



THE CITY OF DAYTONA BEACH
OFFICE OF THE PURCHASING AGENT

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ADDENDUM NO. 4

DATE: January 23, 2019

**PROJECT: ITB 19273
DAYTONA BEACH GOLF CLUB NORTH GREENS
RENOVATION REBID**

OPENING DATE: February 4, 2019

This addendum is hereby incorporated into the Request for Proposal for the project referenced above. The following items are clarifications, corrections, additions, deletions and/or revisions to and shall take precedence over the original documents. Additions are indicated by underlining, deletions are indicated by ~~strikethrough~~.

1. Answers to written questions:

Q1: Could you please clarify: Instruction to Bidders, Paragraph 24 Licenses. What licenses are required to be the Prime Contractor for the work under this solicitation?

A1: No specific licenses are required to perform this work. Bidders' references will be carefully checked to determine Bidders' "responsibility".

Q2: Can we substitute Flex Part Circle Heads for 855's, since 855's may not be available for purchase?

A2: The "Flex800; 55 series Golf Rotor heads are acceptable.

Q3: Can we use gasketed fittings instead of solvent weld?

A3: Yes, gasketed fitting are acceptable.

Q4: What is the specific part numbers and materials needed to satisfy the "Toro OSMAC Circuit Board" portion of the unit price schedule?

A4: The 8 station output cards part number is NLN3491A, the 4 station converter banks part number is MOD-WT-01.

Q5: Can Sac-Crete or equivalent be used for thrust blocks?

A5: No.

Q6: Does the existing system need to remain functional during the project?

A6: Yes.

Q7: My bonding company is trying to finalize my bond and is asking for the forms. Please provide the form bonds.

A7: The payment and performance bond forms are ATTACHED.

Q8: If awarded, would the City approve the following revisions to the Contract (Section VI - Indemnification of the Sample Contract):

1. Add the words "of CONTRACTOR" after "any subcontractor" on line 5 of Paragraph A.

2. Delete "regardless of whether or not it is caused in part by a party indemnified hereunder" on lines 6 and 7 of Paragraph A?

A8: Section VI, Indemnification, paragraph A is changed by item 2 of this addendum. The change reflects Florida Statute 725.06 and encompasses "persons employed and utilized by Contractor"; subcontractors are covered in that.

2. The Draft Contract, Article VI, Indemnification, paragraph A, is hereby REPLACED with the following:

"A. The Contractor shall indemnify and hold harmless the City of Daytona Beach, its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Contractor and persons employed or utilized by the Contractor in the performance of the construction contract. This indemnification agreement is separate and apart from, and in no way limited by, any insurance provided pursuant to this agreement or otherwise."

3. All other terms and conditions remain the same.

Proposers shall acknowledge receipt of this addendum on Page BID PROPOSAL LETTER-3.

The City of Daytona Beach

Joanne Flick, CPPO, CPPB
Purchasing Agent

Remember to register with the City of Daytona Beach at www.vendorregistry.com to be notified of future bid opportunities with the City. As of 9-30-18 we will no longer be using our current system.

BOND NUMBER: _____

PAYMENT BOND

BY THIS BOND, We, _____, as principal (“Contractor”), and _____ a surety company authorized to do business in the State of Florida (“Surety”), are bound to the City of Daytona Beach, a Florida municipal corporation, as obligee (“Owner”), in the sum of \$ _____, for payment of which we bind ourselves, our heirs, personal representatives, successors, and assigns, jointly and severally.

THE CONDITION OF THIS BOND IS that if Contractor:

1. Promptly pays all claimants, as defined in F.S. § 255.05(1), supplying Contractor with labor, materials, services and/or supplies, used directly or indirectly by Contractor in the prosecution of the work provided in the written contract between Contractor and Owner for >title, having an effective date of _____ (the “Contract”), the Contract being made a part of this bond by reference, at the times and in the manner prescribed in the Contract; and
2. Pays Owner all losses, damages, expenses, costs, and attorney’s fees, including appellate proceedings, that Owner sustains because of Contractor’s default by under the contract;

Then this bond is void; otherwise, it remains in full force and effect.

Surety, for the value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or the work to be performed thereunder or the specifications accompanying the contract will in any way affect Surety’s obligations on this bond, and Surety waives notice of any such change, extension of time, alteration, or addition.

This bond is subject to the provisions of F.S § 255.05, including F.S. § 255.05(7); and in case of conflict between this bond and F.S. § 255.05, the statutory provisions will govern.

DATED ON _____, 20_____.

CONTRACTOR AS PRINCIPAL
COMPANY: _____ (Corporate Seal)
[insert name here]

SURETY
COMPANY: _____ (Corporate Seal)
[insert name here]

Signature: _____
Name and Title: _____
Contractor Address: _____

Signature: _____
Name and Title: _____
Surety Address: _____

NOTE: CONTRACTOR WILL POST THIS BOND AT THE PROJECT WORK SITE AT ALL TIMES. CONTRACTOR WILL RECORD THIS BOND IN THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA

BOND NUMBER: _____

PERFORMANCE BOND

_____, as "Contractor" or "Principal," and _____, as "Surety," enter into and execute this Performance Bond and bind themselves in favor of the City of Daytona Beach, a Florida municipal corporation, as "Obligee," in the sum of \$ _____, being 100% of the Contract Price referenced below, or such greater amount as the Contract Price may be adjusted from time to time in accordance with the Contract between Contractor and Obligee referenced below ("the "Penal Sum").

WITNESSETH:

WHEREAS, Contractor has executed a contract with Obligee having an effective date of _____ (the "Contract") for _____ (the "Project"); and

WHEREAS, the Contract establishes a contract price to be paid by Obligee to Contractor for performance of the Project, subject to terms and conditions, and provides for changes to the work to be performed and corresponding adjustments to the Contract Price; and

WHEREAS, the Contract requires Contractor to furnish a Performance Bond in form acceptable to Obligee.

NOW THEREFORE, Surety and Contractor, both jointly and severally, and for themselves, their heirs, administrators, executors, successors and assigns agree:

1. CONTRACT INCORPORATED; SURETY AND CONTRACTOR BOUND FOR FULL PERFORMANCE. The Contract is incorporated by reference and made a part of this Performance Bond. Surety and Contractor are bound for the full performance of the Contract including without exception all of the Contract Documents (as defined in the Contract) and all of their terms and conditions, both express and implied.

2. OBLIGEE'S AFFIDAVIT OF CONTRACTOR DEFAULT. If Obligee provides to Surety a written affidavit of Obligee stating that the Contractor is in default of the Contract, then upon delivery of such affidavit to Surety in the method for providing notices as set forth in Paragraph 7, Surety must promptly notify Obligee in writing which action Surety will take as provided in Paragraph 3.

3. SURETY'S OBLIGATION UPON DELIVERY OF OBLIGEE'S AFFIDAVIT OF CONTRACTOR'S DEFAULT. Upon the delivery of Obligee's affidavit as provided in Paragraph 2, Surety may promptly remedy the referenced breach or default or must, within 10 days thereafter proceed to take one of the following courses of action:

a. *Surety may Complete Performance.* Surety may complete performance of the Contract including correction of defective and nonconforming Work through Surety's own contractors or employees, subject to Obligee's right to approve or reject such contractors and employees. Obligee's right to approve will not be unreasonably withheld as to any contractor or employee who would have qualified to submit a responsive bid on the Contract and is not affiliated with Contractor as described in the Contract. During this performance by Surety, Obligee will pay Surety from Obligee's own funds only those sums as would have been due and payable to Contractor under the Contract as and when they would have been due and payable to Contractor in the absence of the breach or default not to exceed the amount of the remaining Contract balance less any sums due Obligee under the Contract. During this performance, Surety's payment bond must remain in full force and effect.

b. *Surety may tender a Completing Contractor acceptable to Obligee.* In order to be effective, Surety's tender must include a written contract for fulfillment and completion of the Contract, executed by the Completing Contractor, to Obligee for Obligee's execution. Surety's tender is subject to Obligee's right to approve or reject the contractor; provided that Obligee's discretion to approve the Completing Contractor will not be unreasonably withheld as to any contractor who would have qualified

to submit responsive bid on the Contract and is not affiliated with Contractor as described in the Contract. Obligees discretion to approve the Completing Contractor, however, shall be in Obligees sole subjective discretion. Upon execution by Obligees of the contract for fulfillment and completion of the Contract, the Completing Contractor must furnish to Obligees a performance bond and a separate payment bond, each in the form of those bonds previously furnished to Obligees for the Project by the Contractor. Each such bond must be in the Penal Sum of the full cost to complete the Contract. Obligees will pay the Completing Contractor from its own funds only those sums as would have been due and payable to Contractor under the Contract as and when they would have been due and payable to Contractor in the absence of the default, not to exceed the amount of the remaining Contract balance less any sums due Obligees under the Contract. To the extent that Obligees is obligated to pay the Completing Contractor sums which would not have then been due and payable to Contractor under the Contract (any sums in excess of the then remaining Contract balance less any sums due Obligees under the Contract), Surety must pay to Obligees the full amount of those sums at the time the Completing Contractor is tendered to the Obligees so that Obligees can utilize those sums in making timely payment to the Completing Contractor.

c. *Tender the Penal Sum to Obligees.* If Surety tenders the Penal Sum, Obligees will refund to Surety without interest any unused portion not spent by Obligees to, at Obligees option: (i) procure and pay a completing contractor, plus the cost allowed under Paragraph 4, after completion of the contract for fulfillment and completion of the Contract and the expiration of any applicable warranties; or (ii) complete the Project using Obligees own forces, plus the cost allowed under Paragraph 4, after completion of the Project.

d. *Other Acts.* Surety may take any other acts mutually agreed upon in writing by Obligees and Surety.

IT SHALL BE NO DEFENSE TO SURETYS OBLIGATION TO UNDERTAKE ONE OF THE PRECEDING COURSES OF ACTION THAT CONTRACTOR CONTENDS THAT CONTRACTOR IS NOT IN BREACH OR DEFAULT OF THE CONTRACT, OR THAT THE NOTICE OF DEFAULT WAS DEFECTIVE, OR THAT CONTRACTOR HAS RAISED ANY OTHER CLAIM OF DEFENSE OR OFFSET, PROVIDED ONLY THAT SURETY HAS RECEIVED THE AFFIDAVIT OF THE OBLIGEE AS SPECIFIED IN PARAGRAPH 2.

4. SURETYS ADDITIONAL OBLIGATIONS. In addition to those duties set forth herein above, Surety must promptly pay Obligees (i) all losses, costs and expenses resulting from Contractors breach(es) or default(s), including, without limitation, fees, expenses and costs for architects, engineers, consultants, testing, surveying and attorneys, plus (ii) liquidated or actual damages, whichever may be provided for in the contract, for lost use of the Project, plus (iii) re-procurement costs and fees and expenses, plus (iv) costs incurred at the direction, request, or as a result of the acts or omissions of Surety; provided that in no event shall Suretys liability exceed the Penal Sum.

5. SURETYS WAIVER OF NOTICE. Surety waives notice of any modifications to the Contract, including changes in the Contract Time, the Contract Price, the amount of liquidated damages, and the scope of the Project or the Work to be performed.

6. NO THIRD PARTY BENEFICIARIES. Surety provides this Performance Bond for the sole and exclusive benefit of Obligees and, if applicable, any dual obligee designated by attached rider, together with their heirs, administrators, executors, successors and assigns. No other party, person or entity has any rights against Surety.

7. METHOD OF NOTICE. All notices to Surety, Contractor, or Obligees must be given by Certified Mail, Return Receipt Requested, or by overnight courier, to the address set forth for each party below:

SURETY:

Name: _____
Attention: _____
Street: _____
City, State, Zip _____

OBLIGEE:

City Manager
The City of Daytona Beach
301 S. Ridgewood Avenue
Daytona Beach, FL 32114

With/copy to:

City Attorney
301 S. Ridgewood Avenue
Daytona Beach, FL 32114

CONTRACTOR:

Name: _____
Attention: _____
Street: _____
City, State, Zip: _____

8. STATUTE OF LIMITATIONS. Any action hereon may be instituted so long as the applicable statute of limitations governing the Contract (including any warranty period) has not run or expired or within three years following Final Completion of the Contract (including any warranty period) and acceptance of the Work performed under the Contract by Obligee, whichever is longer.

9. RECITALS. The recitals contained in this Performance Bond are incorporated by reference herein and are expressly made a part of this Performance Bond.

10. GOVERNING LAW. This Performance Bond shall be governed by, and construed in accordance with the laws of the State of Florida without regard to its conflict of laws provisions.

11. VENUE. In the event any legal action shall be filed upon this Performance Bond, venue shall lie exclusively in the Circuit Court for Volusia County, Florida.

DATED ON _____, 20____.

CONTRACTOR AS PRINCIPAL
COMPANY: _____ (Corporate Seal)
[insert name here]

SURETY
COMPANY: _____ (Corporate Seal)
[insert name here]

Signature: _____

Signature: _____

Name and Title: _____

Name and Title: _____

END OF DOCUMENT
END OF FORM