's Office, City of Charleston, P.O. Box 2749, Charleston, West Virginia 25330 or 501 Virginia Street East, Charleston, West Virginia 25301 if sent via delivery service**. In addition, the name of the bidder should appear in the upper left-hand corner, with the **name of the project** and the **bid opening date and time** marked plainly on **both** envelopes. This is to ensure the bid being received at the proper location by the proper bidding time and will prevent accidental opening of the main bidding package. **Each package shall include two (2) copies of the proposal, only one proposal will be accepted per bid.**

### **3. Addenda**

All questions pertaining to the specifications shall be submitted in writing to the Interim Purchasing Director, Nancy Bliss via email to [bids@cityofcharleston.org](mailto:bids@cityofcharleston.org) no later than **Tuesday, February 4, 2020 at 5:00pm**. Questions submitted will then be compiled and answered in an addendum to be issued no later than **Thursday, February 6, 2020 at 5:00pm**. The City of Charleston will not be held responsible for oral interpretations of the specifications given by any of its employees, representatives, or others. The issuance of a written addendum is the only official method whereby interpretation, clarification, or additional information pertaining to this RFP can be given. If any addenda are issued to this RFP, it can be found on the city's website at <https://charlestonwv.gov/bids-purchasing/current-bids>. It will be the responsibility of each vendor to determine if any addenda were issued and to make such addenda a part of their competitive proposal.

### **4. Method of Award**

The City Council or City Manager reserves the right to reject any or all bids and is not necessarily bound to accept the lowest bid if that bid is contrary to the best interest of the City. In making an award, intangible factors such as bidder's service, integrity, facilities, equipment, reputation and past performance may be weighed.

Bidders see review the local vendor preference guidelines in Section 9 of this document to understand how the City applies a competitive advantage to certain qualifying vendors.

### **5. Stockholders**

A list of all stockholders by name and address owning 5% or more of the bidder's current stock must be submitted with the bid. In the case of partnerships or sole proprietorships, those receiving a 5% or more share of the company's net profit must be listed.

### **6. Equal Employment Opportunities**

All bidders acknowledge and agree that, in the performance of any City contract, they will not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, sexual orientation, gender identity, disability, or national origin.

### **7. Immigration Reform and Control Act (IRCA)**

By submitting a bid, all bidders in connection with the performance of this project certify that they are in complete compliance with the above noted Act.

### **8. Payment Terms**

The successful bidder may expect payment by the City within thirty (30) days following delivery of a proper invoice and delivery and acceptance of the item(s) purchased and installed or upon performance of contracted services. An acceptance

letter/final invoice must be reviewed and signed by an authorized representative of the Planning Department.

## **9. Local Vendor Preference Guidelines**

Pursuant to Charleston City Code, certain vendors may qualify as a “local vendor,” which may entitle the vendor to receive a competitive advantage during the bid evaluation stage of the procurement process.

A “Local Vendor” means a responsible vendor who has an active and current business and occupation tax account on file with the City Collector for the entire duration of a period of one year preceding the date on which a bid opening occurs.

A local vendor may qualify for a competitive advantage applied to its bid when certain conditions are met:

- a) The vendor must mark on its bid proposal form that it is requesting to be considered a local vendor for bid evaluation purposes.
- b) The vendor must provide with its bid submission documentation showing that it has the right to conduct business in the State of West Virginia.
- c) The vendor must submit an affidavit confirming:
  - i. the vendor has paid all applicable business taxes to the city or it has a non-delinquent payment plan with the City; and
  - ii. the vendor has had an active and current business and occupation tax account with the City Collector during the entire preceding one-year period. (A suitable affidavit for local vendors is included in this solicitation document.)

If a vendor qualifies as a local vendor, a competitive advantage shall be applied in the following manner:

(1) A competitive advantage of 4% shall be applied to the local vendor’s bid when, prior to applying the competitive advantage, the apparent lowest responsible bidder submits a bid that is greater than \$25,000 but does not exceed \$125,000.

(2) The competitive advantage of \$5,000 shall be applied to the local vendor’s bid when, prior to applying the competitive advantage, the apparent lowest responsible bidder submits a bid that is greater than \$125,000.

In evaluating bids, the City Manager shall apply the applicable competitive advantage to a qualifying local vendor by deducting the value of the competitive advantage from the local vendor’s net total bid amount. The resulting amount will be used in evaluating the bids to determine the lowest responsible bidder.

## **10. Business & Occupation Tax**

The City of Charleston imposes a Business & Occupation Privilege Tax for the act or privilege of engaging in business activities within the City of Charleston. Business & Occupation Tax is measured by the application of rates against gross receipts or gross income of the business. All business activities are classified, and the classifications are significant inasmuch as the tax liability varies based on the different rates established for the specific types of business activities.

Individuals or businesses who do not have a physical location or office located in the City of Charleston are also subject to Business & Occupation Tax if they: 1) lease tangible personal property to lessees in Charleston, 2) perform construction or installation contracts in Charleston, or 3) render services in Charleston. Additionally, business or person who sells and/or delivers goods or products in Charleston may also be subject to Business & Occupation Tax.

Business & Occupation Tax should be considered when preparing your bid. If you are uncertain whether your business activity is subject to Business & Occupation Tax or how your business should properly calculate the tax when preparing your bid, please contact the City Collector's Office at (304) 348-8024 or by email at [citycollector@cityofcharleston.org](mailto:citycollector@cityofcharleston.org).

**NOTE: No contract or purchase of materials or equipment will be awarded to a company whose Business & Occupation Tax status is delinquent.**

### **GENERAL CONDITIONS**

- Bid shall be delivered F.O.B. to: City Manager's Office, City of Charleston, 501 Virginia Street East, Room 101; Charleston, West Virginia, 25301.
- **Only one bid will be accepted from each vendor.**
- Services and/or equipment will not be accepted by the City if all mandatory specifications and any other requirements have not been met. Return of the equipment, if necessary, will be at the expense of the bidder.
- Any deviations from the bid specifications must be included on a separate sheet and attached to the bid form. Deviations from mandatory specifications will not be accepted.
- Enclose with this bid proposal all manufacturer brochures, all warranty agreements on equipment proposed, a list of the company's stockholders, the city's Purchasing Affidavit and any other documents as required by the City and described in this document. Firms must acknowledge the City's protest process, attached herein, by submitting a signed copy with their bid proposal. **Bid submissions may not be considered, at the City's discretion, if any of the listed enclosures are not included with the bid submission.**
- Per City Code, facsimile, telephonic or oral bids will not be accepted.
- Debarred vendors may not submit bids or be awarded contracts.
- The City of Charleston is exempt from state and local taxes.
- The City Council or the City Manager reserves the right to reject any and all bids.

- The City may cancel a purchase or contract for any reason or no reason upon providing the vendor with 30 days' notice of the cancellation.

### **DETAILED SPECIFICATIONS**

Firms must warrant that they maintain errors and omissions insurance and are required to carry one-million-dollar policy coverage applicable to work requested in this proposal, with the City of Charleston listed as additional insured.

The firm must indicate any pending legal actions against it.

All bidders acknowledge and agree that, in the performance of any City contract, they will not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, sexual orientation, gender identity, disability, or national origin.

The firm must certify that it is in complete compliance with the Immigration Reform and Control Act (IRCA).

The successful bidder may expect payment by the City within thirty (30) days following the delivery and acceptance of the final invoice.

Firms must submit with their proposals a signed copy of the City's Protest Policy, contained herein. This shall act as acknowledgement of receipt and understanding of said policy by the firm.

The City reserves the right to reject any or all submissions for any reason.

The City of Charleston has a Business and Occupation Tax that may be applicable to the sale of your product and/or service and should be considered when preparing your bid. Companies conducting business with the City of Charleston are not considered exempt from the municipal tax unless specifically exempted from paying tax by the Federal Government. For information on this tax, contact the City Collector's Office at (304) 348-8024.

**NOTE: No contract for the purchase of materials/equipment or services will be awarded to a company whose City tax status is considered delinquent.**

### **SCOPE OF SERVICES**

The Charleston Historic Landmarks Commission is soliciting bids for the completion of the 5 Corners Architecture and History Intensive Survey and the nomination of the 5 Corners Historic District to the National Register of Historic Places. Located in the City of Charleston, Kanawha County, the project is estimated to include approximately 60 buildings within a 17-acre area. The area to be surveyed and nominated encompasses Virginia Street West from Maryland Avenue to Elm Street, and Central Avenue from Delaware Avenue to Elm Street. A map of the area is attached.

### **ARCHITECTURE AND HISTORY INTENSIVE SURVEY** **Services**

The survey work will consist of:

1. The architecture/history intensive survey of approximately 17 acres. The survey

area is located in the City of Charleston, Kanawha County, West Virginia. Specifically, the survey area includes Virginia Street West from Maryland Avenue to Elm Street, and Central Avenue from Delaware Avenue to Elm Street.

2. Completion of research sufficient enough to write brief history on survey area.
3. Completion of standard state survey forms for ALL resources within the survey area that were constructed prior to 1970, regardless of historic integrity.
4. Completion of photographic documentation of all surveyed resources. Prints are not required. Photographs may be embedded on the survey form and/or continuation sheets. When prints are not submitted, project must be accompanied by CD-R or USB Flash Drive media with accompanying TIFF images. Photos must be saved by SHPO survey number.
5. Completion of USGS maps detailing resource locations labeled with SHPO assigned numbers.
6. Completion of local maps depicting the following:
  - a. any district boundary recommended as eligible for the National Register
  - b. contributing and noncontributing status of each structure
  - c. vacant lots
  - d. local features such as roads, rivers, parks, etc.
7. Completion of a final survey report that will combine all of the above plus a short history of the area surveyed, kinds of properties looked for, boundaries of the area surveyed, methodology, information on integrity, and a summary of results/recommendations.

### **Methodology**

The survey will be conducted in accordance with the Secretary of the Interior's Standards for Identification and Evaluation and the SHPO survey manual. Any deviations should be pre-approved by and documented with the SHPO.

### **Survey Products**

1. Completed, archival WV Historic Property Inventory Forms with photographs attached and/or embedded (original set to SHPO).
2. CD-R or USB Flash Drive with complete HPIs saved as individual PDF documents named with the SHPO number.
3. Two copies of the HPI forms (one copy to SHPO on archival CD-R or USB Flash Drive and one to Charleston Historic Landmarks Commission).
4. Negatives or CD-R or USB Flash Drive media with TIFF images. Photographs must be saved by SHPO survey number.
5. USGS maps and area maps labeled with final SHPO numbers.
6. Four copies of survey report (one original archival hard copy report and one electronic PDF copy on a CD-R or USB Flash Drive to SHPO, one hard copy to Charleston Historic Landmarks Commission and one CD-R or USB Flash Drive).

### **NATIONAL REGISTER NOMINATION**

#### **Services**

1. Finalizing district boundaries in consultation with the State Historic Preservation Office (SHPO) and the Charleston Historic Landmarks Commission using the

survey and other historic documents.

2. Preparing the standard NPS National Register of Historic Places Registration Form and supplemental materials. The registration form shall be submitted in hard copy and on a CD-R or USB Flash Drive in MS Word and pdf.
3. Presentation and defense of the nomination to the WV Archives and History Commission at a date determined by the SHPO.
4. Making all changes suggested by the SHPO, WV Archives and History Commission, and/or the National Park Service. This may occur after the final payment.

### **Methodology**

The nomination will be prepared following the Secretary of the Interior's Standards for Registration using the appropriate National Register Bulletins (including "How to Complete the National Register of Historic Places Registration Form") and other requirements outlined by the NPS and WV SHPO.

### **Nomination Products**

1. Representative 5"x7" photographs of the district's important features, including streetscapes and views of representative contributing and noncontributing properties. The photographs must meet the current NPS Photograph policy and prints from digital cameras must be accompanied by CD-R or USB Flash Drive media. Two sets provided to SHPO; one set to CHLC.
2. A map showing:
  - a. district boundaries
  - b. all resources keyed to Section 7 of the registration form (including garages and outbuildings)
  - c. contributing and noncontributing status
  - d. empty lots and parking lots
  - e. local features such as roads, rivers, parks
  - f. photograph vantage points
  - g. key, north arrow, county, state, and name of property
3. A labeled USGS topographic quad map showing district boundaries and UTM coordinates folded according to SHPO standards or other map meeting the NPS mapping requirements.
4. A PowerPoint presentation showing the district that is suitable for presentation to the WV Archives and History Commission. This must meet SHPO requirements. This will be submitted to the SHPO.
5. ESRI ArcMap compatible shapefiles or file geodatabase including contributing structures identified by building footprints.

### **QUALIFICATIONS**

The consultant must meet the following qualifications:

- Academic and/or professional certification in the field of architectural history as defined by 36 CFR 61. At minimum, all work must be supervised and edited by qualified professional.
- Have successfully completed a similar project previously in the last two years and be able to submit samples.
- Ability to complete the project by September 1, 2020 and meet all contract

deadlines.

## **PROPOSAL FORMAT AND CONTENTS**

Three (3) Copies of a firm's proposal shall be submitted no later than 10:30am, Thursday, February 13, 2020, and shall include:

- Letter of interest including bid proposal with breakdown itemizing survey and Nation Register nomination costs separately. Failure to meet requirements will result in disqualification of this bid.
- Vita or proof of qualifications.
- Sample of a complete survey (report, 10 HPI's, cemetery form and map from one project) project completed by the Consultant. (Samples will not be returned).
- Sample of a complete and listed National Register of Historic Places nomination form.
- Three references for similar projects successfully completed within last five years (preferably within West Virginia).

**Firms may not be considered, at the City's discretion, if any of the above listed items are not included with the submitted proposal.**

## **SELECTION PROCESS**

The proposals shall be reviewed by members of the Planning Department and other City personnel as appropriate. Proposals shall be evaluated according to the following criteria:

- |   |                    |
|---|--------------------|
| • Cost Estimate   | 0-30 points        |
| • Proven ability to successfully meet all project milestones<br>And complete project by contract deadline | 0-40 points        |
| • Experience in conducting architectural/history surveys  | 0-10 points        |
| • Experience with National Register nominations   | 0-10 points        |
| • References from projects completed in the last<br>two years.  | <u>0-10 points</u> |

Maximum Points: 100 points

## **PAYMENT PROCESS**

The consultant will be reimbursed for services rendered and will not be reimbursed for travel and other expenses. The consultant will be paid in three increments, the first two tied to the satisfactory completion of specific stages in the survey process; the balance (equal to or more than first two payments) to be paid after approval by the SHPO. The consultant should allow up to four weeks for the payment of all invoices.

## **INQUIRIES**

Further questions regarding the project may be directed to Nancy Bliss at [nancy.bliss@cityofcharleston.org](mailto:nancy.bliss@cityofcharleston.org), or by calling 304-348-8014.

## EXCEPTIONS AND DEVIATIONS

Bidder shall fully describe every variance, exception and/or deviation. Please include with your bid form. Additional sheets may be used if required. **NOTE: Deviation from identified mandatory specifications will not be accepted.**

[illegible]

**CITY OF CHARLESTON  
BID AND PROPOSAL FORM**

**Project: Five Corners Architecture and History Intensive Survey – 2020-001**

I agree to provide the City of Charleston a Five Corners Architecture and History Intensive Survey & National Register Nomination, as described in the attached specifications for the price listed below:

Item	Cost
Architecture and History Intensive Survey	\$

Completion date: \_\_\_\_\_ days from date of signed contract.

☐

**Business & Occupation Tax Acknowledgment:** By checking this box and signing below, I hereby certify and attest I have read the Business & Occupation Tax statement found in Section 10 of the specifications document and understand that Business & Occupation Tax may apply to the sale of products or service to the City of Charleston.

☐

**Equal Employment Opportunity Acknowledgment:** I certify that the vendor practices equal employment opportunity practices, as required in Section 6 of this document.

☐

**Local Vendor Preference:** We would like to be considered a Local Vendor under the City's Local Vendor Preference program, and we have submitted the required documents to properly qualify as a Local Vendor, as required in Section 9 of the specifications document.

\_\_\_\_\_  
Authorized Bidder's Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Printed/Typed Bidder's Name

\_\_\_\_\_  
Date

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

Address: \_\_\_\_\_  
Street City State Zip

Telephone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

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

**CITY OF CHARLESTON PURCHASING AFFIDAVIT**

**VENDOR OWING A DEBT TO THE STATE OR POLITICAL SUBDIVISION:**

**West Virginia Code §5A-3-10a** provides that: No contract or renewal of any contract may be awarded by the state or any of its political subdivisions to any vendor or prospective vendor when the vendor or prospective vendor or a related party to the vendor or prospective vendor is a debtor and the debt owed is an amount greater than one thousand dollars (\$1,000) in the aggregate.

**PUBLIC IMPROVEMENT CONTRACTS & DRUG-FREE WORKPLACE ACT:**

If this is a solicitation for a public improvement construction contract, the vendor, by its signature below, affirms that it has a written plan for a drug-free workplace policy in compliance with Article 1D, Chapter 21 of the **West Virginia Code**. The vendor **must** make said affirmation with its bid submission. Further, public improvement construction contracts may not be awarded to a vendor who does not have a written plan for a drug-free workplace policy in compliance with Article 1D, Chapter 21 of the **West Virginia Code** and who has not submitted that plan to the appropriate contracting authority in a timely fashion. For a vendor who is a subcontractor, compliance with Section 5, Article 1D, Chapter 21 of the **West Virginia Code** may take place before their work on the public improvement is begun.

**ANTITRUST:**

In submitting a bid to any agency for the state of West Virginia, the bidder offers and agrees that if the bid is accepted, the bidder will convey, sell, assign or transfer to the state of West Virginia all rights, title and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the state of West Virginia for a price fixing and/or unreasonable restraints of trade relating to the particular commodities or services purchased or acquired by the state of West Virginia. Such assignment shall be made and become effective at the time the purchasing agency tenders the initial payment to the bidder.

I certify that this bid is made without prior understanding, agreement or connection with any corporation, firm, limited liability company, partnership or person or entity submitting a bid for the same materials, supplies, equipment or services and is in all respects fair and without collusion or fraud. I further certify that I am authorized to sign the certification on behalf of the bidder, or this bid.

**LICENSING:**

Vendors must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, the West Virginia Insurance Commission or any other state agencies or political subdivision. Furthermore, the vendor must provide all necessary releases to obtain information to enable the Director or spending unit to verify that the vendor is licensed and in good standing with the above entities.

**CONFIDENTIALITY:**

The vendor agrees that he or she will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the agency, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the agency's policies, procedures and rules. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in <http://www.state.wv.us/admin/purchase/privacy/noticeConfidentiality.pdf>.

Under penalty of law for false swearing (**West Virginia Code §61-5-3**), it is hereby certified that the vendor affirms and acknowledges the information in this affidavit and is in compliance with the requirements as stated.

Vendor's Name: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_



CITY OF CHARLESTON, WEST VIRGINIA  
**PURCHASING AFFIDAVIT**  
(for use by Local Vendors)

Pursuant to § 2-480 of the Charleston City Code, a Local Vendor may qualify for a competitive advantage applied to its bid when certain conditions are met. One condition requires the vendor to submit this affidavit confirming that **(1)** the vendor has paid all applicable business taxes to the City or has a non-delinquent payment plan with the City, and **(2)** the vendor must state that it has had an active and current business & occupation tax account with the City Collector during the entire one-year period prior to the bid opening.

**AFFIRMATION:** By signing this form, the vendor's authorized signer affirms and acknowledges under the penalty of law for false swearing (W. Va. Code § 61-5-3) that **(1)** the vendor has paid all applicable business taxes to the City or has a non-delinquent payment plan with the City, and **(2)** the vendor has had an active and current business & occupation tax account with the City Collector during the entire one-year period prior to the scheduled bid opening for the procurement listed below.

WITNESS THE FOLLOWING SIGNATURE:

Vendor's Corporate Name: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_  
(Printed Name and Title)

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

County of \_\_\_\_\_, to wit:

Taken, subscribed, and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

[SEAL]

\_\_\_\_\_

Notary Public

My Commission expires \_\_\_\_\_, 20 \_\_\_\_.

\*\*\*\*\*

Name of Procurement: \_\_\_\_\_ Bid Opening Date: \_\_\_\_\_

## **PROTEST**

In the event that any vendor desires to protest City's selection, such vendor (hereinafter "Protestor") shall submit its protest in writing, no later than seven calendar days after the council approves of the award following a formal solicitation and bid opening process administered by the city. When the due date for the protest submission falls on a legal holiday, the protest must be received during the next business day. The vendor is responsible for knowing the bid opening and award dates. Protests received late may be rejected at the option of the city manager. Provided that the City Manager reserves the right to extend the time for submission of the protest if he determines it is reasonable under the circumstances.

The written protest must be submitted to the City Manager's Office, Attention: Jonathan Storage 501 Virginia Street East, Room 101; Charleston, WV 25301.

Only vendors who have submitted a timely and responsive proposal may protest City's selection. No protest may be filed if the RFP is withdrawn or if all proposals received in response to the RFP are rejected.

Protests shall include the following information:

- (1) The name and address of the protestor;
- (2) The solicitation number;
- (3) A statement of the grounds of protest;
- (4) Supporting documentation, if necessary; and
- (5) The resolution or relief sought.

Failure to submit this information shall be grounds for rejection of the protest by the city manager. The city manager shall review the matter of protest and issue a written decision. A hearing may be conducted at the option of the city manager. Continuation or delay of a contract award is at the discretion of the city manager. The decision of the city manager is final and is not appealable. The city manager may refuse to review any protests when the matter involved is the subject of litigation before a court of competent jurisdiction; if the merits have previously been decided by a court of competent jurisdiction; or if it has been decided by the city manager in a previous protest. Provided that the City Manager reserves the right to extend the time for submission of the protest if he determines it is reasonable under the circumstances.

At the time of submitting the written protest, Protestor shall submit a certified check in the amount of one thousand dollars (\$1,000.00) or bond equal to five percent (5%) of the price of the selected proposal, whichever is greater. In the event the proposal being protested is for contracted services, an estimated average of the contract value will be determined in order to calculate the five percent (5%) bond value. This bonding requirement is designed to protect against frivolous claims and unnecessary expenditures of public funds and to allow City to offset any and all costs, fees, expenses or damages of any kind whatsoever incurred by City as the result of an unsuccessful protest.

In the event the protest is unsuccessful, the certified check or bond will be used by City to recoup any and all costs, fees, expenses, or damages of any kind whatsoever incurred by City and

related in any way to the unsuccessful protest. Costs, fees, expenses, and damages shall include, but shall not be limited to, increased costs of labor, materials or services resulting from any delay, professional fees, including, but not limited to, attorney fees, and all costs, fees or expenses of any kind whatsoever related in any way to the unsuccessful protest. By signing this document, Protestor waives the right to receive any money retained by City as set forth herein. If there are any funds remaining after City has recouped amounts as permitted herein, the remaining funds will be returned to Protestor. In the event Protestor is successful, the full amount of the certified check or bond will be returned to Protestor.

Upon receipt of a timely written protest, City shall provide notice of the protest to vendor selected as the successful bidder (hereinafter "Selected Vendor") and provide Selected Vendor with a copy of the written protest and any documents related thereto. **Selected Vendor will have five (5) business days to file a written response to the protest.** A hearing will be held within five (5) business days of the **date of receipt of the written protest by Selected Vendor**; provided that, City may, in its sole discretion, set the date of the hearing beyond the five (5) day time period specified herein if deemed necessary or convenient to do so by City. At the hearing, both Protestor and Selected Vendor will have an opportunity to appear and present evidence and testimony in support of their positions. The hearing will be held before the City Manager or his designee. The department head of the department seeking the RFP and the City Attorney shall be in attendance.

A decision will be made by City within five (5) business days of the hearing. Upon a decision having been made, both Protestor and Selected Vendor will be notified in writing of City's decision.

In the event City's selection is reversed, City will reevaluate all proposals which were originally and timely submitted, in accordance with state and city laws and regulations. During the reevaluation, issues addressed during the protest proceedings may be considered.

Once a written protest is filed, no work will be performed by Selected Vendor until such time as City has rendered a final decision on the protest; provided that, if City, in its sole discretion, determines time is of the essence regarding receipt of the goods or completion of the services to be performed, City may permit Selected Vendor to proceed pursuant to its proposal and any Agreement with City, until/unless the protest is successful.

The decision by the City Manager is final and is not appealable.

**By submitting a proposal, each vendor agrees that the procedure outlined herein is the exclusive remedy available to challenge/protest the award of a contract to a successful bidder. Each vendor further agrees that, in the event any qualified vendor fails to submit a written protest and certified check or bond within the time period specified, that vendor thereby forever waives its right to any further claim, action, or remedy, including, but not limited to, the right to bring an action before any administrative agency or any court of competent jurisdiction.**

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Vendor Signature

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Date