

THE CITY OF DAYTONA BEACH
WESTSIDE REGIONAL WRF BATTERY REPLACEMENT UV-UPS SYSTEM

INVITATION TO BID No. 20432
NIGP COMMODITY CODE(S): 89016, 28504, 28558, 28755



THE CITY OF DAYTONA BEACH
UTILITIES DEPARTMENT- ENGINEERING DIVISION
P.O. BOX 2451
DAYTONA BEACH, FLA. 32115

Issue Date: April 1, 2020

Non-Construction Bid BP 03/25/2020

INVITATION TO BID

The City of Daytona Beach, Florida, will receive online bids for **Westside Regional WRF Battery Replacement UV-UPS System, Invitation to Bid No. 20432**, until **2:00 p.m., on May 7, 2020**. Bids received after said time will be rejected.

The City will only accept online Bids for this solicitation. The City's only authorized Bid Platform is Vendor Registry, accessible through the City's website www.codb.us/841/Purchasing . No paper bids will be accepted.

The work generally consists of 1) The contractor shall furnish equipment, labor and materials to remove 240 Power First TC-12150C Absorbed Glass Matt, VRLA batteries, and to reinstall new batteries into 6 (six) cabinets. The contractor will ensure coordination and compatibility of equipment and repairs. 2) OWNER shall ensure that all support system are disabled prior to removal of the batteries. 3) Batteries shall be **FIAMM (FLX12-540) or EnerSys (HX12-540)** batteries. 4) The batteries shall be compatible with a Liebert 1000 KVA UPS System (Tag 1306306 – ID 90804).

Bid documents may be obtained as pdf files on-line at www.codb.us/841/Purchasing. There is no charge for downloading bid documents. All inquiries pertaining to this project should be asked through the Bid Platform accessed through the web site above.

A Non-Mandatory Pre-Bid Conference will be conducted on *April 8, 2020 at 10:00 AM*, via teleconference by calling into 386-671-3178. Interested Proposers are *urged* to attend. Proposers are asked to pre-register for this by going to the web site above, clicking "Public Solicitation", selecting the desired bid, and clicking "register for pre-bid".

The City of Daytona Beach, Florida, reserves the right to accept or reject any and all bids, or any portion of any bid, or to waive any informalities in the bidding.

Bids may be held by the City of Daytona Beach for a period not to exceed sixty (60) days from the date of opening of bids for the purpose of reviewing the bid and investigating the qualifications of Bidders prior to awarding the contract. Vendors submitting bids to the City must comply with Article III of Chapter 30 of the Code of the City of Daytona Beach, Florida, "Minority and Women Owned Business Enterprises.

THE CITY OF DAYTONA BEACH
VOLUSIA COUNTY, FLORIDA
By: KIRK ZIMMERMAN, CPPB - BUYER
Issue Date: April 1, 2020

THESE TERMS ARE STANDARD FOR ALL Bid SOLICITATIONS FOR GENERAL SERVICES, AND COMMODITIES ISSUED BY THE City OF DAYTONA BEACH. THE City MAY DELETE, SUPERSEDE, OR MODIFY ANY OF THESE INSTRUCTIONS TO BIDDERS OR GENERAL PROVISIONS FOR A PARTICULAR SOLICITATION BY USE OF SPECIAL PROVISIONS.

SECTION 1. DEFINITIONS. Certain terms used herein will have the following meanings:

- D-1 City means the City of Daytona Beach, unless the context indicates otherwise, includes the City's officers, employees, and agents.
- D-2 Bid or Proposal the offer or bid of a Bidder or proposer submitted on the prescribed form setting forth the prices for the work to be performed.
- D-3 Bidder means one who submits a response to an Invitation to Bid (ITB).
- D-4 Bid Package means the Bid Proposal Form and any additional forms required to be submitted by the Bidder as part of the Bid.
- D-5 Bid Platform means Vendor Registry, the software currently used by the City. All communications...posted at www.codb.us/841/purchasing through the Public Solicitations link. Bidders MUST submit bids through the Bid Platform..
- D-6 Commodities means the supplies, materials, goods, merchandise, food, equipment, or other personal property that the Bidder will be obligated to provide the City under any resulting Contract. These commodities are generally set forth in the bid schedule.
- D-7 Contract means the form Contract, if any, required by the City in order to integrate all terms and conditions therein, or in the absence of such form Contract, the signed short form provided by the City for the Bidder's execution and includes 1) the Bid documents 2) the Bid Package, 3) the Resolution or Ordinance 4) all Purchase Orders issued pursuant to the Bid documents 5) all amendments that may after the date of award be executed by the Vendor and the City 5) any addenda 6) any other bid documents..
- D-8 Contract Documents means Contract (if service related), Technical Provisions, Instructions to Bidders, General Provisions, Indemnification & Insurance, Bid Proposal Form, Bid Schedule, and Attachments A-D.
- D-9 Contractor or Vendor means any individual or business having a Contract with the City to furnish Commodities or Services for a certain price.
- D-10 Electronic Signature means the original signature transmitted and received via electronic transmission of a scanned document, (e.g., PDF or similar format) are true and valid signatures for all purposes hereunder and shall bind the parties to the same extent as that of an original signature. Any such electronic counterpart shall be of sufficient quality to be legible either electronically or when printed as hardcopy. The City shall determine legibility and acceptability for public record purposes.
- D-11 Notice of intent to award (NOI) means a written notice given by the City stating that staff is recommending award to the listed Vendor. It includes instructions for completing and submitting any Contract that accompanies the NOI.
- D-12 Purchase Order means a written document to a Vendor formalizing the terms and conditions of a proposed transaction.
- D-13 Services means a Vendor's performance to comply with promised delivery dates, specifications, and technical assistance.

D-14 Term Contract means a Contract in which a source of supply is established for a specified period of time for specified Services or supplies at specified prices.

END OF SECTION

SECTION 2: TECHNICAL PROVISIONS / SCOPE

SYSTEM DESCRIPTION

The uninterrupted power supply system is manufactured by Liebert Systems. The batteries provide continuous backup power for a Trojan 4000 Plus Ultraviolet Disinfection System.

Section 2.1. SCOPE OF WORK

- A. The Contractor shall furnish equipment, labor and materials to remove 240 Power First TC-12150C Absorbed Glass Matt, VRLA batteries and to reinstall new batteries into 6 (six) cabinets. The Contractor will ensure coordination and compatibility of equipment and repairs. In addition, the Contractor will:
 - a. Disconnect all power cables.
 - b. Remove and properly dispose of old batteries.
 - c. Replace and properly dispose of any power cables that are worn.
 - d. Install new batteries.
 - e. Rewire batteries into system.
 - f. Provide start-up.
 - g. Provide written test and inspection report after new batteries are installed.
- B. City shall ensure that all support system are disabled prior to removal of the batteries.
- C. Batteries shall be **FIAMM (FLX12-540) or EnerSys (HX12-540)** or equal.
- D. The batteries shall be compatible with a Liebert 1000 KVA UPS System (Tag 1306306 – ID 90804).

Section 2.2. NEW BATTERY STANDARDS

- A. UL Recognized Component 924, 1778, 1989, UL Certified Vertical Flame Test Rating 94V-0
- B. Exceeds 2000/2003 IBC requirements for 125% level
- C. Classified as Non-spillable UN 2800 and meet the non-spillable criteria listed in DO-CFR
- D. Manufactured under certification compliance to:
 - a. ISO9001: 2000-ISO 14001

Section 2.3. NEW BATTERY SPECIFICATIONS

- A. Float Charging Voltage:
 - a. 2.25 Vpc to 2.30 Vpc @77°F (25°C)
- B. Maximum Charge Rate:
 - a. C5 Rate Amps (5 hour rate @ 1.75 Vpc)
- C. Self-Discharge Rate:
 - a. < 2% per month at 77°F (25°C)
- D. Electrolyte:
 - a. Absorbed 1.300 s.g. H₂SO₄
- E. Operating Temperature Range:
 - a. Nominal: +74°F (24°C) to 80°F (27°C)
 - b. Charge: -20°F (-28°C) to 122°F (50°C)
 - c. Discharge: -40°F (-48°C) to 140°F (60°C)
- F. Relief Valve:
 - a. Self-Resealing: Operates at two (2) to three (3) psi and is complete with integral flame arrestor
- G. Power Rate
 - a. 505 watts per cell @ 15 minute rate minimum

Section 2.4. EXISTING CABINET SPECIFICATIONS

- A. Removable front panel for battery access.
- B. Vented and meets NEMA 1 standard.
- C. Factory prewired with integrated 500 ampere O.C.P.D.
- D. Designed and compliant to U.L.
- E. Electrostatic baked epoxy power coat.
- F. Ground Stud.
- G. Nominal D.C.: 480 Volts, 1851 Amps
- H. Recommended Float Voltage (V.P.C.): 2.25 to 2.30.
- I. System Float Voltage: 540 to 552
- J. Short Circuit Rating: 29892
- K. Dimensional constraints of existing (CR4) cabinet
 - a. 14 inch height rail top to rail bottom

- b. 13 ¾ inch length inside to inside
- c. 35 5/8 inch mount bolt to mount bolt

Section 2.5. WARRANTY

Warranty on batteries will be three (3) years full replacement and two (2) years prorated replacement for a total of five (5) years coverage. A copy of the warranty on batteries shall be included with the bid response. The Contractor shall warranty workmanship for three (3) years.

Section 2.6. QUALIFICATIONS

See Section 6, SP-2.

Section 2.7. DELIVERY.

The Contractor will deliver all Commodities and Services required under this Contract and have batteries installed, tested, and in operable condition within 12 weeks from the issuance of a purchase order. Delivery will be made FOB to City of Daytona Beach Westside Regional WRF, 3651 LPGA Blvd, Daytona Beach, FL 32124.

END OF SECTION

SECTION 3: INSTRUCTIONS TO BIDDERS

IB-1. BID DOCUMENTS. The Bid Documents consist of the Invitation to Bid; these Instructions; General Provisions; Special Provisions, if any; Technical Specifications, if any; Insurance Requirements; the Proposal Form, and all additional forms provided by the City as part of this solicitation that are required to be completed and submitted by the Bidder as part of the Bid, regardless of whether these forms are described herein as exhibits or attachments to the Bid Proposal Form. Together, the Bid Proposal Form and the additional forms required to be submitted by the Bidder as part of the Bid, constitute the "Bid Package."

In making copies of Bid Documents available, the City does so only for the purpose of obtaining Bids and does not confer a license or grant to use the Bid Documents for any other purpose.

IB-2. COMPLETING THE BID. In submitting the Bid, the Bidder must complete and include all Bid Package documents. In order for the Bid to be considered complete:

A. The Bidder must submit the information required, only on the forms provided by the City as part of the Bid Package, except where the Bid Documents specifically permit or require otherwise.

B. The City requests that the Bidder submit only the Proposal forms. If the Bidder submits a Bid that includes any documents other than the Bid Proposal forms, these extraneous documents will be discarded. The City will issue a Notice of Intent to Award (NOI) to the lowest responsive and responsible Bidder.

C. The Bid Proposal Form and the other documents included in the Bid Package all contain blank spaces that the Bidder must complete; Bidder must initial all corrections and erasures to the information provided by the Bidder with ink in these blank spaces.

D. Where the Bid Schedule only calls for unit prices, the Bidder must quote all unit prices (if any) and extend unit prices set forth in the Bid Proposal. If this solicitation allows for lot-by-lot bids, the Bidder must comply with the Special Provisions set forth in the Bid Package.

E. The Bid Price (including unit prices and extended prices if applicable), must be stated in numerals.

F. If the Bid Schedule is a protected Excel spreadsheet, Bidder will complete all unit prices. The extended price and totals will be automatically calculated. The Bidder will include this with their online bid submittal in order to be responsive.

G. The Bidder must not submit alternative Bids unless this solicitation specifically authorizes alternate Bids. If this solicitation specifically allows the submission of alternate Bids, the Bidder must submit the standard and the alternative Bid in order to be considered responsive.

H. The Bid may not contain qualifications or exceptions of any kind.

I. All other submittal requirements stated herein must be met.

IB-3. SIGNING THE BID. The Bid Proposal Form, and all other Bid Package documents requiring the Bidder's signature, must contain an original or electronic signature of an individual who is authorized to bind the Bidder. The signature must be located in the space(s) marked for the Bidder's signature. In addition:

A. If the Bidder is a general partnership, its name and address must be stated as well as the name and address of each member of the firm or partnership.

B. If the Bidder is a joint venture, the Bidder must provide the full legal names of all persons/firms comprising the joint venture on separate signed attachment(s).

C. The person signing the Bid Proposal Form on behalf of the Bidder must be the same person who signs all of the other Bid Package documents.

IB-4. ADDENDA TO BID DOCUMENTS. Prior to Bid opening, the City may, on the City's own initiative or in response to a request for clarification, furnish addenda, or answer online questions via the Bid Platform for additions or alterations to the Bid Documents previously supplied by the City. In addition, the City may by addendum extend the date scheduled for Bid Opening.

The Purchasing Agent will make reasonable efforts through the Bid Platform to notify all potential Bidders of the issuance of an Addendum. The Purchasing Agent will post Addenda on the City's official web site. The City's Purchasing web site address is www.codb.us/841/Purchasing; addenda may be found under the "Public Solicitations" link. **However, the Bidder is solely responsible for ensuring that the Bid Proposal submitted reflects all such Addenda.**

IB-5. REQUESTS FOR INTERPRETATIONS. If the Bidder is in doubt as to the meaning of any of the Bid Documents included in this solicitation, the Bidder may submit a written request to the City for an interpretation, in care of the Purchasing Agent at the address set forth in the Invitation for delivery of the completed Bid. Such requests must be received **7 days** prior to Bid opening in order to be considered. The City is not obligated to respond to such requests. Any clarification or interpretation of the Bid Documents issued by the City in the form of a written addendum will be deemed to be a part of the Bid Documents. **NO ORAL CLARIFICATION OR INTERPRETATION BY ANY PERSON WILL MODIFY OR OTHERWISE EFFECT THE TERMS, CONDITIONS, OR SPECIFICATIONS STATED IN THESE BID DOCUMENTS. ALL MODIFICATIONS WILL BE EFFECTED IN WRITING BY ADDENDUM**

Questions may also be submitted online through the City's Bid Platform. Prospective Bidders may ask questions which will be forwarded to the project manager. Any responses will be posted in the form of an addendum or replied to the public through the online Bid Platform. The bidder is responsible to view the online responses at the web site listed above before submitting their bid.

IB-6. SUBMISSION OF ON-LINE BIDS. The City will only accept online Bids for this solicitation through its Bid Platform. The City's only authorized Bid Platform is Vendor Registry, accessible through the City's website www.codb.us/841/Purchasing under the link to "Public Solicitation", then by selecting the proper bid and clicking "Submit Bid". No other forms of on-line bids will be accepted. Any reference in this document to "sealed bids" is hereby replaced with "sealed on-line Bids". **No paper bids will be accepted.**

IB-7. AMENDMENT AND WITHDRAWAL OF BID. The Bidder may amend or withdraw the Bid at any time prior to Bid opening.

Mere negligence on the part of the Bidder in preparing the Bid does not constitute a right to withdraw the Bid subsequent to Bid opening.

IB-8. DISQUALIFICATION OF BIDDERS.

A. **Only One Bid Permitted:** The Bidder may submit only one Bid. If the Bidder submits more than one Bid for the work involved, all Bid Proposals submitted from the Bidder will be rejected.

B. **Collusion:** If the City determines that collusion exists among Bidders, the City will reject the Bids of all participants in the collusion.

IB-9. BID OPENING. Bid opening will be scheduled at the date and time specified by the Invitation for Bid, or by any applicable Bid Addenda or response that the City may issue. At bid opening, the City will open and record the Bid so long as it is proper and has been timely submitted. In recording the Bid the City will state the name of the Bidder and the Bid Price. The bid tabulation will be reviewed and verified by the Buyer after opening by the Purchasing Agent, or her designee. The Bidder is solely responsible to ensure

that the Bid is submitted online prior to Bid opening date and time. Late Bids will not be accepted by the Bid Platform.

~~The Bidder may be present at Bid opening, but Bidder's attendance is not required.~~

IB-11. BID OPENING RESULTS. The Bidder may secure information pertaining to bid opening results on the Purchasing Division webpage under the "Expired Solicitations" link and selecting the desired bid title to view the Bid tabulation, or by emailing a request to purchasing@codb.us. Copies of bid tabulation sheets will be furnished upon request and receipt of a valid email address or self-addressed stamped envelope.

IB-12. THE BID IS AN OFFER. In submitting the Bid, the Bidder certifies that the Bidder is making a firm offer that will remain open for 60 days following Bid opening unless properly and timely withdrawn by the Bidder prior to Bid Opening in conformance with these Instructions unless the City, in the City's sole discretion, rejects the Bid after Bid Opening. Extensions of time beyond the 60 day-period will only be by agreement of the City and the Bidder.

IB-13. BID PRICE INCLUSIVE OF COSTS. The Bid Price is inclusive of all of the Bidder's direct and indirect costs of performing the Work including but not limited to delivery, freight, and fuel surcharges.

IB-14. FEDERAL TAXES. The Bid Price will be exclusive of all federal taxes. If the Bidder believes that certain other taxes are properly payable by the City, the Bidder may list such taxes separately in each case directly below the respective item Bid Price. Tax exemption certificates will be furnished upon request.

IB-15. PUBLIC RECORDS. Sealed Bids received by the City pursuant to the Invitation to Bid will be temporarily exempt from disclosure in accordance with Florida's Public Records Laws. Thereafter, all Bids will be open for a personal inspection by any person pursuant to Public Records Law.

If the Bidder believes that the Bid or any portion thereof is permanently exempt from disclosure under the public records laws, the Bidder must state the grounds for this position in CAPITAL LETTERS in a certified letter addressed to the Purchasing Agent and received at least 3 days prior to the Bid Opening. The Bidder will be contacted prior to the opening of the Bid and a determination will be made as to whether or not it is exempt prior to opening. If a determination is made that it is not exempt from disclosure, the Bidder may withdraw the sealed bid.

IB-16. BIDDER CAPABILITY/REFERENCES. Prior to Contract award, the City may require Bidder to show that Bidder has the necessary facilities, equipment, ability, and financial resources to perform the work specified in a satisfactory manner and within the time specified.

In addition, the City may require Bidder to demonstrate the Bidder has experience in work of the same or similar nature as the work required herein, and to provide references satisfactory to the City.

IB-17. REVIEW; BASIS OF AWARD. Bids will be reviewed in accordance with the procedures set forth in these Instructions to Bidders and the applicable provisions of the City Purchasing Code (Chapter 30 of the City Code of Ordinances). Any Contract award pursuant to the Invitation to Bid will be made on the basis of the criteria for award of Bids provided in the Purchasing Code.

IB-18. LOCAL PREFERENCE. The Purchasing Code, Chapter 30, Code of the City of Daytona Beach provides for a preference to local Vendors whenever the application of such a preference is reasonable in light of the dollar-value of Proposals received in relation to such expenditures.

As used in City Code, the term, "local Vendor" means a person or business entity which has maintained a permanent place of business with full-time employees within the city limits of the City of Daytona Beach for a minimum of six months prior to the date Bids or Proposals were received for the purchase or Contract at issue, which generally provides from such permanent place of business the kinds of goods or Services solicited, and which at the time of the solicitation fully complies with state and local laws, including City zoning and licensing ordinances.

Pursuant to City Code, if the lowest responsive Bid is submitted by a non-local Vendor, and a Bid submitted by a local Vendor is within 10% of the lowest Bid, then these two Vendors will each have the opportunity to submit a best and final Bid equal to or lower than the amount of the lowest Bid within five working days after Bid opening. The Bid will be awarded to the Bidder submitting the lowest responsive Bid or final Bid. In case of a tie between a local Vendor and a non-local Vendor, the Bid will be awarded to the local Vendor.

If the Bidder intends to qualify as a local Vendor, the Bidder must complete and sign the Local Vendor affidavit and submit it as part of the Bid. A Bidder who fails to properly complete and sign this affidavit or submit it with the Bid, will not further considered for local preference.

If the Bidder submits a properly completed Local Vendor affidavit as part of its Bid, the City reserves the right to verify that the Bidder meets the definition of Local Vendor, including by requiring the Bidder to supply additional documentation. In all instances, the City will be the final arbiter as to whether the Bidder qualifies for local preference.

With certain exceptions, application of local preference is discretionary. For more information on how the Local Preference may apply, see the Purchasing Code.

IB-19. IDENTICAL TIE BIDS. If there are two or more low responsive Bids from responsible Bidders that are identical in price, the tie will be broken in the following order of preference: a) the Bidder qualifying for local preference under Code 30-86; b) the Bidder in compliance with the drug free workplace certification requirements set forth in Florida Statutes 287.087; or c) the most responsible Bidder as defined under the City Code 30-82 (9)(c). Please see the Drug Free Workplace form incorporated into the Bid Documents.

IB-20. RIGHT TO ACCEPT OR REJECT BIDS. The City will reject Bids which contain modifications, which are incomplete, unbalanced, conditional, obscure, which contain additions not requested, which contain irregularities of any kind, or which do not comply in every respect with these Instructions to Bidders and the Contract Documents, unless the City determines in its sole discretion that the non-compliance is minor.

The City does not bind itself to accept the minimum Bid stated herein, but reserves the right to accept any bid, which in the judgment of the City will best serve the needs and interests of the City.

IB-21. CONTRACT DOCUMENTS. The draft Contract that will be executed by the City and the successful Bidder is included in these Bid Documents. The Contract will include, by attachment or by reference, the Bid Documents, the Bid Package submitted by the successful Bidder, the Resolution or Ordinance awarding the Bid, any Purchase Orders requisitioning goods or Services pursuant to the Contract, and any amendments that may be executed by the successful Bidder after the date of award, if any, and the City. No representations, warranties, inducements or oral agreements have been made by either Party except as expressly set forth in this Contract.

IB-22. PURCHASE ORDERS. All Purchase Orders issued pursuant to the Contract will be deemed to incorporate all terms and conditions of the Contract regardless of whether the Contract or Contract Documents are expressly referenced therein. In case of conflicts between a Purchase Order and any other provisions of the Contract Documents, the other provisions of the Contract Documents will prevail.

IB-23. PIGGYBACK AUTHORITY. All Vendors awarded Contracts pursuant to this solicitation are required to permit government agencies, cities, counties, and political subdivisions to participate in the Contract under the same prices, terms, and conditions except where allowance are made for differences in delivery costs.

IB-24. PUBLIC ENTITY CRIMES. Any party submitting a Bid in response to this invitation must execute the enclosed Form PUR 7068, "SWORN STATEMENT UNDER SECTION 287.133(A), FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES," and enclose it with the Bid/Proposal. The form is included on the Bid Proposal pages of the Bid Documents. All blank spaces in the form must be completed.

IB-25. COMPLIANCE WITH LAWS. The Bidder will comply with all applicable federal, state, and local laws, ordinances, rules, regulations, and all orders and decrees of bodies or tribunals having jurisdiction or authority which in any manner affect the work, or which in any way affect the conduct of the work.

The Successful Bidder must always observe and comply with all such laws, ordinances, rules, regulations, orders, and decrees, including the Occupational Safety and Health Administration's (OSHA) Excavation-Safety Standard, 29 C.F.R. § 1926.650 Sub Part P, and Chapter 90-96 Florida Statutes.

IB-26. MAINTENANCE OF LICENSES. The Successful Bidder will protect and indemnify City and all its officers, agents, servants, or employees against any claim or liability arising from or based on the violation of any such law, ordinance, rule, regulation, order, or decree caused or committed by the Successful Bidder, its representatives, sub-contractors, sub-consultants, professional associates, agents, servants, or employees.

The Bidder will maintain all required licenses in full force and effect during the Contract term, including any renewal options.

IB-27. BIDDER RESPONSIBILITY FOR PREPARATION COSTS. Neither the City nor the City's officers or agents will be liable for the costs incurred by the Bidder in reviewing or responding to this solicitation.

END OF SECTION

SECTION 4: GENERAL PROVISIONS

GP-1. COMPENSATION AND PAYMENTS; LIMITATIONS

A. Unless the Bid Schedule specifically provides for reimbursement of expenses, the compensation described herein will be Vendor's sole compensation for the Services to be provided. Vendor will be solely responsible for all of costs Vendor incurs in meeting its obligations herein.

B. For Services, provided by Vendor pursuant to this Contract, the City will pay Vendor an amount not to exceed the amount described in the Bid Schedule.

C. For Unit Price Contract, City will pay Vendor an amount not to exceed the amount described in the Bid Schedule of the Vendor submittal.

UNIT PRICING AND QUANTITIES. If this solicitation requests submission of unit prices: (i) the Bidder will hold all unit prices Bid firm for the duration of the Contract, including any extension thereof, unless price adjustments are specifically authorized by the Contract Documents; and (ii) quantities stated are an estimate only and no guarantee is given or implied as to quantities that will actually be required during the Contract period.

GP-2. BILLING; MANNER OF PAYMENT. In addition to requirements for payment established by applicable federal, state, or local law including the City Code, payment terms will be paid in accordance with the local government Prompt Payment Act (218.70 F.S.). Payment will be made 45 days after Vendor has provided an accurate and undisputed invoice, except where the City accepts a prompt payment discount from the Vendor and the commodities are not defective. All invoices must have a unique invoice number, date, and pricing by line item and unit price that are consistent with this contract and such purchase order. Improper invoices will be returned to the Vendor. Any additional terms and conditions set forth on an invoice not in compliance with this Contract or the purchase order are null and void. Nothing in this Contract will be deemed to create an obligation on the City's part to pay a subcontractor or supplier of Vendor's for commodities provided under this Contract.

GP-3. RELATIONSHIP BETWEEN PARTIES. This Contract does not create an employee-employer relationship between the City and Vendor. Vendor is an independent Vendor of the City and will be in control of the means and the methods in which the requested work is performed. As an independent Vendor, Vendor will be solely responsible for payment of all federal, state and local income tax, and self-employment taxes, arising from this Contract, and Vendor agrees to indemnify and hold harmless the City from any obligations relating to such taxes. The City will not make deductions from payments due for such taxes or for social security, unemployment insurance, worker's compensation, or other employment or payroll taxes. Vendor will also be responsible for the performance of Vendor's subcontractors.

GP-4. DOCUMENTS. All reports, estimates, logs, original drawings, and other materials furnished, prepared or executed by Vendor during the term of and in accordance with the provisions of this Contract will be the property of the City and delivered to the City upon demand or, if no demand has previously been made, upon completion of the particular task for which such materials were prepared, executed, or otherwise required, or upon termination or expiration of this Contract.

GP-5. PUBLIC RECORDS.

A. To the extent applicable, Vendor will comply with the requirements of Florida Statutes Section 119.0701, which include the following:

- 1 Keeping and maintaining public records that the City requires for performance of the service provided herein.

2 Upon the request of the City Clerk of the City, (i) providing the City Clerk with a copy of requested public records or (ii) allowing inspection or copying of the records, within a reasonable time after receipt of the City Clerk's request, at a cost that does not exceed the cost provided in Ch. 119, Florida Statutes, or as otherwise provided by law.

3 Ensuring that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law until completion of this Contract, and following such completion if Vendor fails to transfer such records to the City.

4 Upon completion of this Contract, keep and maintain public records required by the City to perform the service. Vendor will meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City upon request from the City Clerk, in a format that is compatible with the City's information technology systems.

IF THE VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, VENDOR MUST CONTACT THE CITY CLERK, WHOSE CONTACT INFORMATION IS AS FOLLOWS:

(Phone)	386 671-8023
(Email)	clerk@codb.us
(Address)	301 S. Ridgewood Avenue Daytona Beach, FL 32114

B Nothing herein will be deemed to waive Vendor's obligation to comply with Section 119.0701(3)(a), Florida Statutes, as amended by Chapter 2016-20, Laws of Florida (2016).

GP-6. TERMINATION OF CONTRACT.

A. The City may by written notice to Vendor terminate this Contract, in whole or in part, at any time, either for the City's convenience or because of the failure of the Vendor to fulfill its contractual obligations.

1. Before terminating for convenience, City must provide Vendor at least 30 days advance notice of termination. This Contract will terminate automatically and without need for further notice upon the expiration of the notice period.

2. Except as provided in Section 10(a)(3), before terminating due to Vendor's material breach of its contractual obligations, City must provide Vendor prior written notice, specifying the breach and demanding Vendor remedy the breach within 10 days of the notice, or within such longer period as may be reasonably required if the nature of the breach is that it cannot be remedied within 10 days of notice. This Contract will terminate automatically and without need for further notice if Vendor fails to remedy the material breach within the period described in the City's notice of breach.

3. The City may terminate this Contract upon Vendor's breach without providing Vendor an opportunity to remedy the breach as referenced immediately above, if Vendor or any of Vendor's personnel, in connection with the Services or rights provided herein, commit a criminal act or engage in activity that poses a material risk of injury to persons or damage to property. Such termination will be effective immediately upon providing Vendor written notice.

B. If the termination is for convenience, Vendor will be paid compensation for goods accepted or Services performed to the date of termination. If termination is due to Vendor's material breach, the City

reserves all rights and remedies it may have under law due to such breach. Among other things, the City may take over the work and prosecute the same to completion by other agreements or otherwise; and in such case, the Vendor will be liable to the City for all reasonable additional costs occasioned to the City thereby.

C. If after notice of termination for the Vendor's failure to fulfill contractual obligations it is judicially determined by a court of law that the Vendor had not so failed, the termination will be conclusively deemed to have been effected for the City's convenience. In such event, adjustment in payment to Vendor will be made as provided in GP-6(b) for a termination for convenience.

D. The rights and remedies of City provided for in this Section are in addition and supplemental to any and all other rights and remedies provided by law or under this Contract.

E. Subject to Odebrecht Constructions, Inc., vs Prasad and Odebrecht Construction, Inc. v. Secretary, Florida Department of Transportation and their progeny, this paragraph applies to any contract for services or items of \$1 million or more. Vendor certifies that it is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List and that it does not have business operations in Cuba or Syria as provided in §287.135, Fla. Stat., as may be amended or revised. City may terminate this Contract at the City's option if Vendor is found to have submitted a false certification as provided under subsection (5) of , or been placed on the Scrutinized Companies §287.135, Fla. Stat., as may be amended or revised or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List and that it does not have business operations in Cuba or Syria as provided in §287.135, Fla. Stat., as may be amended or revised.

GP-7. SEVERABILITY. If one or more of the provisions contained in this Contract are held to be invalid, illegal or unenforceable for any reason in any respect, such invalidity, illegality or unenforceability will not affect any other provisions of this Contract, and this Contract will then be construed as if such invalid, illegal or unenforceable provision had never been contained herein or therein.

GP-8. LIMITATION ON WAIVERS. Neither the City's review, approval, or acceptance of, or payment for, any of the Services provided by Vendor, will be construed to operate as a waiver of the City's rights under this Contract. Vendor will be and always remain liable to the City in accordance with applicable law for any and all damages to the City caused by the Vendor's negligent or wrongful provision of any of the Services furnished under this Contract.

Failure of the City to exercise any right or option arising out of a breach of this Contract will not be deemed a waiver of any right or option with respect to any subsequent or different breach, or the continuance of any existing breach. Furthermore, the failure of the City at any time to insist upon strict performance of any condition, promise, agreement or understanding set forth herein will not be construed as a waiver or relinquishment of the City's right to insist upon strict performance of the same condition, promise, agreement or understanding at a future time.

GP-9. DISPUTE RESOLUTION. If a dispute exists concerning this Contract, the Parties agree to use the following procedure prior to pursuing any judicial remedies.

A. Negotiations. A Party will request in writing that a meeting be held between representatives of each Party within 14 calendar days of the request or such later date that the Parties may agree to. Each Party will attend and will include, at a minimum, a senior level decision maker (an owner, officer, or employee of each organization) empowered to negotiate on behalf of their organization. The purpose of this meeting is to negotiate in the matters constituting the dispute in good faith. The Parties may mutually agree in writing to waive this step and proceed directly to mediation as described below.

B. Non-Binding Mediation. Mediation is a forum in which an impartial person, the mediator, facilitates communication between parties to promote reconciliation, settlement, or understanding among them. Within 30 days after the procedure described in Subsection (a) proves unsuccessful or the Parties mutually

waive the subsection (a) procedure, the Parties will submit to a non-binding mediation. The mediation, at a minimum, will provide for (i) conducting an on-site investigation, if appropriate, by the mediator for fact gathering purposes, (ii) a meeting of all Parties for the exchange of points of view and (iii) separate meetings between the mediator and each Party to the dispute for the formulation of resolution alternatives. The Parties will select a mediator trained in mediation skills and certified to mediate by the Florida Bar, to assist with resolution of the dispute. The Parties will act in good faith in the selection of the mediator and give consideration to qualified individuals nominated to act as mediator. Nothing in this Contract prevents the Parties from relying on the skills of a person who also is trained in the subject matter of the dispute or a Contract interpretation expert. Each Party will attend and will include, at a minimum, a senior level decision maker (an owner, officer, or employee of each organization) empowered to negotiate on behalf of their organization.

If the Parties fail to reach a resolution of the dispute through mediation, then the Parties are released to pursue any judicial remedies available to them.

GP-10. GENERAL TERMS AND CONDITIONS.

A. Amendments. Except as otherwise provided herein, no change or modification of this Contract will be valid unless the change is reduced to writing and signed by both Parties.

B. Assignments and Subcontracting. No assignment or subcontracting will be permitted without the City's written approval.

C. Compliance with Laws and Regulations. In providing all Services pursuant to this Contract, Vendor will abide by all statutes, ordinances, rules, and regulations pertaining to or regulating the provisions of such Services, including those now in effect and hereafter adopted. Any violation of said statutes, ordinances, rules, or regulations will constitute a material breach of this Contract and will entitle the City to terminate this Contract immediately upon delivery of written notice of termination to the Vendor.

D. Truth in Negotiations Certificate. Vendor hereby certifies that the wages and other factual unit costs supporting the compensation herein are accurate, complete, and current at the time of this Contract.

E. No Third Party Beneficiaries. There are no third party beneficiaries of Vendor's Services under this Contract.

F. Contingency Fee. Vendor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Vendor, to solicit or secure this Contract and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for Vendor, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Contract.

G. Nondiscrimination. Vendor will not discriminate against any employee or applicant for employment because of race, color, sex, or national origin. Vendor will take affirmative action to ensure that applicants are employed and the employees are treated during employment without regard to their sex, race, creed, color, or national origin. Further, Vendor agrees to comply with all local, state, and federal laws and ordinances regarding discrimination in employment against any individual on the basis of race, color, religion, sex, national origin, physical or mental impairment, or age. In particular, Vendor agrees to comply with the provisions of Title 7 of the Civil Rights Act of 1964, as amended, and applicable executive orders including, but not limited to, Executive Order No. 11246.

H. Principles in Construing Contract. This Contract will be governed by and construed in accordance with the laws of the State of Florida. Captions and paragraph headings used herein are for convenience only, are not a part of this Contract and will not be deemed to limit or alter any provisions hereof or to be relevant in construing this Contract. The use of any gender herein will be deemed to be or include the other genders, and the use of the singular herein will be deemed to be or include the plural (and vice versa), wherever appropriate.

I. Venue. The exclusive venue for any litigation arising out of this Contract will be Volusia County, Florida if in state court, or the U.S. District Court, Middle District of Florida if in federal court.

J. Litigation Costs. Except where specifically provided herein, in case of litigation between the Parties concerning this Contract, each party will bear all of its litigation costs, including attorney's fees.

K. Jury Trial Waived. THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS Contract, OR ANY DEALINGS BETWEEN THE PARTIES. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL ENCOMPASSING OF ANY DISPUTES BETWEEN THE PARTIES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER, INCLUDING WITHOUT LIMITATION, Contract CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS.

L. Failure to Enforce. Failure by the City at any time to enforce the provisions of this Contract will not be construed as a waiver of any such provisions. Such failure to enforce will not affect the validity of the Contract or any part thereof or the right of the City to enforce any provision at any time in accordance with its terms.

M. Non-Exclusive Contract. This is not an exclusive Contract. Award of this Contract will impose no obligation on the part of the City to use the successful Bidder for all work of this type that may be required during the Contract period. The City specifically reserves the right to concurrently Contract with other companies for similar work if the City deems such action to be in the City's best interests. In the case of multiple TERM Contracts, this provision will apply separately to each Contract.

N. Force Majeure. A Force Majeure event is an act of God or of the public enemy, riots, civil commotion, war, acts of government or government immobility (whether federal, state, or local) fire, flood, epidemic, quarantine restriction, strike, freight embargo, or unusually severe weather; provided, however, that no event or occurrence will be deemed to be a force majeure event unless the failure to perform is beyond the control and without any fault or negligence of the Party charged with performing or that Party's officers, employees, or agents. Whenever this Contract imposes a deadline for performing upon a Party, the deadline will be extended by one day for each day that a Force Majeure event prevents the Party from performing; provided, however, that the Party charged with performing and claiming delay due to a Force Majeure event will promptly notify the other Party of the Event and will use its best efforts to minimize any resulting delay.

O. Compliance with FEMA 2 CFR 200.318-326 and Appendix II Contract Provisions. This Agreement and the products/services provided may be utilized in the event of declared State/Federal Emergency and Contractors shall be prepared to comply with the requirements of the FEMA Super Circular CFR 200.318-326 and Appendix II Contract Provisions as amended. These documents can be found on the Internet at:
<https://www.gpo.gov/fdsys/granule/CFR-2014-title2-vol1/CFR-2014-title2-vol1-sec200-318>

GP-11-13. RESERVED

GP-14. STANDARD OF PERFORMANCE. Vendor's Services will at a minimum meet the level care and skill ordinarily used by members of Vendor's profession performing the type of Services provided herein within the State of Florida.

GP-15. SUSPENSION OF SERVICES. The City may suspend Vendor's Services if the notice of material breach provided pursuant to Section 7(a)(2) so directs. The City may also suspend Vendor's Services in lieu of termination, under the conditions set forth in Section 7(a)(3), by providing Vendor written notice of suspension. Vendor will suspend activities immediately upon receipt thereof; and in such instance Vendor's rights to provide Services referenced herein will also automatically be suspended for the period of such suspension.

GP-16. CITY'S RESPONSIBILITIES. The City agrees to make available for review and use by the Vendor, reports, studies, and data relating to the Services required. The City will establish a project manager to meet periodically with the Vendor to facilitate coordination and ensure expeditious review of work product.

GP-17. FAILURE TO DELIVER. In the event of the Vendor's failure to deliver Services in accordance with these terms and conditions, the City, after due oral and written notice, may procure the Services from other sources and hold the Vendor responsible for the purchase and administrative costs. This remedy will be in addition to any other remedies that the City may have.

GP-18. PERSONNEL. Vendor represents that Vendor has or will secure, at Vendor's own expense, all personnel required in performing the Services under this Contract. Such personnel will not be employees of or have any contractual relationship with the City.

All personnel engaged in the work will be fully qualified and will be authorized under state and local law to perform such Services.

The City of Daytona Beach will, throughout the term of the Contract have the right of reasonable approval and rejection of staff or subcontractors assigned to the work by the Vendor. If the City reasonably rejects staff or subcontractors, the Vendor must provide replacement staff or subcontractors satisfactory to the City in a timely manner and at no additional cost to the City. The day-to-day supervision and control of the Vendor's employees and subcontractors are the sole responsibility of the Vendor.

GP-19. WARRANTY. See Scope 2.5

GP-20. MSDS. Vendor will supply Material Safety Data (MSDS) with each initial delivery of any materials defined by the State of Florida or the Federal Government as being toxic, harmful, or hazardous.

GP-21. DELIVERY. Delivery of all materials or products under this Bid will be quoted FOB Destination or other point of use within the City as specified. No delivery charges will be added to invoices except when express delivery is substituted on order for a less expensive method specified in Contract; in such cases, difference between freight or mail and express charges may be added to the invoice.

A. **Packaging and Shipping.** All invoices, packing lists, and packages must bear the name of the Contract and the applicable City Purchase Order number as printed on the face of the Purchase Order.

B. **Amendments and Modifications.** The City may unilaterally change, at no additional cost, the quantity and receiving point within the City for items not yet shipped. The City will not be required to pay for defective items, back-orders, late deliveries, deliveries of quantities of items exceeding the quantities specified, or items shipped at a higher price than stated in this Contract or the Purchase Order. Except as otherwise provided herein, no change or modification of the Contract will be valid unless the same is in writing and signed by both Parties.

C. **Additional Quantities.** For a period not exceeding 90 days from the date of award of the Contract by the City, the right is reserved to acquire additional quantities at the prices stated on the Bid Schedule.

D. **Delivery Failures.** Failure of the Vendor to deliver within the time specified in the Contract, or within a reasonable time as interpreted by the Purchasing Agent, or failure to make replacements of rejected articles as directed by the Purchasing Agent, will permit the Purchasing Agent to purchase on the open market articles of comparable grade to take the place of those rejected or not delivered. On all such purchases the Vendor will reimburse The City within a reasonable time specified by the Purchasing Agent, for any expenses incurred in excess of the defaulted prices.

GP-22. DISCONTINUED. Vendor will provide the City 30 days' advance written notice of any discontinued items, to allow the City to purchase additional quantities of such items. The City must give written approval

of any replacements provided for discontinued items if they exceed the unit price for the discontinued item or fail to strictly meet quality, fit, form, or function of the discontinued item.

GP-23. SOVEREIGN IMMUNITY. The City expressly retains all rights, benefits, and immunities of sovereign immunity under Florida law, including Section 768.28, Florida Statutes. Nothing in this Contract, or any Purchase Order, or notice provided under this Contract will be deemed to be a waiver of sovereign immunity or of the limitations on liability of the City beyond any statutory limited waiver of immunity or limits of liability which may have been or may be adopted by the Florida legislature, and the cap on the amount and liability of the City for damages regardless of the number or nature of claims in tort, equity, or Contract will not exceed the dollar amount set by the legislature for tort. Nothing in this Contract, or any Purchase Order, or notice provided pursuant to this Contract will inure to the benefit of any third party for the purpose of allowing a claim against the City, which would otherwise be barred under the doctrine of sovereign immunity or by operation of law.

GP-24. BOOKS AND RECORDS. The Vendor will maintain books, records, and documents pertinent to performance under this Contract and any Purchase Order issued hereunder in accordance with generally accepted accounting principles. The City will have inspection and audit rights to such records during the term of this Contract and for three years following the termination of obligations hereunder. Records which relate to any litigation, appeals or settlements of claims arising from such performance will be made available until a final disposition has been made of such litigation, appeals or claims.

GP-25. UCC. In addition to any rights or remedies contained in this Contract, each party will have the rights, duties, and remedies available through the Uniform Commercial Code.

GP-26. TITLE/RISK OF LOSS. Title and risk of loss will not be deemed to pass to the City unless and until the COMMODITIES ordered have been delivered; and, where inspection is required prior to City acceptance, until the City has inspected and accepted such Commodities.

GP-27. GOVERNMENTAL RESTRICTIONS. In the event any governmental restrictions are imposed which would necessitate alteration of the material, quality, workmanship or performance of the items awarded to the Vendor prior to delivery, it will be the responsibility of the Vendor to notify the City in writing at once, indicating the specific regulation which required an alteration. The City reserves the right to accept any such alteration, including any price adjustments occasioned thereby, or to cancel the Contract at no expense to the City.

GP-28. PATENT INFRINGEMENT, ETC. By submission of this Bid, the Vendor certifies that the merchandise to be furnished will not infringe any valid patent, copyright, or trademark and the successful Vendor will, at his own expense, defend any and all actions or suits charging such infringement and hold The City harmless in case of any such infringements.

END OF SECTION

SECTION 5: INDEMNIFICATION & INSURANCE REQUIREMENTS

IR-1. INDEMNIFICATION. Vendor will indemnify and hold harmless the City, including the City's officers, employees, and agents, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of Vendor, or Vendor's officers, employees, or agents, including subcontractors and other persons employed or used by Vendor in the performance of this Contract. This indemnification agreement is separate and apart from, and in no way limited by, any insurance provided pursuant to this Contract or otherwise.

IR-2. SUBMISSION OF INSURANCE. The Successful Bidder must submit any required insurance on or before submission of the signed Contract or prior to issuance of a notice to proceed.

IR-3. INSURANCE. Vendor will provide and maintain at Vendor's own expense, insurance of the kinds of coverage and in the amounts set forth in this Section. All such insurance will be primary and non-contributory with the City's own insurance. The City shall be exempt from, and in no way liable for, any sums of money that may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Contractor or sub-contractor providing such insurance. In the event any request for the performance of Services presents exposures to the City not covered by the requirements set forth below, the City reserves the right to add insurance requirements that will cover such an exposure.

A. Coverage and Amounts.

1. Workers Compensation Insurance as required by Florida Statutes, Chapter 440, Workers' Compensation Insurance, for all employees of Vendor, employed at the site of the service or in any way connected with the work, which is the subject of this service. The insurance required by this provision will comply fully with the Florida Workers' Compensation Law and include Employers' Liability Insurance with limits of not less than \$500,000 per occurrence. Any associated or subsidiary company involved in the service must be named in the Workers' Compensation coverage.

2. Liability Insurance, including (i) Commercial General Liability coverage for operations, independent Vendors, products-completed operations, broad form property damage, and personal injury on an "occurrence" basis insuring Vendor and any other interests, including but not limited to any associated or subsidiary companies involved in the work; and (ii) Automobile Liability Insurance, which will insure claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle used by the Vendor in the performance of this Contract.

The limit of liability for each policy will be a combined single limit for bodily injury and property damage of no less than \$1,000,000 per occurrence. If insurance is provided with a general aggregate, then the aggregate will be in an amount of no less than \$2,000,000. The Risk Manager may authorize lower liability limits for the automobile policy only, at the Risk Manager's sole discretion.

THE COMMERCIAL GENERAL LIABILITY INSURANCE POLICY WILL NAME THE City AS AN ADDITIONAL INSURED. Vendor's Commercial General Liability insurance policy shall provide coverage to Vendor, and City when required to be named as an additional insured either by endorsement or pursuant to a blanket additional insured endorsement, for those sources of liability which would be covered by the latest edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) without the attachment of any endorsements excluding or limiting coverage for Products/Completed Operations, Independent Vendors, Property of City in Vendor's Care, Custody or Control or Property of City on which contracted operations are being performed, Explosion, Collapse or Underground hazards (XCU Coverage, Contractual Liability or Separation of Insureds). When City is added as additional insured by endorsement,

ISO Endorsements CG 20 10 and CG 20 37 or their equivalent shall be used to provide such Additional Insured status that is at least as broad as ISO form CG 20 10 11 85. .

Unless specifically waived hereafter in writing by the Risk Manager, Vendor agrees that the Insurer will waive its rights of subrogation, if any, against the City on each of the types of required insurance coverage listed above.

B. Proof of Insurance. Vendor will furnish proof of insurance acceptable to the City prior to or at the time of execution of this Contract. Vendor will not commence work until all proof of such insurance has been filed with and approved by the City. Vendor will furnish evidence of all required insurance in the form of certificates of insurance which will clearly outline all hazards covered as itemized above, the amounts of insurance applicable to each hazard, and the expiration dates.

If requested by the City, Vendor will furnish copies of the insurance Contracts to support the certificates of insurance and the copies of said insurance must be acceptable to the City.

C. Cancellation; Replacement Required. Vendor will file replacement certificates 30 days prior to expiration or termination of the required insurance occurring prior to the acceptance of the work by the City. If a required policy is canceled without Vendor's prior knowledge Vendor will immediately notify the City immediately upon becoming aware that a required insurance coverage has been canceled for any reason, and promptly replace the canceled policy. The City expressly reserves the right to replace the canceled policy at Vendor's expense if Vendor fails to do so.

D. Termination of Insurance. Vendor may not cancel the insurance required by this Contract until the work is completed, accepted by the City and Vendor has received written notification from the Risk Manager that Vendor may cancel the insurance required by this Contract and the date upon which the insurance may be canceled. The Risk Management Division of the City will provide such written notification at the request of Vendor if the request is made no earlier than two weeks before the work is to be completed.

E. Liabilities Unaffected. Vendor's liabilities under this Contract will survive and not be terminated, reduced or otherwise limited by any expiration or termination of insurance coverages. Similarly, Vendor's liabilities under this Contract will not be limited to the extent of the existence of any exclusions or limitations in insurance coverages, or by Vendor's failure to obtain insurance coverage.

Vendor will not be relieved from responsibility to provide required insurance by any failure of the City to demand such coverage, or by City's approval of a policy submitted by Vendor that does not meet the requirements of this Contract.

F. Risk Manager. All references to the Risk Manager will be deemed to include the Risk Manager's designee.

END OF SECTION

SECTION 6: SPECIAL PROVISIONS

SP-1. BONDS. There is no bonding required for this solicitation.

SP-2. BIDDER QUALIFICATIONS AND REQUIRED SUBMISSIONS

A. Minimum Qualifications. In order to be considered qualified to perform the requested Services,

- 1) Bidder must have all required permits;
- 2) Must have an active, permanent, and successful operation within the State of Florida for a minimum of three (3) years prior to the date of submission of Bids (verified through Sunbiz);
- 3) Bidder must have performed a minimum of 2 uninterruptible power supply battery installations over the past three years,
- 4) Installation shall be similar in size and scope;
- 5) Must otherwise have sufficient organizational capacity, equipment, and facilities to provide the requested Services.

END OF SECTION

SUBMITTAL CHECKLIST

The following are items that are required to be considered responsive. Make sure that the bidder verified column is checked. Use NA (not applicable) rather than leaving blank.

Bidder verified	City Staff verified	Item(s) Required
		Bid Proposal Form
		Bid Schedule
		Attachment A: Non-Collusion Affidavit
		Attachment B: Florida Public Entity Crime Form
		Attachment C: Local Vendor Affidavit <i>only if filing for local preference</i>
		Attachment D: Drug Free Workplace / Tied Bids
		Attachment E: References of 2 uninterruptible power supply battery installations in the last 3 years.
		1 original
		Label the outer most package with the following: Bid Number Date of the Opening Vendor Name and Address

BID PROPOSAL FORM
WESTSIDE REGIONAL WRF BATTERY
REPLACEMENT UV-UPS SYSTEM
ITB #: 20432

TO THE MAYOR AND COMMISSIONERS
THE CITY OF DAYTONA BEACH, A FLORIDA MUNICIPAL CORPORATION

Dear Mayor and Commissioners:

This Bid is submitted by _____
(insert Bidder's full legal name; include D/B/A if applicable)

Business Address: _____
(include P.O. Box/street address, city, state and zip code)

Business Phone: _____ Business Fax: _____
(include area code) (include area code)

Business Email: _____
(leave blank if n/a)

The undersigned, as Bidder or Bidder's authorized representative, hereby declares and affirms each of the following:

1. That Bidder has had the opportunity to examine the facilities where the Services are to be performed and is fully informed in regard to all conditions pertaining to the site(s).
2. That Bidder has thoroughly examined the Contract Documents and that Bidder is sufficiently knowledgeable of the Services to be performed.
3. That, pursuant to and in compliance with the Bid Package, including all Contract Documents, the Bidder hereby agrees to furnish all labor, materials, and equipment required to perform the Services in strict accordance with the Contract Documents and for the Unit Prices and/or Lump Sum prices herein for the prices stated in the attached Bid Schedule.
4. That Bidder agrees to indemnify and hold harmless the City any other interests as set forth in the Contract Documents

BID PROPOSAL FORM, cont.

5. If the attached Bid Schedule includes extended unit prices, the use of extended unit quantities will not be construed to be a guarantee that the City will purchase such quantities if a Contract is awarded; and that, subject to the terms and conditions of the Contract, the Bidder will be entitled to payment based upon the number of units purchased or Services performed and accepted, as specified in the Contract Documents,

6. That Bidder has received the following Addenda (*leave blank if inapplicable*):

Addendum #	Date	Addendum #	Date	Addendum #	Date

(list any additional Addenda by number and date): _____

7. That Bidder has completed the required information required in this Bid Proposal Form and other documents comprising the Bid Package truthfully.

8. That this Bid is an offer, and may be accepted by the City's issuance of a Contract to the Bidder. Bidder will be fully bound by all Contractual terms and conditions set forth herein; provided, however, that if the Bid Documents call for alternative Bids any alternative Bids not specifically accepted the City in the notice of award will not be a part of the Contract.

9. That Bidder is (*mark the appropriate box and include the additional information, as applicable*):

- An individual person/sole proprietor
- A Florida corporation/ limited liability company
- A foreign corporation/limited liability company authorized to do business in Florida*
_____ (specify state of incorporation/formation)
- A Florida limited partnership
- A foreign limited partnership authorized to do business in Florida*
_____ (specify state of incorporation/formation)
- A general partnership (provide partner names on separate, signed sheet of paper)
- A joint venture**
- Other _____ (specify, including type of entity)

BID PROPOSAL FORM, cont.

**(If Bidder is a foreign corporation or foreign limited liability company, attach proof of registry from State of Florida)*

*** (provide on separate signed sheet(s) of paper the full legal names of all persons/firms comprising the joint venture.*

10. That the name, title, mail address, cell phone and email address of the person who will serve as the Designated Representative of Bidder if the Contract is awarded to Bidder, is as follows:

In signing below, I certify that I am the above-named Bidder or a person duly authorized by Bidder to bind Bidder to these terms and conditions.

Date signed: _____

By: _____
(Signature)

Printed Name: _____

Title: _____

BID SCHEDULE
WESTSIDE REGIONAL WRF BATTERY
REPLACEMENT UV-UPS SYSTEM
ITB NO. 20432

1. The Contractor shall furnish equipment, labor and materials to remove 240 Power First TC-12150C Absorbed Glass Matt, VRLA batteries, and to reinstall 240 new batteries into 6 (six) cabinets. The Contractor will ensure coordination and compatibility of equipment.

TOTAL BID PROPOSAL:

\$ _____
(state numerically only)

ATTACHMENT A
NONCOLLUSION AFFIDAVIT OF PRIME BIDDER

STATE OF _____)
COUNTY OF _____)

_____, being first duly sworn deposes and says that:

- (1) He/She is _____ of _____ the Bidder that has submitted the attached Bid;
- (2) He/She is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;
- (3) Such Bid is genuine and is not a collusive or sham Bid;
- (4) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with any other Bidder, firm or person to submit a collusive or sham Bid in connection with the Contract for which the attached Bid has been submitted or to refrain from Bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm, or person to fix the price or prices or cost element of the Bid price or the Bid price of any other Bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the City of Daytona Beach, FL (Local Public Agency) or any person interested in the proposed Contract;
- (5) The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

By: _____
(Signature)
Name Typed: _____
Title: _____
Bidder: _____

Subscribed and sworn to before me

This _____ day of _____, 20____

(Signature of Notary Public)

My commission expires: _____

ATTACHMENT B: AFFIDAVIT ON PUBLIC ENTITY CRIMES

(To be signed in the presence of a notary public or other officer authorized to administer oaths.)

Before me, the undersigned authority, personally appeared _____, who, being by me first duly sworn, made the following statements:

1. The business address of _____ *(insert name of Bidder)*, hereinafter the "Bidder," is _____.

2. My relationship to Bidder is _____ *(relationship such as "sole proprietor," "partner," "president," "vice president," etc.)*

3. I understand that a "public entity crime" as defined in Section 287.133(1)(g), *Florida Statutes*, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or of the United States, including, but not limited to, any Bid or Contract for goods or Services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

4. I understand that "convicted" or "conviction" as defined in Section 287.133(1)(b), *Florida Statutes*, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non-jury trial, or entry of a plea of guilty or nolo contendere.

5. I understand that an "affiliate" as defined in *Florida Statutes*, 287.133(1)(a), Florida Statutes, means:

- A. A predecessor or successor of a person convicted of a public entity crime; or
- B. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.

6. I understand that a "person" as defined in Paragraph 287.133(1)(e), *Florida Statutes*, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding Contract and which Bids or applies to Bid on Contracts for the provision of goods or Services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.

7. Based on information and belief: *(check or initial A. or B. below)*

- ___A. Neither the Bidder, nor any of the Bidder's officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the Bidder, nor any affiliate of Bidder, has been charged with and convicted of a public entity crime subsequent to July 1, 1989.
- ___B. The Bidder, or one or more of the Bidder's officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of Bidder entity, or an affiliate of Bidder, has been charged with and convicted of a public entity crime subsequent to July 1, 1989. There has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing; and

(if Paragraph 7.B. applies, check or initial one of the following)

- ___ There has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing, and the Final Order **did not place** the Bidder or any affiliate of Bidder on the convicted Vendor list. *(Attach a copy of the final order)*
- ___ There has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing. The Final Order **placed** the Bidder or any affiliate of Bidder on the convicted Vendor list, but the date of the Final Order is **more than 36 months** prior to the date of submission of the Bidder's Bid. *(Attach a copy of the final order)*
- ___ There has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing. The Final Order **placed** the Bidder or any affiliate of Bidder on the convicted Vendor list, but the Bidder (or as applicable the affiliate of Bidder) has since been **removed from the convicted Vendor list** in accordance with *Florida Statutes Section 287.133(3)(f)*. *(Attach a copy of the final order, and a copy of the order/official agency document granting the petition to remove.)*

I UNDERSTAND THAT THE Bidder IS REQUIRED TO INFORM THE City PRIOR TO ENTERING INTO A Contract IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN Section 287.017, FLORIDA STATUTES, OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS AFFIDAVIT.

Signed: _____

Date signed: _____

STATE OF _____
 COUNTY OF _____

Sworn to and subscribed before me in the state and county referenced above on this ___ day of _____, 20__, by _____, as _____, and who *(circle one)* took an oath / is personally known to me.

 Notary Public

 My commission expires

**ATTACHMENT C:
LOCAL VENDOR AFFIDAVIT**

Complete and submit this form ONLY if you qualify for local preference as provided in the City of Daytona Beach Purchasing Code.

A copy of the Bidder's Daytona Beach Business Tax Receipt must be submitted with this Affidavit.

NAME OF Bidder: _____

LOCAL BUSINESS ADDRESS *(street address being used to claim Local Preference, including zip code):*

The undersigned certifies under penalty of perjury each of the following:

The Local Business Address has continuously been used as a Permanent Place of Business with at least one full-time employee since _____.

(Insert date)

The Local Business Address has consistently offered or provided the goods or Services being solicited by the City of Daytona Beach during the time referenced above.

The Local Business Address has not been established with the sole purpose of obtaining the advantages that may be granted pursuant to the Local Preference provisions of the City of Daytona Beach Purchasing Code.

Signature *(Must be same person as person signing the Bid Proposal)*

Print Name/Title

Subscribed and sworn to before me

This _____ day of _____, 20____

(Signature of Notary Public)

My commission expires: _____

The City of Daytona Beach reserves authority to require a copy of the corporate charter, corporate income tax filing return, and any other documents(s) to evaluate the Bidder's Local Preference claim.

ATTACHMENT D: DRUG-FREE WORKPLACE CERTIFICATION

IDENTICAL TIE BIDS: - If there are two or more low responsive Bids from responsible Bidders that are identical in price and other evaluation criteria, the tie will be awarded to the following in order of preference: a) the Bidder qualifying for local preference under Code 30-86; b) the Bidder in compliance with the drug free workplace certification requirements set forth in Florida Statutes 287.087; or c) the most responsible Bidder as defined under the City Code 30-82 (9)(c).

In order to have a drug-free workplace program, a business will:

- 1) Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
- 2) Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violation.
- 3) Give each employee engaged in providing the COMMODITIES or contractual Services that are under Bid a copy of the statement specified in subsection 1).
- 4) In the statement specified in subsection 1), notify the employees that, as a condition of working on the COMMODITIES or contractual Services that are underbid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or *nolo contendere* to, any violation occurring in the workplace no later than five days after such conviction.
- 5) Impose sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
- 6) Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

(Signature)

**ATTACHMENT E:
REFERENCES**

List references for whom similar work has been performed

REFERENCE #1:

Name _____ Contact Person _____

Company Name _____

Address _____ Telephone Number _____

Date of battery installation _____ # of batteries installed _____

REFERENCE #2:

Name _____ Contact Person _____

Company Name _____

Address _____ Telephone Number _____

Date of battery installation _____ # of batteries installed _____

CONTRACT FOR WESTSIDE REGIONAL WRF BATTERY REPLACEMENT UV-UPS SYSTEM

THE PARTIES TO THIS Contract are the City of Daytona Beach, a Florida municipal corporation ("City") and >[insert full legal name of the Vendor, including state where formed if the Contractor is anytime other than an individual person] ("Contractor").

In consideration of the mutual covenants herein contained, the parties agree as follows:

Section 1. Scope of Services. Contractor will provide Westside Regional UV-UPS Battery Replacement Services to the City as further described in ITB 20432 attached hereto and incorporated herein by reference.

Section 2. Incorporation of ITB and Submittal. The City's Invitation to Bid (ITB) 20432, and the Contractor's responsive proposal, and any addendums are incorporated herein by reference as Composite Exhibit C. Composite Exhibit C is not attached but will remain on file with the City's Purchasing Agent and will be available upon request made to the City Clerk. In case of conflicts between the ITB and Proposal, the ITB will govern. In case of conflicts between Composite Exhibit C and other provisions of this Contract, including Exhibits A and B, this Contract will govern.

Section 3. Notice. Unless otherwise expressly agreed herein, all notices, requests, and demands to or upon the Parties will be delivered by hand, delivered by a courier service, provided to a nationally recognized delivery service for overnight delivery, >[delete the following yellow-highlighted clause if no fax is provided] transmitted to a receiving fax machine followed by hard copy within two days, or by U.S. mail, postage prepaid by registered or certified mail, return receipt requested, to the addresses set forth herein:

To the City:

Attn: Shannon Ponitz
Utilities Director
The City of Daytona Beach
125 Basin Street, Suite 204
Daytona Beach, FL 32114
Fax: 386.671.8805

To Contractor:

Attn: _____
Title: _____
Contractor: _____
Address: _____
City/ST/Zip: _____
Fax: _____

provided, however, that either Party may change the person or address designated for receipt of the Party's notices, by providing written notice to the other Party.

Section 4. Authority to Bind Contractor. The undersigned representative of Contractor represents and warrants the he or she is fully authorized to bind Contractor to the terms and conditions of this Contract.

Section 5. Integration. This Contract represents the entire agreement of the parties with respect to the subject matter hereof. No representations, warranties, inducements or oral agreements have been made by either Party except as expressly set forth herein, or in other contemporaneous written agreements.

IN WITNESS WHEREOF, the Parties through their undersigned representatives have caused this Contract to be executed in duplicate original.

THE City

Contractor

By: _____

By: _____

> *[insert Mayor or City Manager as applicable]*

Printed Name: _____

Title: _____

Date: _____

Date: _____

Attest: _____

Letitia LaMagna, City Clerk

Approved as to legal form:

By: _____

Robert Jagger, City Attorney

EXHIBIT A: Fee Schedule

Exhibit B: Scope

Composite Exhibit C (ITB & Submittal) is not attached. It will be kept on file with the Purchasing Agent, and will be made available upon request made to the City Clerk