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**CITY OF MARATHON, FLORIDA
RESOLUTION 2003-075**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
MARATHON, FLORIDA, ADOPTING DESIGN-BUILD PROCEDURES**

WHEREAS, the City of Marathon, Florida (the "City") may from time to time desire to utilize a single firm for the design and construction of certain public construction projects ("Design-Build Firm"); and

WHEREAS, in order to engage Design-Build Firms, municipalities must adopt their own procedures for the award of Design Build contracts pursuant to Section 287.055(1)(c), Florida Statutes; and

WHEREAS, the City Council finds that it is in the best interests of the City to adopt Procedures for the Selection of Design-Build Firms.

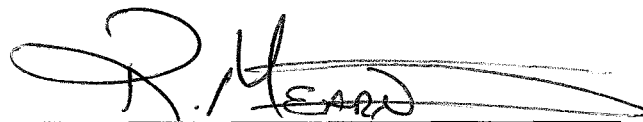
NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, AS FOLLOWS:

Section 1. The City hereby adopts the Procedures for the Selection of a Design-Build Firm attached to this Resolution as Exhibit "A," and incorporated herein by this reference (the "Design-Build Procedures").

Section 2. This resolution shall take effect immediately upon adoption.

PASSED AND APPROVED by the City Council of the City of Marathon, Florida, this 13th day of May, 2003.

THE CITY OF MARATHON, FLORIDA

A handwritten signature in black ink, appearing to read "R. Mearns", written over a horizontal line.

Randy Mearns, Mayor

AYES: Bartus, Pinkus, Repetto, Worthington, Mearns
NOES: None
ABSENT: None
ABSTAIN: None

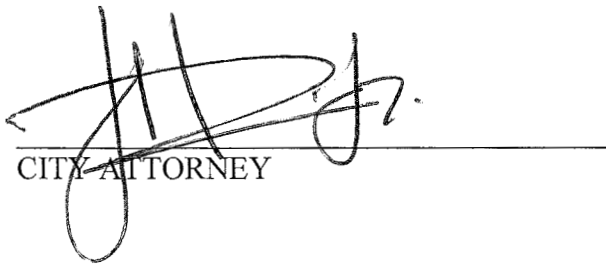
ATTEST:



Cindy L. Ecklund
City Clerk

(City Seal)

APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:



CITY ATTORNEY

City of Marathon
Procedures for Selection of Design-Build Firms

In accordance with Section 287.055, Florida Statutes, design-build services for the City of Marathon shall be procured and awarded by the City in accordance with the following policy.

Section 1. – Definitions

- a. "City" means the City of Marathon, Florida; or when in reference to evaluation of proposals mean the City Manager, his designee or a committee appointed to evaluate proposals.
- b. "Compensation" means the total amount paid by the City for professional services.
- c. "Design-build firm" means a partnership, corporation, or other legal entity that (1) is certified under Section 489.119, Florida Statutes to engage in contracting through a certified or registered building contractor as the qualifying agent; or (2) is certified under Section 471.023, Florida Statutes to practice or to offer to practice engineering; certified under Section 481.219, Florida Statutes to practice architecture; or certified under Section 481.319, Florida Statutes to practice or to offer to practice landscape architecture.
- d. "Design build contract" means a single contract with a design-build firm for the design and construction of a public construction project.
- e. "Design criteria package" means concise, performance-oriented drawings or specifications of the public construction project. The purpose of the design criteria package is to furnish sufficient information to permit design-build firms to prepare a bid or a response to a City's request for proposal, or to permit an agency to enter into a negotiated design-build contract. The design criteria package must specify performance-based criteria for the public construction project, including the legal description of the site, survey information concerning the site, interior space requirements, material quality standards, schematic layouts and conceptual design criteria of the project, cost or budget estimates, design and construction schedules, site development requirements, provisions for utilities, storm-water retention and disposal, and parking requirements applicable to the project.
- f. "Design criteria professional" means a firm who holds a current certificate of registration under Chapter 481, Florida Statutes to practice architecture or landscape architecture or a firm who holds a current certificate as a registered engineer under Chapter 471, Florida Statutes to practice engineering and who is employed by or under contract to the agency for the providing of professional architect services, landscape architect services, or engineering services in connection with the preparation of the design criteria package.

- g. "Firm" means any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice architecture, engineering, or surveying and mapping in the state.

Section 2. – Design Criteria Package

A Design Criteria Package must be prepared and sealed by a Design Criteria Professional employed by or retained by the City. If the City elects to enter into a professional services contract for the preparation of the Design Criteria Package, then the Design Criteria Professional must be selected and contracted with under the requirements of Section 287.055, Florida Statutes, subsections (4) and (5). A Design Criteria Professional who has been selected to prepare the Design Criteria Package is not eligible to render services under a Design-build Contract executed pursuant to the Design Criteria Package.

The Design Criteria Package shall explain the design and construction of each design-build project (the "Design Criteria"). The purpose of the Design Criteria Package shall be to furnish Design-build Firms with sufficient information to allow the firms to prepare a response to the City's RFP. The Design Criteria shall specify applicable performance-based criteria for the design-build project. The Design Criteria may include, but is not limited to:

- (a) the legal description of the site;
- (b) survey information concerning the site;
- (c) interior space requirements;
- (d) material quality standards;
- (e) schematic layouts and conceptual design criteria;
- (f) cost or budget estimates;
- (g) design and construction schedules;
- (h) site development requirements;
- (i) provisions for utilities;
- (j) storm water retention and disposal; and
- (k) parking requirements.

The Design Criteria shall be weighted for each project prior to distribution of the Design Criteria Package.

Section 3. – Public Announcement and Qualifications Procedures

- (a) Public Announcement - The City shall publicly announce when it seeks to purchase professional services for a project the basic construction cost of which the City estimates to exceed the threshold amount provided in Florida Statutes, section 287.017 for Category Five or for a planning or study activity when the fee for professional services exceeds the threshold amount provided in Florida Statutes, section 287.017 for Category Two, except in cases of valid public emergency certified by the City Manager. The public notice shall include a general description of the project and must indicate how interested consultants may apply for consideration.

- (b) Qualification Procedures – Any firm or individual desiring to provide professional services to the City must be certified by the City as fully qualified to render the required service. The City shall consider at least the following factors when certifying whether a firm or individual is fully qualified to render the required service:
- i. experience of the firm or individual;
 - ii. adequacy of personnel;
 - iii. past record of the firm or individual;
 - iv. capabilities of the firm or individual; and
 - v. any other factors appropriate for the project.

Section 4. - Selection Process

Design-build Contracts may be awarded by the City through the use of either a competitive selection process, as described in Section A below, or by the use of a qualifications-based selection process, as described in Section B.

A. Competitive selection process – Proposals for design-build projects selected under this method shall be solicited from design-build firms using a Request for Proposal (“RFP”). The RFP shall set forth a brief description of the design-build project, the type of information and data required of each responding design-build firm, any appropriate design criteria for the project, and the evaluation criteria to be used in determining the most qualified firm. Unless otherwise set forth in the RFP, the RFP shall contain the criteria, procedures and standards for the evaluation of proposals based on price, technical and design aspects of the project. Numerical weightings for each evaluation criteria shall also be set forth in the RFP. At the date, time, and place specified in the RFP, the City Clerk shall prepare a register containing a list of all proposals received.

1. Design Build Firm Information - Each RFP shall require every design-build firm preparing a response to the RFP to include the following in its response:
 - (a) a statement of interest; and
 - (b) a statement of qualifications setting forth the firm’s
 - i. experience and reputation;
 - ii. track record as indicated by the quality and timeliness of completed designs and projects;
 - iii. organizational approach; and
 - iv. project team qualifications
2. Evaluation of Proposals
 - (a) The City shall evaluate each of the proposals submitted in accordance with the criteria set forth in the RFP. The City may require design-build firms to make oral presentations. The City shall rank each of the proposals and place not less than three (3) firms, provided that at least

three proposals have been received, on a short list (the "Short List"). If less than three (3) firms submit proposals, than the number of proposals received shall be the Short List. The City shall then award the contract to the highest rank Design-build Firm that is able to negotiate a contract with the City. Alternatively, the City Council may reject any or all proposals.

3. Exceptions for Emergencies - In the case of a public emergency, the City Manager may declare an emergency and authorize negotiations with the best qualified design-build firm available at the time in lieu of utilizing the competitive selection process provided for herein, in accordance with Section 287.055(10)(c)(6), Florida Statutes.

B. Qualifications-based selection process - Proposals for design-build projects selected under this method shall be solicited in accordance with the criteria set forth in Sections 1 and 2 below. The Design-build Firm selected under this method is subsequently required to establish a guaranteed maximum price and guaranteed completion date.

1. Competitive Selection

The City shall evaluate the current statements of qualifications and performance data on file, if any, together with those submitted by other firms concerning the proposed project. The City shall conduct discussions with, and may require public presentations by no fewer than three (3) firms regarding their qualifications, approach to the project, and ability to furnish the required services. The City shall select in order of preference no fewer than three (3) firms deemed to be the most highly qualified. If less than three (3) firms submit qualifications, then the City may require public presentations by those firms submitting qualifications. The City shall consider such factors as:

- (a) ability of the professional personnel;
- (b) the firm's willingness to meet time and budget requirements;
- (c) location of the firm;
- (d) the firm's recent, current and projected workload;
- (e) the volume of work previously awarded to the firm; and
- (f) any other factors appropriate for the project.

2. Competitive Negotiation

The City shall negotiate a contract with the most qualified firm for professional services at compensation which the City determines is fair, competitive and reasonable. In making such a determination, the City shall conduct a detailed analysis of the cost of professional services required in addition to considering their scope and complexity.

If the City is unable to negotiate a satisfactory contract with the firm considered to be the most qualified at a price the City determines to be fair, competitive, and reasonable, negotiations with that firm will be formally terminated. The City shall then undertake negotiations with the second most qualified firm. If the City fails to reach an accord with the second most qualified firm, then negotiations with that firm will be formally terminated and the City shall undertake negotiations with the third most qualified firm.

If the City is unable to negotiate a satisfactory contract with any of the selected firms, then the City shall select additional firms in the order of their competence and qualifications and continue negotiations until an agreement is reached.

Section 5. - Truth-in-Negotiation Certificate Required - For any lump-sum or cost-plus-a-fixed-fee professional service contract over the threshold amount provided in Florida Statutes, section 287.017 for Category Four, the City shall require the firm receiving the award to execute a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting. The truth-in-negotiation certificate must also contain a provision that the original contract price and any additions thereto will be adjusted to exclude any significant sums by which the City determines the contract price was increased due to inaccurate, incomplete, or non-current wage rates or factual unit costs. All such contractual adjustments must be made within the one (1) year following the end of the contract.

Section 6. - Change in Law

In the event that Section 287.055, Florida Statutes, is amended subsequent to the adoption of these Procedures for Selection of Design-build Firms, these procedures shall be automatically amended to be in conformance with the amended statute. Any conflict between these procedures and Section 287.055, Florida Statutes, shall be construed in favor of the statute.