ORDINANCE NO. 2017-1

A CAPITAL PROJECT AUTHORIZING ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, SELECTING EASTMAN AGGREGATE ENTERPRISES, LLC FOR THE VILLAGE'S BEACH RENOURISHMENT PROJECT; PROVIDING FOR A WAIVER OF COMPETITIVE BIDDING; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village of Key Biscayne (the "Village") has finalized the environmental permitting for the Village Beach Renourishment Project (the "Project"); and

WHEREAS, it is anticipated that the Project will renourish the beaches along the Atlantic Ocean within the Village by providing 37,500 of beach fill; and

WHEREAS, the Village has appropriated funds for the Project and estimates the cost to be $2,427,672; and

WHEREAS, the Village Council desires to select a contractor for the Project in an expedited manner given the time constraints of the Project and the emergency repairs and maintenance that are needed to the existing beach as a result of Hurricane Matthew and annual King Tide events; and

WHEREAS, the Village may, pursuant to Section 2-86 of the Village Code of Ordinances (the "Village Code"), enter into bids or contracts entered into by another governmental authority, provided that the governmental authority has gone through a competitive bidding procedure leading to the award of the bid or contract in question; and

WHEREAS, the City of Miami Beach issued a competitive bid for a beach renourishment project (the "Miami Beach Contract") and awarded such bid to Eastman Aggregate Enterprises, LLC (the "Eastman"); and

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[1] Coding: underlined words are additions to existing text, struck through words are deletions from existing text, shaded text reflects changes made from First Reading.

WHEREAS, the Village Council desires to waive competitive bidding requirements in accordance with Section 2-86 of the Village Code and enter into an agreement with Eastman based upon the Miami Beach Contract; and

WHEREAS, the Village Council hereby finds and declares that adoption of this Ordinance is necessary, appropriate, and advances the public interest.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS[1]:

Section 1. **Recitals.** The preceding "Whereas" clauses are ratified and incorporated as the legislative intent of this Ordinance.

Section 2. **Waiver of Competitive Bidding.** The Village Council, in accordance with Section 2-86 of the Village Code, hereby waives competitive bidding based upon the Miami Beach Contract. In addition, the Village Council finds, in accordance with Section 255.20(1)(c)(5), Florida Statutes, that this Project is for the repair or maintenance of the existing beach and is exempt from the competitive bidding provisions within Section 255.20(1), Florida Statutes.

Section 3. **Selection of Eastman.** The Village Council hereby selects Eastman for the Project.

Section 4. **Authorization.**The Village Council hereby authorizes the Village Manager to enter into an agreement with Eastman with the same or better terms as the Miami Beach Contract, attached as Exhibit "A," subject to the approval by the Village Attorney as to legal form and sufficiency.

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Section 5. **Effective Date.** This Ordinance shall become effective immediately upon adoption on second reading.

PASSED on first reading this 24th day of January 2017.

PASSED AND ADOPTED on second reading this 21st day of February 2017.

MAYOR MAYRA PEÑA LINDSAY

ATTEST:

CONCHITA H. ALVAREZ, MMC, VILLAGE CLERK

VILLAGE OF KEY BISCAYNE ISLAND PARADISE 1991 FLORIDA

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

VILLAGE ATTORNEY

[1] Coding: underlined words are additions to existing text, struck through words are deletions from existing text, shaded text reflects changes made from First Reading.

Exhibit A

DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
P.O. BOX 4970
JACKSONVILLE, FLORIDA 32232-0019

REPLY TO
ATTENTION OF

June 30, 2016

Jacksonville District, Contracting Division
Execution Branch

SUBJECT: Notice of Award – Contract No. W912EP-16-C-0008

Eastman Aggregate Enterprises, LLC
3705 Bellevue Avenue
Lake Worth, FL 33461

Gentlemen:

In accordance with the terms and conditions of Solicitation No. W912EP-16-B-0001, the Government has awarded your firm Contract No. W912EP-16-C-0008 (Line Items 0001 thru 0007) for Beach Erosion Control and Hurricane Protection Project, Miami-Dade County, Florida, Beach Renourishment 2016, Miami Beach – Hot Spots.

This contract represents the entire agreement between your firm and the Government. During the performance of the contract, you may have contact with numerous Government employees. It is your responsibility to ensure that you do not accept any changes in the terms and conditions of this contract from anyone other than the contracting officer. Should you choose to act on an unauthorized change and expect compensation, you will be required to submit a written request for equitable adjustment (REA) for the contracting officer's consideration. Any REA for an unauthorized change must include the name of the Government employee who issued the unauthorized change and your explanation for acting on the unauthorized change. Since unauthorized changes adversely affect the Government's contractual position, your performance report for this contract will include appropriate ratings and comments regarding compliance with this notice.

Only a warranted Contracting Officer (either a Procuring Contracting Officer (PCO) or an Administrative Contracting Officer (ACO)), acting within their delegated limits, has the authority to issue modifications or otherwise change the terms and conditions of this contract. If an individual other than the Contracting Officer attempts to make changes to the terms and conditions of this contract you shall not proceed with the change and shall immediately notify the Contracting Officer.

As required by the solicitation, you must submit acceptable performance and payment bonds within 10 calendar days of the day you receive this notice.

This notice does not constitute authorization to commence work under the contract. A separate notice to proceed will be issued when all pre-work conditions specified in the solicitation have been satisfied.

You must acknowledge receipt of this notice in the space provided below and send your acknowledgment to this office as soon as possible. Have a person with authority to bind your firm sign in the space provided. If someone other than the person who signed your original offer (see Block 20 of the Addendum to the Standard Form 1442) signs on your behalf, you must provide evidence that this person has authority to bind your firm. The date of acknowledgment must match the date entered in the delivery service's delivery log.

If you have any questions, please contact Claurice M. Dingle at (904) 232-1387 or Claurice.m.dingle@usace.army.mil.

Sincerely,

Frances C. Jones

Frances C. Jones
Contracting Officer

Enclosure

ACKNOWLEDGMENT

Date: _____

Name/Title: _____

Signature: _____

SOLICITATION, OFFER, AND AWARD (Construction, Alteration, or Repair)	1. SOLICITATION NO. W912EP-16-B-0001	2. TYPE OF SOLICITATION [X] SEALED BID (IFB) [ ] NEGOTIATED (RFP)	3. DATE ISSUED 25-April-2016	PAGE OF PAGES 1 OF 180

IMPORTANT - The "offer" section on the reverse must be fully completed by offeror.

4. CONTRACT NO.	5. REQUISITION/PURCHASE REQUEST NO.	6. PROJECT NO.

7. ISSUED BY CODE W912EP	8. ADDRESS OFFER TO (If Other Than Item 7) CODE
USA ENGINEER DISTRICT, JACKSONVILLE CONTRACTING DIVISION 701 SAN MARCO BLVD JACKSONVILLE FL 32207-8175 TEL: FAX:	See Item 7 TEL: FAX:

9. FOR INFORMATION CALL:	A. NAME	B. TELEPHONE NO. (Include area code) (NO COLLECT CALLS)
	CLAURICE M DINGLE	904-232-1387

SOLICITATION

NOTE: In sealed bid solicitations "offer" and "offeror" mean "bid" and "bidder".

10. THE GOVERNMENT REQUIRES PERFORMANCE OF THE WORK DESCRIBED IN THESE DOCUMENTS (Title, identifying no., date):

BEACH EROSION CONTROL AND HURRICANE PROTECTION PROJECT, MIAM-DADE COUNTY, FLORIDA, MIAMI-DADE COUNTY, FLORIDA, BEACH RENOURISHMENT 2016, MIAMI BEACH – HOTSPOTS

DESCRIPTION OF WORK: REFER TO SECTION 01 11 00 FOR COMPLETE PROJECT DESCRIPTION. DRAWINGS: SEE DFARS CLAUSE 252.236-7001, IN SECTION 00700.

MAGNITUDE OF CONSTRUCTION IS BETWEEN $15,000,000.00 - $25,000,000.00.

THIS SOLICITATION IS RESTRICTED AND SET-ASIDE FOR TOTAL SMALL BUSINESS.

THE NAICS CODE FOR THIS PROJECT IS 237990 AND THE SMALL BUSINESS SIZE STANDARD IS $36.5 MILLION.
IN ACCORDANCE WITH (IAW) FAR CLAUSE 52.236-27 I IN SECTION 00100, AN ORGANIZED SITE VISIT HAS BEEN SCHEDULED FOR 03 May 2016 at 11:00 AM.

ALL BIDS MAILED OR CARRIED MUST BE DEPOSITED IN THE OFFER DEPOSITORY LOCATED IN THE CONTRACTING DIVISION PRIOR TO THE TIME ESTABLISHED AS THE BID DUE DATE (SEE PARAGRAPH 999.204-1 IN SECTION 00100 OF THIS SOLICITATION).

YOU MUST BE REGISTERED IN THE SYSTEM FOR AWARD MANAGEMENT (SAM), PER FAR CLAUSE: 52.204-7 SYSTEM FOR AWARD MANAGEMENT (JULY 2013) IN SECTION 00101, IN ORDER TO RECEIVE AN AWARD FROM THIS SOLICITATION. THE SAM WEBSITE IS LOCATED AT WWW.SAM.GOV.

*BLOCK 11 - SEE SECTION 00700, FAR CLAUSE 52.211-10 FOR PERIOD OF PERFORMANCE

11. The Contractor shall begin performance within 30 calendar days and complete it within 248 calendar days after receiving [ ] award, [X] notice to proceed. This performance period is [X] mandatory, [ ] negotiable. (See SECTION 00700)

12 A. THE CONTRACTOR MUST FURNISH ANY REQUIRED PERFORMANCE AND PAYMENT BONDS? (If "YES," indicate within how many calendar days after award in Item 12B.) [X] YES [ ] NO	12B. CALENDAR DAYS 10

13. ADDITIONAL SOLICITATION REQUIREMENTS:

A. Sealed offers in original and 1 copies to perform the work required are due at the place specified in Item 8 by 02:00 PM (hour) local time 31 May 2016 (date). If this is a sealed bid solicitation, offers must be publicly opened at that time. Sealed envelopes containing offers shall be marked to show the offeror's name and address, the solicitation number, and the date and time offers are due.

B. An offer guarantee [X] is, [ ] is not required.

C. All offers are subject to the (1) work requirements, and (2) other provisions and clauses incorporated in the solicitation in full text or by reference.

D. Offers providing less than 60 calendar days for Government acceptance after the date offers are due will not be considered and will be rejected.

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ORIGINAL

SOLICITATION, OFFER, AND AWARD (Continued)

(Construction, Alteration, or Repair)

OFFER *(Must be fully completed by offeror)*

14. NAME AND ADDRESS OF OFFEROR *(Include ZIP Code)*	15. TELEPHONE NO. *(Include area code)*
Eastman Aggregate Enterprises, LLC. 3705 Bellevue Ave Lake Worth, FL. 33461	(561) 969-7147
	16. REMITTANCE ADDRESS *(Include only if different than Item 14)* See Item 14
CODE 56J25 / FACILITY CODE 879924959	

17. The offeror agrees to perform the work required at the prices specified below in strict accordance with the terms of this solicitation, if this offer is accepted by the Government in writing within 60 calendar days after the date offers are due. *(Insert any number equal to or greater than the minimum requirements stated in Item 13D. Failure to insert any number means the offeror accepts the minimum in Item 13D.)*

AMOUNTS: SEE SCHEDULE OF PRICES

18. The offeror agrees to furnish any required performance and payment bonds.

19. ACKNOWLEDGMENT OF AMENDMENTS

(The offeror acknowledges receipt of amendments to the solicitation – give number and date of each)

AMENDMENT NO.	0001	0002	0003	0004	0005	0006				
DATE	5/6/16	5/19/16	5/25/16	5/31/16	6/6/16	6/7/16				

20A. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER *(Type or print)*	20B. SIGNATURE	20C. OFFER DATE
Bernard Eastman, Key Manager		6/7/16

AWARD *(To be completed by Government)*

21. ITEMS ACCEPTED:

SEE SCHEDULE (LINE ITEMS 0001 THRU 0007)

22. AMOUNT	23. ACCOUNTING AND APPROPRIATION DATA
$11,889,480.65	096NAX20143122000000CCS:411K3201408244407436332303L6BK6 $8,560,426.07 096NAXX88620000000CCS:411K3X08244407436396083323 03J4B3G $3,329,054.58

24. SUBMIT INVOICES TO ADDRESS SHOWN IN *(4 copies unless otherwise specified)*	ITEM	25. OTHER THAN FULL AND OPEN COMPETITION PURSUANT TO
	26	☐ 10 U.S.C. 2304(c) ☐ 41 U.S.C. 253(c)

26. ADMINISTERED BY	CODE K3M0J0D	27. PAYMENT WILL BE MADE BY:	CODE T0b0200
SOUTH FLORIDA AREA OFFICE SUITE 203 4400 PGA BOULEVARD PALM BEACH, FL 33410 PH: (561) 626-5299		USACE FINANCE CENTER 5722 INTEGRITY DRIVE ATTN: cefc-AO-P MILLINGTON, TN 38054-5005	

CONTRACTING OFFICER WILL COMPLETE ITEM 28 OR 29 AS APPLICABLE

☐ 28. NEGOTIATED AGREEMENT *(Contractor is required to sign this document and return _____ copies to issuing office.)* Contractor agrees to furnish and deliver all items or perform all work, requisitions identified on this form and any continuation sheets for the consideration stated in this contract. The rights and obligations of the parties to this contract shall be governed by (a) this contract award, (b) the solicitation, and (c) the clauses, representations, certifications, and specifications or incorporated by reference in or attached to this contract.

☒ 29. AWARD *(Contractor is not required to sign this document.)* Your offer on this solicitation, is hereby accepted as to the items listed. This award consummates the contract, which consists of (a) the Government solicitation and your offer, and (b) this contract award. No further contractual document is necessary.

30A. NAME AND TITLE OF CONTRACTOR OR PERSON AUTHORIZED TO SIGN *(Type or print)*		31A. NAME OF CONTRACTING OFFICER *(Type or print)* FRANCES C. JONES TEL: EMAIL:	
30B. SIGNATURE	30C. DATE	31B. UNITED STATES OF AMERICA BY Frances C. Jones	31C. AWARD DATE 30 June 2016

SECTION 00010A
LINE ITEMS AND PRICING SCHEDULE

BEACH EROSION CONTROL AND HURRICANE PROTECTION PROJECT
MIAMI-DADE COUNTY, FLORIDA
BEACH RENOURISHMENT 2016
MIAMI BEACH - HOTSPOTS

LINE ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	TOTAL
0001	BEACH FILL (ESTIMATED QUANTITY, SEE NOTE 3 AND 7)	220,000	CUBIC YARD	$ 52.50	$11,550,000.00
0002	BEACH TILLING (ESTIMATED QUANTITY, SEE NOTE 3)	10	ACRE	$2,296.88	$ 22,968.80
0003	CONSTRUCTION/VIBRATION CONTROL AND MONITORING		LUMP SUM		$ 85,052.10
0004	ENVIRONMENTAL SPECIES * COORDINATION *		LUMP SUM		$ 30,203.25
0005	TURBIDITY MONITORING		LUMP SUM		$ 93,009.00
0006	CONTRACTING OFFICER'S FIELD OFFICE (ESTIMATED QUANTITY, SEE NOTE 3)	6	MONTH	$11,541.25	$ 69,247.50
0007	55TH STREET HOTSPOT STAGING AREA (ESTIMATED QUANTITY, SEE NOTE 6)	75	DAY	$ 520	$ 39,000
	TOTAL BID (LINE ITEMS 0001 THROUGH 0007)				$11,889,480.65

NOTES:

(1) OFFER MUST PRICE ALL LINE ITEMS.

(2) FAILURE TO COMPLETE AND RETURN ALL REQUIRED SUBMISSIONS MAY RENDER YOUR BID NON-RESPONSIVE.

(3) ACTUAL QUANTITIES MAY VARY.

(4) FULL PAYMENT UNDER LINE ITEM "BEACH FILL" IS CONDITIONED ON REPAIRING ALL STAGING AND ACCESS AREAS TO PRECONSTRUCTION CONDITION. SEE SECTION 01 22 00 MEASUREMENT AND PAYMENT.

(5) ANY VEGETATION IMPACTED BY CONSTRUCTION ACTIVITIES SHALL BE REPLACED.

(6) THE AMOUNT ENTERED FOR LINE ITEM 0007 IS FOR CONTRACTOR BIDDING PURPOSES ONLY. ACTUAL PAYMENT WILL BE FOR THE AMOUNT SHOWN ON PAID INVOICES PROVIDED TO THE CONTRACTING OFFICER.

(7) BEACH QUANTITY SHOWN IS THE ESTIMATED QUANTITY FOR THE FILL TEMPLATE AND DOES NOT TAKE COMPACTION INTO CONSIDERATION.

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