

5. A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE RIVIERA BEACH COMMUNITY REDEVELOPMENT AGENCY (THE AGENCY) APPROVING AN AMENDMENT TO THE SECTION 3.13 OF THE AGENCY'S ADOPTED POLICIES AND PROCEDURES (PROCUREMENT POLICIES AND PROCEDURES) FOR THE ADOPTION OF PREFERENCES AND INCENTIVES FOR BID CONSIDERATION; PROVIDING AN EFFECTIVE DATE. (ATTACHMENT - #5)

RESOLUTION NO. 2012-___

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE RIVIERA BEACH COMMUNITY REDEVELOPMENT AGENCY (THE AGENCY) APPROVING AN AMENDMENT TO THE SECTION 3.13 OF THE AGENCY'S ADOPTED POLICIES AND PROCEDURES (PROCUREMENT POLICIES AND PROCEDURES) FOR THE ADOPTION OF PREFERENCES AND INCENTIVES FOR BID CONSIDERATION; PROVIDING AN EFFECTIVE DATE.

* * * * *

WHEREAS, the Agency has adopted a Procurement Policies and Procedures which adopts by reference the City of Riviera Beach's minority participation plan; and

WHEREAS, the City of Riviera Beach has amended and adopted a revised Preferences and Incentives for its Procurement Code which the Agency desires to adopt as an amendment to its Adopted Procurement Policies and Procedures.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE RIVIERA BEACH COMMUNITY REDEVELOPMENT AGENCY THAT:

SECTION 1. The Agency hereby approves and adopts the Preferences and Incentives hereto as Exhibit "A" as a section of the Riviera Beach Community Redevelopment Agency Procurement Policy.

SECTION 2. This resolution shall be effective immediately upon its adoption.

[Signatures on attached page]

PASSED AND ADOPTED this 22nd day of February, 2012

**RIVIERA BEACH COMMUNITY
REDEVELOPMENT AGENCY**

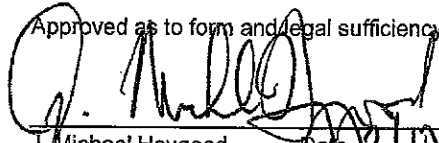
ATTEST:

By: _____
Name: **Judy L. Davis**
Title: **Chairperson**

Executive Director

MOTION BY: _____
SECONDED BY: _____

B. BROOKS _____
D. PARDO _____
C. THOMAS _____
S. LOWE _____
J. DAVIS _____

Approved as to form and legal sufficiency


J. Michael Haygood Date 2/10/2012
Haygood & Harris LLC
General Counsel to CRA

EXHIBIT "A"

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(1) Supply of Personnel. The City's Purchasing Department is authorized, at its discretion, upon written request from another Public Procurement Unit or External Procurement Activity, to provide personnel to the requesting Public Procurement Unit or External Procurement Activity. The Public Procurement Unit or External Procurement Activity making the request may pay the Public Procurement Unit providing the personnel the direct and indirect cost of furnishing the personnel, in accordance with an agreement between the parties.

Sec. 9-106. Public Procurement Units in compliance with Code Requirements.

Where the Public Procurement Unit or External Procurement Activity administering a cooperative purchase complies with the requirements of this Code, any Public Procurement Unit participating in such a purchase shall be deemed to have complied with this Code. Public Procurement Units may not enter into a cooperative purchasing agreement for the purpose of circumventing this Code.

Sec. 9-107. Contract Prices Established by Other Governmental Units.

The City may purchase any item or service except as otherwise prohibited by State or Federal law, at the same contract price as established by another governmental unit if the Purchasing Department or other City Using Department determines that the price is such that following Article 3 herein (Source Selection and Contract Formation) is not warranted. Such contracts, by way of example, are a contract price by another Florida municipality established by competitive bidding (piggybacking) or source selection similar to Article 3, herein; a price established by a so-called State contract or a price established by a department or division of the United States Government, such as the General Services Administration.

ARTICLE 10 - PREFERENCES AND INCENTIVES

PART A – Preferences for Local Vendors

Sec. 10-101. Definitions.

For the purposes of this section the following definitions shall apply:

(1) Local Business. A local business, for the purposes of the application of a local vendor preference, means a bidder or proposer which has a permanent, physical place of business within the city limits, and a valid business tax receipt applicable to

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the required goods, services, or construction items being procured. Post office boxes or locations at a postal service center are not verifiable and shall not be used for the purpose of establishing said physical address. If the business is a joint venture/partnership, it is sufficient for qualification as a local business if at least one party of the joint venture/partnership meets the test set forth in this Section. The bidder/proposer shall have the burden of demonstrating that it meets this definition.

(2)Non-Local business. A bidder or proposer which is not a local business as defined herein.

Sec. 10-102. Lowest Responsible Bidder.

In the event the lowest responsive, responsible bidder or the highest ranked responsive, responsible proposer in the procurement of goods, services or construction is a non-local business, then all bids and/or proposals from responsive, responsible local businesses to the same solicitation shall be adjusted by five percent, (5%) solely for the purpose of determining bid/contract award. The bid price of local bidders will be adjusted downward by five percent (5%) only for purposes of evaluating and ranking of bidders, not to exceed \$25,000. In no event, shall the application of this adjustment to a responsive quote or bid change the actual bid amount. Further, in no event will it cause the City to pay more than \$25,000 above the amount bid by the non-local vendor which would have been recommended for award if the local vendor preference had not been applied.

If the application of the five percent (5%) local vendor preference causes the evaluated local vendor price to be less than the actual low-bid price, but the actual bid price of the local vendor is more than five percent (5%) (or \$25,000, whichever is applicable) than the actual low-bid price of a non-local vendor, then the non-local vendor submitting the actual low-bid, shall be viewed as the low-bidder, and be recommended for award, unless for reasons other than price, the bid is not found to be responsive and/or responsible.

The determination as to whether a bidder or proposer is a local or non-local business shall be made by the Purchasing Department, after confirming the vendor has a valid business tax receipt and certificate of occupancy, as reflected within the

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Business Master File of the City's FMS system. The bidder or proposer does not have to be a current vendor to the City (City as a customer) at the time of bidding/proposing, but must have been issued a business tax receipt applicable to the goods/services/construction being requested, prior to the due date/time for bids/proposals. Prior to making an award through the application of the local vendor preference, city staff may require a bidder or proposer to provide additional information at any time prior to the award.

Example:

The City receives bids/proposals from four (4) businesses in response to a formal public solicitation. Each company is determined to be responsive and responsible and eligible for award of the contract. Two bidders/proposers are local companies with business operations located in Riviera Beach, the other two (2) businesses are non-local companies with permanent business operations located in other communities. The following bid/proposal amounts were received:

Service/Goods	XYZ Corporation West Palm Beach, FL	John Smith Corp. Riviera Beach, FL	Golden Eagle Inc. Weston, FL	First Rate, LLC Riviera Beach, FL
Park Improvements	\$135,000	\$109,000	\$100,000	\$104,000
5% Local Preference Downward Adjustment	N/A	5% of \$109,000 = <\$5,450>	N/A	5% of 104,000 = <\$5,200>
Adjusted Bid Amounts for Purposes of Ranking Only	\$135,000	\$103,550	\$100,000	\$98,800

The apparent low bidder is Golden Eagle Inc. of Weston, Florida; however, since the lowest responsive, responsible bidder is a non-local business, then all bids and/or proposals from responsive, responsible local businesses are adjusted by five (5) percent solely for the purpose of determining bid/contract award.

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The bid prices for John Smith Corp. and First Rate, LLC, local bidders, will be adjusted downward by five percent (5%) for purposes of ranking the bidders/proposers. After application of the five percent (5%) local preference, First Rate, LLC, a local Rivera Beach business, is ranked as the low bidder.

The ranking is only for purposes of determining award of the bid/proposal. The contract amount for First Rate, LLC will be \$104,000; the same as its bid.

Sec. 10-103. Incentive for vendors who sub-contract at least 25% of Contract with local businesses.

If no Riviera Beach Company bids on a contract or responds to a proposal, preference will be given to non-local businesses which submit bids/proposals that utilize local Riviera Beach businesses for at least 25% of the contract award amount.

Sec. 10-104. Other Minimum Qualifications.

The above preference criteria are based on the fact the company awarded the Contract will have met all other qualifications necessary to provide the goods/services being bid. These qualifications include, but are not limited, whether the SBE format has been achieved, experience, bond capacity, insurance requirements, financial capacity, and references. Failure to meet these qualifications and others as required by the general and special conditions of the bid will cause the bid to be rejected.

Part B – Small Business Enterprise Participation Goal

Sec. 10-201. Definitions.

For the purposes of this section only the following definitions shall apply:

(1) Acting as a conduit means, in part, not acting as a regular dealer by making sales of material, goods or supplies from items bought, kept in stock and regularly sold to the public, as opposed to only government agencies, in the usual course of business. Brokers, manufacturer's representatives, sales representatives and non-stocking distributors are considered as conduits that do not perform a commercially useful business function.

(2) Affiliation means that the entity applying for SBE certification controls, has the power to control, or is controlled by another entity or entities, or identify of interest exists between the entity applying for SBE certification and another entity or

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entities. In determining whether an affiliation exists, it is necessary to consider factors including, but not limited to, common ownership, common management, common use of facilities, equipment, and employees, contractual obligations and family interest in the business. Affiliated entities must be considered together in terms of gross receipts in determining whether a business entity meets SBE eligibility criteria.

(3) Business category means construction; professional services procured pursuant to the Competitive Consultant Negotiations Act (CCNA); other professional services, and commodities. For purposes of SBE eligibility criteria, a business entity shall be considered for eligibility in the business category in which it performs the largest portion of its work.

(4) Certification means the process by which the office of small business assistance determines a business meets the criteria for small, minority or woman business enterprise.

(5) Certified small business enterprise (SBE) means a business which has been certified as such by the State of Florida, Palm Beach County Office of Small Business Assistance or other county or state governmental agency (SBA).

(6) Code means the City of Riviera Beach Procurement Code.

(7) Commercially useful business function means adding value to the goods and services supplied under a contract.

(8) Days mean business days, unless specified otherwise.

(9) Domiciled in the county means the business holds a valid Palm Beach County business tax receipt and has a permanent place of business in the county. In order to establish a permanent place of business in the county, the business must:

- (a) Demonstrate business activity during the preceding twelve (12) months at the county location, and have sufficient full-time employees in the county to perform the contracted work;
- (b) The county business tax receipt bears the county address, and the county location is in an area zoned for the conduct of such business;
- (c) The county location must be verifiable through documentation such as lease agreement, utility bills, client invoices, payroll records or other appropriate documentation; and

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(d) The county location must be identifiable through signage, telephone book listing, or other appropriate means.

On-site visits may be conducted prior to and during the certification term to determine continued adherence to the domicile requirements and other requirements of the code. Additional backup documentation may be requested on a case-by-case basis. A county telephone number or post office box in the city shall not be sufficient to establish domicile in Palm Beach County.

(10) Front shall mean a business which purports to be a small business but which is actually owned and/or controlled in a manner which does not comply with the county's requirements of certification.

(11) Goals means annual small business goals expressed as percentages of total dollar volume for participation of small businesses in the city's procurement of goods, services and construction.

(12) Home business means a small business that operates from the business owner's home. Home businesses usually have a very small number of employees that are often members of the business owner's family. A home business is not affiliated with, nor a subsidiary of another company located outside of the home. Home businesses meeting this definition are eligible for certification as a small business, provided they meet all other certification criteria. Home offices of an employee working for a company located in another county do not establish domicile in Palm Beach County.

(13) Joint venture means an association of two (2) or more persons or businesses registered with the State of Florida to carry out a single business enterprise for profit for which purpose they combine their property, capital, efforts, skills and knowledge.

(14) Manufacturer means a firm or business entity that produces an item from raw materials or who substantially alters the form of a product in order to make it suitable for a particular use.

(15) Prime contractor means any person who has a contract with the county to provide specific construction services, sales, supplies, materials, professional services, labor and/or equipment.

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(16) Professional services means any narrow discipline wherein a known practitioner has thorough education and experience and has developed expert advisory and programming skills as a vocation; any service performed primarily by vocational personnel which requires the analysis or certification of a professional before the services are acceptable to the user of the service; or any other advisory study, or programming activity where the director of purchasing determines that the level of skills and/or creativity of the potential or known practitioner(s) warrants a competitive proposal or submittal process.

(17) Project goal means SBE goals expressed as percentages of total dollar volume for participation of small businesses, on individual city contracts.

(18) Small and minority/women business directory means a compilation of certified small businesses and M/WBEs which is maintained electronically by the City of Riviera Beach Purchasing Department and made available to contractor(s) or vendor(s) for use in identifying subcontractors, material suppliers, etc.

(19) Small business means a business domiciled in Palm Beach County and certified by the County or State of Florida which is an independently owned and operated for profit business concern organized to engage in commercial transactions. A small business must be owned and controlled by an individual who is a citizen or a lawful permanent resident of the United States.

(20) Small business enterprise means a business as defined under certified small business enterprise herein. Also referred to as "SBE".

(21) Subsidiary means a company whose controlling interest is owned by another company. A subsidiary cannot be considered an independent business.

All terms not specifically defined herein, but defined in the city's procurement ordinance, shall carry the definition therein described.

Sec. 10-202. Scope.

This part shall apply to the solicitation of all goods, services and construction by the city which is governed by this ordinance, which may be amended from time to

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time. Whenever possible, the city shall utilize a solicitation process which encourages SBE participation even on those items which are exempt from the requirements of the procurement ordinance.

Sec. 10-203. Goals.

(1) Annual goals. The annual SBE goal for city procurement of construction, professional services and commodities shall be a minimum of fifteen (15) percent. The annual goal shall be applied to each individual city procurement of goods, services or construction unless otherwise approved by the city manager.

(2) Evaluation of goal attainment. The goal shall be applied to the full monetary value of the contract and be reflected in the full monetary portion spent on subcontracts for supplies, consulting or construction services to be awarded to those SBEs meeting contract specifications.

(a) When a certified SBE submits a bid as a prime contractor, the SBE will be credited with meeting the percentage of the goal that the SBE will be performing with its own forces plus the percentage of subcontracts awarded to certified SBEs. A joint venture consisting of a small business and non-small business functioning together as a prime contractor will be credited with small business participation on the basis of the percentage of participation in the work, risk, and profit by the small business.

(b) Bidders will receive credit for goal attainment only for subcontractors who are certified and licensed, if required, in the specific area of expertise for which credit is sought at the time of bid opening. Bidders utilizing SBE suppliers will receive credit for goal attainment at seventy percent (70%) of the contract for supplies.

(3) In the event annual goals are not achieved, the city may implement programs, including, but not limited to, a sheltered market program for contracts under two hundred thousand dollars (\$200,000) to achieve goal attainment. Any programs, other than sheltered markets, must be approved by the City Council prior to implementation.

Sec. 10-204. Contract Compliance Requirements.

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The Purchasing Department will establish procedures for monitoring and evaluating program performance and compliance, subject to the city manager's approval. In the addition to the remedies of suspension or debarment as provided herein, any contractor or firm that falsely represents to the city, pursuant to a city contract, that it is an SBE, or that it will utilize the services or commodities of an SBE and subsequently does not do so without the prior written approval of the city, may be in breach of contract.

Upon determination that a breach of contract has occurred, the city shall have all available remedies for breach of contract. In addition, all amounts paid to the contractor or firm under the contract intended for expenditure with SBEs will be forfeited and recoverable by the city. The city, at its sole discretion, may waive the breach and available remedies; however any such waiver shall not constitute a waiver of rights for breach of any provision of the contract.

Sec. 10-205. Ranking of Responsive Bidders.

When evaluating competitive bids/quotes of up to five hundred thousand dollars (\$500,000) in which the apparent low bidder is determined to be nonresponsive to SBE requirements, the contract shall be awarded to the low bidder responsive to SBE requirements, or in the event there are no bidders responsive to the SBE requirements, to the bidder with the greatest SBE participation in excess of eight percent (8%) participation, as long as the bid does not exceed the low bid amount by five percent (5%).

In cases where the low bid exceeds five hundred thousand dollars (\$500,000), the contract shall be awarded to the low bidder responsive to the SBE requirements, or in the event there are no bidders responsive to the SBE requirements, to the bidder with the greatest SBE participation in excess of eight percent (8%) participation, provided that such bid does not exceed the low bid otherwise responsive to the bid requirements by more than fifty thousand dollars (\$50,000).

This section applies only when price is the determining factor.

Sec. 10-206. Suspension/Debarment.

The city reserves the right to suspend or debar any vendor who has previously failed to perform properly and who has done so by commission or omission of an act

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of such serious and compelling nature that the act indicates a serious lack of business integrity or honesty. Such acts include, but are not limited to:

- (1) The violation of any applicable law, regulation or contract provision relating to the performance of obligations incurred pursuant to an agreement with a recipient under a county contract.
- (2) Making or procuring to make any false statement or use of deceit.
- (3) Making false representations as a small business for purposes of qualifying for certification as such a business under a program that is designed to assist SBEs in the receipt of contracts with the county for the provision of goods or services.
- (4) Representing a SBE as performing a commercially useful function when such business is merely acting as a conduit in order to participate in the county's SBE program or receive a preference or benefit under the SBE program.
- (5) Repeatedly failing to meet SBE goals when submitting bids when there is documented availability of SBEs as shown by other bidders on the same projects meeting the stated goals.
- (6) Failing to comply with the SBE requirements of an awarded contract. The director of the office of small business assistance may refer a business or firm to the Director of Purchasing for consideration of suspension or debarment. The procedures for suspension or debarment are provided for in this procurement ordinance.

Sec. 10-207. Prompt Payment.

Pursuant to the provisions of F.S. 218.735(6), as may be amended, when a prime contractor receives payment from the city for labor, services or materials furnished by subcontractors or suppliers hired by the prime contractor, the prime contractor shall remit payment due to those subcontractors and suppliers within ten (10) days after the prime contractor's receipt of payment. When a subcontractor receives payment from a prime contractor for labor, services or materials furnished by sub-subcontractor and suppliers hired by the subcontractor, the subcontractor

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shall remit payment due to those sub-subcontractors and suppliers within seven (7) days after the subcontractor's receipt of payment from the prime contractor.

Every contract let by the city for the performance of work shall contain a provision requiring the prime contractor to certify in writing that all subcontractors, subconsultants and suppliers have been paid for work and materials from previous progress payments received, less any retainage, by the prime contractor prior to receipt of any further progress payments. During the contract and upon completion of the contract, the city may request documentation to certify payment to subcontractors, subconsultants or suppliers. Nothing herein shall prohibit a prime contractor or subcontractor from disputing, pursuant to the terms of a relevant contract, all or any portion of a payment alleged to be due to another party. In the event of such dispute, the prime contractor or subcontractor may withhold the disputed portion of any such payment if the prime contractor or subcontractor notifies the party whose payment is disputed, in writing, of the amount in dispute and the actions required to cure the dispute. The prime contractor or subcontractor must pay all undisputed amounts due within the time limits imposed by this section. All payments not made within the time periods herein specified shall bear interest at the rate of one (1) percent per month, or the rate specified by the contract, whichever is greater.

This provision in no way creates any contractual relationship between any subcontractor, subconsultant or supplier and the city or any liability on the city for the prime contractor's failure to make timely payment to the subcontractor, subconsultant or supplier.

Sec. 10-208. Procurement Procedures.

The Purchasing Department shall establish specific purchasing procedures to increase SBE participation, including, but not limited to, purchases under the mandatory bid or proposal amount set forth in the procurement code and purchases made by decentralized purchase orders (DPOs) under twelve-hundred dollars (\$1,200).

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The purchasing procedures shall include a provision that every effort will be made by buyers to contact all registered certified SBE within a particular commodity area for purchases under the mandatory bid or proposal amount set forth in the procurement code. The purchasing procedures shall also include a process which allows as many vendors as possible to compete in providing goods and services to the city. The purchasing procedures shall also include a provision requiring awards of purchases under the mandatory bid or proposal amount set forth in the procurement code to be made to the lowest responsive, responsible bidder unless a certified small business is within ten percent (10%) of the lowest non-small business bid, in which case the award shall be made to the certified small business bidder submitting the lowest responsive, responsible bid. **This section shall not apply to procurement of construction.**

**Part C – Minority Business Enterprise Participation
For Public Solicitations Other Than Bids**

Sec. 10-301. Definitions.

For the purposes of this section only the following definitions shall apply:

- (1) Minority Business Enterprise means a business that is owned and controlled by minority persons.
- (2) Minority persons are Blacks of not of Hispanic origin, Hispanics, American Indians, Alaska Natives, Pacific Islanders, Asians and Women as set forth in State statute Section 288.703(4)(a-e), as may be amended from time to time.
- (3) Owned for the purpose of determining whether a business is a minority or women business enterprise, shall mean that the minorities or women, as the context requires, shall possess an ownership interest of at least fifty-one percent (51%).

Sec. 10-302. MBE Participation for Public Solicitations Other than Bids.

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- (1) All proposers have an opportunity to increase their opportunity to be awarded a City contract/project by maximizing their use of qualified MBEs in accordance with the City's MBE Program.
- (2) All Public Solicitations other than Bids (PSOTB) shall be reviewed by the Purchasing Director prior to advertisement to determine if there are components of the project that can be subcontracted to qualified minority business subcontractors and/or material suppliers.
- (3) Relevant qualified MBEs will be notified by the Purchasing Department of the procurement opportunity.
- (4) Contractor past performance. The City shall have the right to consider price, quality, past performance including meeting qualified MBE commitments, time required for performance and qualifications of the contractor in making awards.
- (5) The proposer shall seek to maximize its use of qualified MBEs. The proposer shall complete the Tabulation of Subcontractors and Material Suppliers Form that will be provided with the project package by the City. The total qualified minority business participation shall be the percentage of the total contract/project dollar amount that will be completed by qualified minority businesses. The total qualified minority business participation percentage is non-cumulative; however, one or more qualified minority businesses can comprise the total qualified minority business participation percentage. The percentage of total bonus points awarded of maximum allowable points is non-cumulative and is the percentage of points to be awarded to a bidder/proposer based on the total qualified business participation.

<i>Total Qualified Business Participation in Excess of 15% Goal</i>	<i>Percentage of Total Bonus Points Awarded of Maximum Allowable Points</i>
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0% - 15%	0%
20% - 30%	4%
31% - 40%	6%
41% - 50%	8%
51% and above	10%

(6) All proposed qualified businesses shall provide a letter of participation on its own letterhead and signed by the chief operating officer stating the actual dollar amount or percentage of work to be completed by its own forces. This information shall be submitted in the sealed proposal packet. After making an affirmative determination of qualified MBE participation, the Director of Purchasing shall assign bonus points as follows:

Example:

There are 100 maximum allowable points to score the proposals. The Contractor's price is \$500,000. The RFP scoring assigns up to 5 points (5%) to be allocated to a contractor if 15% of the total project cost is spent with qualified MBEs. The Contractor lists four (4) qualified MBEs to provide goods and services for the project. A total of \$260,000 (52%) of the total project cost will be spent with the qualified MBEs.

As an incentive for the Contractor maximizing the participation of qualified MBEs on the project, the Contractor receives an additional 10 bonus points (10%) resulting in a cumulative total of 15 points (15%) of the 100 maximum allowable points.

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<i>Project's Percentage of Minority Participation</i>	Percentage or Points
1-15% (depends on the RFP Allocation)	5% or 5 points
46% and above	10% or 10 points
Total Points Awarded of Maximum Allowable Points	15% or 15 points

Part D – Apprenticeship Program

Sec. 10-401. Apprenticeship Program Requirements.

It shall be the policy of the City of Riviera Beach that contractors shall be required to comply with the Apprenticeship Program of the City of Riviera Beach as follows:

(1) On City-funded construction projects which exceed Seven Hundred Fifty Thousand Dollars (\$750,000), twenty percent (20%) of laborers working specialties for which there are apprentice programs registered with the City shall be apprentices. Such apprentices shall be students in certified State of Florida Pre-Apprenticeship/Apprenticeship Programs which are located in the City, and, if such percentage of apprentices of such programs is not located in the City, then such programs may be located in Palm Beach County.

(2) A City registered apprenticeship program is one which has registered with the City and provided the required documentation, including but not limited to, proof of certification as an apprenticeship program with the State of Florida and proof of having educational facilities physically locate in the City.

(3) Unless the apprenticeship requirement is waived by the City, the failure of the Contractor to demonstrate compliance with this requirement shall result in the Contractor's bid being deemed nonresponsive.

- (4) The apprentice requirement may be waived or modified by the City Council:
- a. Upon request of the Contractor, if the Contractor demonstrates that the required apprentices are not available despite a good faith effort on the Contractor's part; or

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- b. Upon request of the Contractor, if the Contractor demonstrates that the available apprentices are not sufficient to meet the twenty percent(20%)requirement and the Contractor commits to utilizing a specific percentage of apprentices demonstrated to be available; or
- c. If the City determines it is in the best interests of the City to waive such requirement based on potential savings of money and time or grant requirements.

(5) The agreed upon percentage and type of apprentices will be included as a requirement of the construction contract. Failure to meet the terms of the apprenticeship requirement may result in the Contractor being found in breach of the contract and subject to possible monetary sanctions.

ARTICLE 11 – ETHICS IN PUBLIC CONTRACTING

Sec. 11-101. Criminal Penalties.

To the extent that violations of the ethical standards of conduct set forth in this Article constitute violations of the State Criminal Code they shall be punishable as provided therein. Such penalties shall be in addition to the civil sanctions set forth in this Part.

Sec. 11-102. Employee Conflict of Interest.

It shall be unethical for any City employee to participate directly or indirectly in a procurement contract when the City employee knows that:

- (a) the City employee or any member of the City employee's immediate family has a financial interest in the procurement contract; or
- (b) any other person, business, or organization with whom the City employee or any member of a City employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement contract.

A City employee or any member of a City employee's immediate family who holds a financial interest in a disclosed blind trust shall not be deemed to have a conflict of interest with regard to matter pertaining to that financial interest.