

**SECTION I
GENERAL TERMS AND CONDITIONS**

THESE INSTRUCTIONS ARE STANDARD FOR ALL BID COMMODITIES/SERVICES ISSUED BY THE CITY OF COCONUT CREEK. THE CITY OF COCONUT CREEK MAY DELETE, SUPERSEDE OR MODIFY ANY OF THESE STANDARD INSTRUCTIONS FOR A PARTICULAR CONTRACT BY INDICATING SUCH CHANGE IN SPECIAL INSTRUCTIONS TO BIDDERS OR IN THE BID SHEETS. ANY AND ALL SPECIAL CONDITIONS THAT MAY VARY FROM THE GENERAL CONDITIONS SHALL HAVE PRECEDENCE. BIDDER AGREES THAT THE PROVISIONS INCLUDED WITHIN THIS INVITATION FOR BIDS SHALL PREVAIL OVER ANY CONFLICTING PROVISION WITHIN ANY STANDARD FORM CONTRACT OF THE BIDDER REGARDLESS OF ANY LANGUAGE IN BIDDER'S CONTRACT TO THE CONTRARY.

INSTRUCTIONS TO BIDDERS:

1. **Defined Terms**

Terms used in this contract document are defined and have the meaning assigned to them. The City will use the following definitions in its general terms and conditions, special terms and conditions, technical specifications, instructions to bidders, addenda and any other document used in the bidding process. The terms may be used interchangeably by the City: IFB or RFP; Bid or Proposal; Bidder, Proposer, or Seller; Contractor or Consultant; Contract, Award, Agreement or Purchase Order.

Bid: A price and terms quote received in response to an IFB.

Bidder: Person or firm submitting a bid directly to the City as distinct from a sub-contractor, who submits a bid to the Bidder.

City: Refers to the City of Coconut Creek, a municipal corporation of the State of Florida.

Change Order: A written signed and approved document by the City Manager or designee ordering a change in the contract price or contract time or a material change in work.

Contractor: Successful Bidder or Proposer who is awarded a purchase order, award contract, blanket purchase order agreement, or term contract to provide goods or services to the City. Also referred to as the "Successful Bidder".

Contract: A deliberate verbal or written agreement between two (2) or more competent parties to perform or not to perform a certain act or acts, including all types of agreements, regardless of what they may be called, for the procurement or disposal of equipment, materials, supplies, services or construction. Contract shall be inclusive of the term "Agreement" unless stated otherwise.

Contract Administrator: The City will designate a Contract Administrator whose principle duties shall be liaison with awarded Bidder, coordinate all work under the contract, assure consistency and quality of awarded Bidder's performance, and schedule

and conduct Contractor performance evaluations, and review and route for approval all invoices for work performed or items delivered.

Consultant: Successful Bidder or Proposer who is awarded a contract to provide professional services to the City.

First Ranked Proposer: That Proposer, responding to a City RFP, whose proposal is deemed by the City, the most advantageous to the City after applying the evaluation criteria contained in the RFP.

Invitation for Bids (IFB): When the City is requesting bids from qualified Bidders.

Proposer: Person or firm submitting a proposal.

Proposal: A proposal received in response to an RFP.

Request for Proposals (RFP): When the City is requesting proposals from qualified Proposers.

Responsible Bidder: A person who has the capability in all respects to perform in full the contract requirements, as stated in the bid document, and the integrity and reliability that will assure good faith performance.

Responsive Bidder: A person whose bid conforms in all material respects to the terms and conditions included in the bid document.

Seller: Successful Bidder or Proposer who is awarded a purchase order or contract to provide goods or services to the City.

Successful Bidder: means the best, qualified, responsible and responsive Bidder to whom the City (on the basis of City's evaluation as hereinafter provided) makes an award

2. **Cone of Silence**

2.1 "Cone of Silence" means a prohibition on any communication regarding a particular Request for Proposals (RFP), Request for Qualifications (RFQ), Invitation for Bid (IFB), or other competitive solicitation between:

- (a) Any person who seeks an award therefrom, including a potential vendor or vendor's representative, and
- (b) The City Commission, City Attorney, City Manager, and all City employees, and any non- employees appointed to evaluate or recommend selection in such procurement process.

The Cone of Silence shall not apply to communications with the Procurement Official to obtain clarification or information concerning the subject solicitation. Any such contact with anyone other than the Procurement Official may be considered grounds for disqualification. The City shall not be responsible for oral interpretations

given by any City employee or its representative. For purposes of this section, "vendor's representative" means an employee, partner, director, or officer of a potential vendor, or consultant, lobbyist, or actual or potential subcontractor or subconsultant of a vendor, or any other individual acting through or on behalf of any person seeking an award.

- 2.2 The Cone of Silence shall be applicable to each RFP, RFQ, IFB, or other competitive solicitation during the solicitation and review of responses. At the time of issuance of the solicitation, the Procurement Official shall include in any advertisement and public solicitation for goods and services a statement disclosing the requirements of this section. The Cone of Silence shall terminate at the time the City awards or approves a contract, votes to reject all bids or responses, or otherwise takes action which ends the solicitation and review process.
- (a) Nothing contained herein shall prohibit any potential vendor or vendor's representative from:
 - (b) Making public presentations at duly noticed pre-bid conferences or at meetings before a duly noticed Selection Committee;
 - (c) Communicating with the City Commission during any duly noticed public meeting;
 - (d) Communicating verbally or in writing with any City employee or official for the limited purpose of seeking clarification or additional information, when such employee is specifically designated in the applicable RFP, RFQ, IFB, or other competitive solicitation documents;
 - (e) Communicating in writing with the Procurement Official or other staff person specifically designated in the procurement document.

The potential vendor or vendor's representative shall deliver a copy of any such written communication to the Office of the City Clerk, who shall make copies available to the public upon request. The written communication shall include a reference to the RFP, RFQ, IFB, or other competitive bid document number.

- 2.3 Any violation of this rule shall be investigated by the Procurement Official and the City Attorney's Office and/or the City Manager's Office and may result in disqualification of said violating potential vendor or any recommendation for award, or any RFP award, or IFB, or RFQ award to said violating potential vendor or vendor's representative being deemed void or voidable. The potential vendor or vendor's representative determined to have violated this rule, shall be subject to penalties up to and including debarment. In addition, to any other penalty provided by law, violation of this rule by a City employee shall subject the employee to disciplinary action up to and including termination.

3. **Bid Forms**

- 3.1 Solicitations downloaded from the eBid System shall not contain any alteration to the document posted other than entering data in spaces provided or including attachments as necessary. By submission of a response, Bidder affirms that no alteration of any kind has been made to this solicitation.

- 3.2 The bid forms must be used by the Bidder. Failure to do so may cause the bid to be rejected. The forms shall be submitted in good order and all blanks must be completed.
- 3.3 The bid forms shall be signed by one duly authorized to do so and in cases where the bid is signed by a deputy or subordinate, the principal's proper written authority to such deputy or subordinate must accompany the bid.
- 3.4 Bids by corporations must be executed in the corporate name by the President or other corporate officers accompanied by evidence of authority to sign.
- 3.5 Bids by partnerships must be executed in the partnership name and signed by a general partner whose title must appear under the signature.

4. **Sub-Contractors**

4.1 **Sub-Contractors Terms**

The Contractor agrees to bind specifically every sub-contractor to the applicable terms and conditions of the contract documents for the benefit of the City.

4.2 **Sub-Contractors Agreement**

All work performed for the Contractor by a sub-contractor shall be pursuant to an appropriate agreement between the Contractor and the sub-contractor.

5. **Qualifications of Bidders**

- 5.1 Bids will only be considered from firms normally engaged in providing the types of commodities/services specified herein. The City reserves the right to inspect the Bidder's facilities, equipment, personnel, and organization at any time, or to take any other action necessary to determine Bidder's ability to perform. The Procurement Official reserves the right to reject bids where evidence or evaluation is determined to indicate inability to perform.
- 5.2 No bid will be accepted from, nor will any contract be awarded to any person who is in arrears to the City, upon any debt or contract, or who is a defaulter, as surety or otherwise, upon any obligation to City, or who is deemed responsible or unreliable by the City.
- 5.3 As part of the bid evaluation process, City may conduct a background investigation including a record check by the Coconut Creek Police Department. Bidder's submission of a bid constitutes acknowledgment of the process and consent to such investigation. City shall be the sole judge in determining Bidder's qualifications.

6. **Specifications**

- 6.1 The apparent silence of the Specifications as to any detail, or the apparent omission from the Specifications of a detailed description concerning any point, shall be regarded as meaning that only material and workmanship of the finest

quality are to be used. All interpretations of the Specifications shall be made on the basis of this statement.

6.2 For the purpose of evaluation, the Bidder must indicate any variance or exceptions to the stated Specifications no matter how slight. Deviations should be explained in detail. Absence of variations and/or corrections will be interpreted to mean that the Bidder meets all the Specifications in every respect.

(a) Any manufacturers' names, trade names, brand names, information and/or catalog numbers used herein are for the purpose of describing and establishing a general standard of quality, performance and characteristics and are not intended to limit or restrict competition. The Bidder may offer any brand which meets or exceeds the Specifications for any item(s). If bids are based on equivalent products, indicate on the Bid Form the manufacturer's name and catalog number. Bidder shall submit with his bid complete and descriptive literature and/or specifications. The Bidder should also explain in detail the reason(s) why and submit proof that the proposed equivalent will meet the Specifications and not be considered an exception thereto. The determination of equivalency shall rest solely with the City. If Bidder fails to name a substitute, it will be assumed that Bidder is bidding on and will be required to furnish commodities identical to bid standards.

6.3 If the model number for the make specified in the bid document is incorrect, or no longer available and replaced with an updated model with new specifications, the Bidder shall enter the correct model number on the bid form. In the case of an updated model with new specifications, Bidder shall provide adequate information to allow the City to determine if the model bid meets the City's requirements.

7. **Addendum**

7.1 If the Bidder should be in doubt as to the meaning of any of the bid documents, or is of the opinion that the plans and/or specifications contains errors, contradictions or reflect omissions, Bidder shall submit a written request directed to the Procurement Division to be forwarded to the appropriate person or department for interpretations or clarification. Interpretations or clarifications deemed necessary by the Procurement Division in response to such questions will be issued on official addendum.

7.2 The issuance of written addendum is the only official method whereby interpretation, clarification, changes or additional information can be given. If any addendum is issued, the City will attempt to notify all known prospective Bidders. Addenda to the solicitation will be posted on the eBid System.

8. **Examination of Bid Documents**

8.1 Before submitting a bid, each Bidder must (a) examine the bid documents thoroughly; (b) consider federal, state, county, and local laws, ordinances, rules and regulations that may in any manner affect cost, progress, performance, or provision of the commodities and/or services; (c) study and carefully correlate

Bidder's observations with the bid documents, and (d) notify the Procurement Division of all conflicts, errors, and discrepancies in the bid documents. Failure to familiarize himself/herself with applicable laws will in no way relieve him/her from responsibility.

- 8.2 The submission of a bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of the bid document, that without exception, the bid is premised upon performing the services and/or furnishing the commodities and materials and such means, methods, techniques, sequences or procedures as may be indicated in or required by the bid documents, and that the bid documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions of performance and furnishing of the goods and/or services.

9. **Modification and Withdrawal of Bids**

- 9.1 Proposals may be modified or withdrawn **prior** to the due date for submitting electronic proposals. Proposals may be retracted from the eBid System. Retracting a response allows the Bidder to change all or part of the response that was previously submitted. Retracting a response **does** not delete the response currently entered; however, by retracting your response, it is no longer submitted. You must click "Submit Response" on the Response Submission Tab for your retracted bid to be submitted again.
- 9.2 Withdrawal of a proposal will not prejudice the rights of a Bidder to submit a new proposal prior to the proposal opening date and time. No proposal may be withdrawn or modified after the date of proposal opening has passed.
- 9.3 If within twenty-four (24) hours after proposals are opened, and Bidder files a duly signed, written notice with the Procurement Office, and within five (5) calendar days thereafter demonstrates to the reasonable satisfaction of City, by clear and convincing evidence, that there was a material and substantial mistake in the preparation of its proposal, or that the mistake is clearly evident on the face of the proposal, but the intended correct proposal is not similarly evident, Bidder may withdraw its proposal and any bid security will be returned, if applicable.

10. **Acceptance or Rejection of Bids**

- 10.1 Bidder warrants, by virtue of bidding, his bid and the prices quoted in his bid will be firm for acceptance by the City for a period of ninety (90) calendar days from the date of bid opening, unless otherwise stated in the bid document. However, any bid may be electronically retracted up until the time set for bid opening. Any bids not so electronically retracted shall upon opening, constitute an irrevocable offer for goods and services until accepted by City Commission Award.
- 10.2 A Bidder may not withdraw his bid before the expiration of ninety (90) calendar days from the date of bid opening. A Bidder may withdraw his bid after the expiration of ninety (90) calendar days from the date of bid opening by delivering written notice of withdrawal to the Procurement Official prior to award of contract by the City of Coconut Creek.

10.3 The City reserves the right to reject the bid of any Bidder if the City believes that it would not be in the best interest of the City to make an award to that Bidder, whether because the bid is not responsive or the Bidder is unqualified or fails to meet any other pertinent standard or criteria established by the City.

10.4 The City of Coconut Creek reserves the right to waive formalities in any bid and further reserves the right to take any other action that may be necessary in the best interest of the City. The City further reserves the right to reject any or all bids, with or without cause, to waive technical errors and informalities or to accept the bid which in its judgment, best serves the City of Coconut Creek.

11. **Opening of Bids**

Responses will be electronically unsealed and publicly read aloud on the date, time, and location specified in the bid document. A tabulation will be made available on the eBid System in accordance with applicable regulations.

12. **Award Criteria**

12.1 If the contract is to be awarded, it will be awarded to the most responsible and responsive Bidder for the base bid whose evaluation by City indicates to City that the award will be in the best interests of the City and not necessarily to the lowest Bidder.

12.2 Criteria utilized by City for determining the most responsive Bidder includes, but is not limited to the following:

- (a) Ability of Bidder to meet published specifications.
- (b) Bidder's experience and references including, but not limited to, the reputation, integrity, character, efficiency, experience, skill, ability, and business judgment of the Bidder, the quality of performance of Bidder under previous contracts, any subcontractors and other persons providing labor or materials to Bidder.
- (c) Bidder's qualifications and capabilities, including but not limited to, the size, financial history, strength and stability of the business to perform the work of the contract, the possession of necessary facilities and equipment and the quality, availability and adaptability thereof to the particular use(s) required.
- (d) Whether Bidder can perform the contract promptly or with the time specified without delay or interference.
- (e) Previous and existing compliance by Bidder with laws, ordinances, and regulations relating to the commodities or services.
- (f) Price.

12.3 If applicable, the Bidder to whom award is made shall execute a written contract prior to award by the City Commission. If the Bidder to whom the first award is made fails to enter into a contract as herein provided, the contract may be let to the next ranked Bidder who is responsible and responsive in the opinion of the City.

13. **Contractual Agreement**

The terms, conditions, and provisions in the bid document shall be included and incorporated in the final contract. The order of precedence will be bid document and response, contract, and general law. Any and all legal action necessary to enforce a contract will be interpreted according to the laws of Florida.

14. **Taxes**

The City of Coconut Creek is exempt from all Federal Excise and Florida Sales Taxes on direct purchase of tangible property. An exemption certificate will be provided where applicable upon request. Contractors doing business with the City shall not be exempted from paying sales tax to their suppliers for materials to fulfill contractual obligations with the City, nor shall a Contractor be authorized to use the City's Tax Exemption Number in securing such materials.

15. **Samples and Demonstrations**

Samples or inspection of product may be requested to determine suitability. Unless otherwise specified in the Special Terms and Conditions, samples shall be requested after the date of bid opening, and if requested should be received by the City within seven (7) working days of request. Samples, when requested, must be furnished free of expense to the City and if not used in testing or destroyed, will upon request of the Bidder, be returned within thirty (30) days of bid award at Bidder's expense. When required, the City may request full demonstrations of units prior to award. When such demonstrations are requested, the Bidder shall respond promptly and arrange a demonstration at a convenient location. Failure to provide samples or demonstrations as specified by the City may result in rejection of a bid.

16. **Delivery**

Time will be of the essence for any orders placed as a result of this bid document. The City reserves the right to cancel any orders, or part thereof, without obligation if delivery is not made in accordance with the schedule specified by the Bidder and accepted by the City.

17. **Verbal Instructions Procedure**

No negotiations, decisions, or actions shall be initiated or executed by the Contractor as a result of any discussions with any member of the City Commission or its Staff, all other City employees, and any non-employee appointed to evaluate or recommend selection in the procurement process. Only those communications which are assigned by a person designated as authorized to bind the Contractor, will be recognized by the City as duly authorized expressions on behalf of Contractors.

18. **References**

As part of the bid evaluation process, the City may conduct an investigation of references, including a record check and/or consumer affairs complaints. Bidder's submission of a bid constitutes acknowledgment of the process and consent to investigate. The City is the sole judge in determining Bidders qualifications.

19. **Costs Incurred by Bidders**

All expenses involved with the preparation/and or presentation and submission of bids to the City, or any work performed in connection therewith, shall be the sole responsibility of the Bidder(s) and shall not be reimbursed by the City.

20. **Permits, Fees and Notices (If Applicable)**

20.1 The Contractor shall at his own expense obtain all necessary permits, pay all licenses, fees and taxes, required to comply with all local ordinances, county, state and federal laws, rules and regulation applicable to business to be carried on under the contract.

20.2 All City of Coconut Creek review fees, application fees, permit fees or inspection fees are waived as per Ordinance No. 139-94. All county, state or federal fees and permits shall be applied for and paid by the Bidder as necessary. Bidder must provide City with copy(s) of valid licensing by county/city agency for this type of work.

20.3 It is the Bidder's responsibility to have and maintain appropriate Certificate(s) of Competency and submit state registration (if required) for the work to be performed and valid for the jurisdiction in which the work is to be performed for all persons (including subcontractors) working on the project for whom a Certificate of Competency is required.

21. **Penalties for Misrepresentation**

Any material misrepresentation in the Contractor's response could result in termination of the Agreement, or any other appropriate administrative sanctions and/or legal actions.

22. **Restriction on Disclosure and Use of Data**

All proposals received by the City will become the sole property of the City. Confidential financial information obtained by the City from a Bidder is exempt from public disclosure to the extent allowed by law.

23. **Exceptions to the Bid**

Bidders must clearly indicate any exceptions they wish to take to any of the terms in this bid, and outline what alternative is being offered. The City, at its sole and absolute discretion, may accept or reject the exceptions. In cases in which exceptions are rejected, the City may require the Bidder to furnish the services or goods originally described, or negotiate an alternative acceptable to the City.

24. **Cancellation for Unappropriated Funds**

The obligation of the City for payment to a Contractor is limited to the availability of funds appropriated in a current fiscal period, and continuation of the contract into a subsequent fiscal period is subject to appropriation of funds, unless otherwise authorized by law.

25. **Independent Contractor**

The Contractor is an independent Contractor under this Agreement. Personal services provided by the Bidder shall be by employees of the Contractor and subject to

supervision by the Contractor, and not as officers, employees, or agents of the City. Personnel policies, tax responsibilities, social security, health insurance, employee benefits, procurement policies unless otherwise stated in the bid document, and other similar administrative procedures applicable to services rendered under this contract shall be those of the Contractor.

26. **Job Site Safety**

The Successful Bidder shall be solely and completely responsible for conditions of the job site, including safety of all persons (including employees) and property during performance of the work. This requirement shall apply continuously and not be limited to normal working hours. Safety provisions shall conform to U.S. Department of Labor (OSHA), Florida Department of Labor (DOL), and all other applicable federal, state, county, and local laws, ordinances, codes, and regulations. Where any of these are in conflict, the more stringent requirement shall be followed. The Successful Bidders failure to thoroughly familiarize themselves with the aforementioned safety provisions shall not relieve him from compliance with the obligations and penalties set forth therein.

The City reserves the right, but is not obligated to make safety inspections at any time the Successful Bidder is on City property and to ensure safety rules are not being violated.

27. **Occupational Health and Safety**

In compliance with Title 29 *CFR (Code of Federal Regulations)*, Section 1910.1200, any Hazardous Chemical items which are delivered from a Contract resulting from this Proposal must be accompanied by a Material Safety Data Sheet (MSDS). The MSDS sheets must be maintained by the user agency and must include the following information:

- a) The chemical name and the common name of the toxic substance.
- b) The hazards or other risks in the use of the toxic substance, including:
 - 1) The potential for fire, explosion, corrosiveness, and reactivity;
 - 2) The known acute and chronic health effects of risks from exposure, including the medical conditions which are generally recognized as being aggravated by exposure to the toxic substance; and
 - 3) The primary routes of entry and symptoms of overexposure.
- c) The proper precautions, handling practices, necessary personal protective equipment, and other safety precautions in the use of or exposure to the toxic substances, including appropriate emergency treatment in case of overexposure.
- d) The emergency procedure for spill, fire, disposal, and first aid.
- e) A description in lay terms of the known specific potential health risks posed by the toxic substances intended to alert any person reading this information.

- f) The year and month, if available, that the information was compiled and the name, address, and the emergency telephone number of the manufacturer responsible for preparing the information.
- g) All substances shall remain in manufacturer's container with manufacturer's labeling.

ALL TOXIC SUBSTANCES MUST BE LABELED FOR IDENTIFICATION IN ACCORDANCE WITH OSHA STANDARDS.

28. **Conflict of Interest**

The award of any contract hereunder is subject to the provisions of Chapter 112, *Florida Statutes*. Bidders must disclose with their bid the name of any officer, director, partner, proprietor, associate or agent who is also an officer or employee of the City or any of its agencies. Further, all Bidders must disclose the name of any officer or employee of the City who owns, directly or indirectly, an interest of five percent (5%) or more in the Bidder's firm or any of its branches or affiliate companies.

29. **Indemnity/Hold Harmless**

The parties agree that one percent (1%) of the total compensation paid to Contractor for the work of the contract shall constitute specific consideration to Contractor for the indemnification to be provided under the Contract. The Contractor shall indemnify and hold harmless the City Commission, the City of Coconut Creek, and its agents and employees from and against all claims, damages, losses and expenses including attorney's fees arising out of or resulting from the performance of the work provided that any such claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the work itself) including the loss of use resulting therefrom, and (2) is caused in whole or in part by any negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder.

In any and all claims against the City, or any of their agents or employees by any employee of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this Paragraph shall not be limited in any way by any limitation on this amount or type of damages compensation or benefits payable by or for the Contractor or any subcontractor under Workers' Compensation Acts, Disability Benefit Acts or other Employee Benefit Acts. Nothing in this section shall affect the immunities of the City pursuant to Chapter 768, Florida Statutes, as amended from time to time, nor shall it constitute an agreement by the City to indemnify Contractor, its officers, employers, subcontractors or agents against any claim or cause of action.

30. **Public Entity Crimes Statement**

Pursuant to Paragraph 2(a) of Section 287.133, *Florida Statutes*, a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid for a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property

to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and, may not transact business with any public entity in excess of the threshold amount provided in Section 287.017 for Category TWO (\$35,000) for a period of thirty- six (36) months from the date of being placed on the convicted vendor list.

31. **Public Records**

Contractor shall keep such records and accounts and require any and all Contractors and subcontractors to keep records and accounts as may be necessary in order to record complete and correct entries as to personnel hours charged to the project and any expenses for which Contractor expects to be reimbursed. Such books and records will be available at all reasonable times for examination and audit by City and shall be kept for a period of three (3) years after the completion of all work to be performed pursuant to this Agreement. Incomplete or incorrect entries in such books and records will be grounds for City's disallowance of any fees or expenses based upon such entries.

City is a public agency subject to Chapter 119, Florida Statutes. To the extent Contractor is a Contractor acting on behalf of the City pursuant to Section 119.0701, Florida Statutes, Contractor shall comply with all public records laws in accordance with Chapter 119, Florida Statute. In accordance with state law, Contractor agrees to:

- a) Keep and maintain all records that ordinarily and necessarily would be required by the City in order to perform the services.
- b) Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copies within a reasonable time at a cost that does not exceed the costs provided in Chapter 119, Florida Statute, or as otherwise provided by law.
- c) Ensure that public records that are exempt or confidential and exempt from public records disclosure are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the contract if the Contractor does not transfer the records to the City.
- d) Upon completion of the services within this Agreement, at no cost, either transfer to the City all public records in possession of the Contractor or keep and maintain public records required by the City to perform the services. If the Contractor transfers all public records to the City upon completion of the services, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the services, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.
- e) **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLA. STAT., TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS AT 954-973-6774,**

PublicRecords@coconutcreek.net, 4800 West Copans Road, Coconut Creek, FL 33063.

If Contractor does not comply with this Section, the City shall enforce the Agreement provisions in accordance herewith and may unilaterally cancel this Agreement in accordance with state law.

32. **Drug-Free Workplace Programs**

Preference shall be given to businesses with Drug-Free Workplace Programs. Whenever two (2) or more bids which are equal with respect to price, quality and service are received by the City for the procurement of commodities or contractual services, a bid received from a business that completes the attached Drug-Free Workplace form certifying that it is a Drug-Free Workplace shall be given preference in the award process.

33. **Collusion**

Bidder certifies that its bid is made without previous understanding, agreement, or connection either with any previous firms or corporations offering a bid for the same items, or with the City. The Bidder also certifies that its bid is in all respects fair, without outside control, collusion, fraud, or otherwise illegal action.

34. **Audit Rights**

The City reserves the right to audit the records of the Contractor for the commodities and/or services provided under the contract at any time during the performance and term of the contract and for a period of five (5) years after completion and acceptance by the City. If required by the City, the Contractor agrees to submit to an audit by an independent certified public accountant selected by the City. The Contractor shall allow the City to inspect, examine and review the records of the Contractor in relation to this contract at any and all times during normal business hours during the term of the contract.

35. **Patents and Royalties**

The Contractor, without exception, shall indemnify and save harmless the City of Coconut Creek and its employees from liability of any nature and kind, including cost and expenses for or on account of any copyrighted, patented or un-patented invention, process, or article manufactured or used in the performance of the contract, including its use by the City of Coconut Creek. If the Contractor uses any design, device, or materials covered by letters, patent or copyright, it is mutually agreed and understood without exception that the bid prices shall include all royalties or costs arising from the use of such design, device, or materials in any way involved in the work.

36. **Purchase by Other Governmental Agencies**

If the Bidder is awarded a contract as a result of this bid document, Contractor will, if Contractor has sufficient capacity or quantities available, provide to other governmental agencies, so requesting, the products or services awarded in accordance with the terms and conditions of the bid document and resulting contract. Prices shall be F.O.B. delivered to the requesting agency.

37. **Assignment and Sub-Letting**

No assignment of this contract or any right occurring under this contract shall be made, in whole or in part, by the Contractor without the express written consent of the City Commission which consent shall not be unreasonably withheld. In the event of any assignment, the assignee shall assume the rights, duties and responsibilities of the Contractor.

38. **Choice of Law and Venue**

The parties hereby agree that the only laws that apply to this Agreement are those of the State of Florida and U.S. Government. The parties waive the privilege of venue and agree that all litigation between them in the state courts will take place exclusively in the Seventeenth Judicial Circuit in and for Broward County, Florida and that all litigation between them in the federal courts will take place exclusively in the United States District Court or United States Bankruptcy Court for the Southern District of Florida.

39. **Gratuities and Kickbacks**

39.1 **Gratuities:** It is unethical for any person to offer, give, or agree to give any employee or for any employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advise, investigation, audit, or in any other advisory capacity in any proceeding or application, request for ruling, determination claim or controversy, or other particular matter, pertaining to any program requirement or an Agreement or subcontract, or to any solicitation or proposal therefore.

39.2 **Kickbacks:** It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a Sub-contractor under a Contract to Contractor or higher tier sub-contractor any person associated therewith, as an inducement of the award of a subcontract or order.

39.3 **Contract Clause:** The prohibition against gratuities and kickbacks prescribed in this section shall be conspicuously set forth in every Contract and subcontract and solicitation therefore.

40. **Protest Process**

Any bidder, proposer, or offeror who is aggrieved in connection with the solicitation or award of a contract must contact the Procurement Officer listed in the solicitation in writing (email or fax are acceptable) by filing a notice of protest within three (3) working days after the posting of the notice of intent to award on the City's eBid System. A formal written protest must be filed within five (5) working days after filing the notice of protest.

The formal written protest must be either, hand-delivered and date and time stamped by the Office of the City Clerk, or sent via Certified U.S. mail, return-receipt requested. Failure to file a notice of protest and formal written protest within the time-frames specified herein shall constitute a full waiver of all rights to protest the City's decision regarding the award.

- (a) Only a bidder, proposer or offeror whose bid or proposal is timely received and fully complies with all terms and conditions of the bid or proposal may protest an award.
- (b) The formal written protest shall state in detail the specific facts and laws or ordinances upon which the protest of the proposed award is based and shall include all pertinent documents and evidence.
- (c) Upon receipt of a formal written protest, the City may stop award proceedings until resolution of the protest; however, the award proceedings shall not be stopped if the City Manager decides the award must continue without delay in order to avoid an immediate and serious danger to public health, safety, or welfare.
- (d) Any and all costs incurred by a protesting party in connection with the protest process pursuant to this section shall be the sole responsibility of the protesting party. All protests shall be reviewed and evaluated administratively and a decision, in writing shall be forwarded to the protesting party within ten (10) working days of receipt of the formal written protest. If the protesting party does not agree with the administrative decision, they may appeal the decision in writing to the City Manager or designee within five (5) working days of receipt of the administrative decision. The appeal must be either, sent Certified U.S. mail return-receipt requested or hand- delivered and date and time stamped by the Office of the City Clerk. The decision of the City Manager or designee will be final.

Any person who files a formal written protest shall post with the Chief Procurement Officer, at the time of filing the formal written protest a cashier's check made payable to the City of Coconut Creek in an amount equal to one percent (1%) of the City's estimate of the total amount of the contract or \$5,000.00, whichever is less.

If the decision of the City Manager or designee upholds the action taken by the City, then the deposit becomes non-refundable and the City shall retain the deposit as payment for a portion of the cost and expense, including but not limited to, time spent by City staff in responding to the protest and in conducting the evaluation of the protest. If the decision of the City Manager or designee does not uphold the action taken by the City, then the City shall return the amount of the cashier's check to the person or entity filing the protest.

41. **Confidential and/or Proprietary Information**

In accordance with Section 119.07(1)(a), Florida Statutes as amended from time to time and except as may be provided by other applicable state and federal law, the Bid and the responses thereto are in the public domain. However, Bidders are requested to specifically identify in the submitted proposal any financial information considered confidential and/or proprietary which may be considered exempt under Florida Statute Section 119.071.

Note: The City will not accept Bid submittals when the entire submittal is labeled as exempt from public disclosure and the proposal may be deemed non-responsive.

42. **Anti-Discrimination**

That Bidder shall for itself, its personal representatives, successors in interests, assigns, subcontractors, and sub-lessees, as a part of the consideration hereof, hereby covenant and agree that:

- a) No person on the ground of race, color, religion, sex, national origin, age, marital status, political affiliation, familial status, disability, sexual orientation, pregnancy, or gender identity or expression, or veteran or service member status shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of or performance of services described herein; and
- b) Bidder, its personal representatives, successors in interests, assigns, subcontractors, and sub-lessees shall not discriminate against any employee or applicant for employment to be employed in the performance of this Agreement with respect to hiring, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment because of race, color, religion, sex, national origin, age, marital status, political affiliation, familial status, disability, sexual orientation, pregnancy, or gender identity or expression, or veteran or service member status.

That in the event of a proven breach of the above non-discrimination covenant, the City shall have the right to terminate the Agreement as if this Agreement had never been made.

43. **Default**

43.1 **Termination for Cause: Immediate**

In the event the Contractor defaults in or violates any of the terms, obligations, restrictions or conditions of this contract, the City may, upon written notice to the Contractor, terminate this contract effective immediately upon receipt of notice as provided in the "Notice," requirements below. The notice for immediate termination shall state the date of termination and Contractor shall discontinue all work under this contract on that date. In the event of immediate termination by the City, the City shall have all legal and equitable remedies available to it, and may hold the Contractor liable for any and all damages sustained by the City arising out of such default, including but not limited to costs of reprourement and cover.

43.2 **Termination for Cause: Time to Correct**

In the event the Contractor defaults in or violates any of the terms, obligations, restrictions or conditions of this contract, the City may, upon written notice to the Contractor consistent with the "Notice," requirements below, set forth the reason(s) for said termination and state a reasonable time-frame, not to exceed five (5) calendar days, for the Contractor to correct the conditions to the satisfaction of the City. In the event the Contractor has failed to correct the conditions(s) of the default or the default is not remedied to the satisfaction and approval of the City within the time-frame prescribed, the City may terminate the contract effective immediately as provided above. If Contractor requests a hearing before the City Manager within the time-frame prescribed for correction, the City Manager may extend such time for correction to accommodate such hearing. Notwithstanding the above, the City shall

have all legal and equitable remedies available to it, including, but not limited to termination of the Contract in which case the Contractor shall be liable for any and all damages arising from the default and breach of the contract.

43.3 **Termination for Convenience of City** Upon thirty (30) calendar days written notice delivered by certified mail, return receipt requested, to the Contractor, the City may without cause and without prejudice to any other right or remedy, terminate the contract for the City's convenience whenever the City determines that such termination is in the best interest of the City. Where the contract is terminated for the convenience of the City the notice of termination to the Contractor must state that the contract is being terminated for the convenience of the City under the termination clause and the extent of termination. The Contractor shall discontinue all work on the appointed last day of service.

44. **E-Verify Requirements**

Effective January 1, 2021, public and private employers, contractors and subcontractors must require registration with, and use of the E-verify system in order to verify the work authorization status of all newly hired employees. Contractor acknowledges and agrees to utilize the U.S. Department of Homeland Security's E-Verify System to verify the employment eligibility of:

- a) All persons employed by Contractor to perform employment duties within Florida during the term of the contract; and
- b) All persons (including subvendors/subconsultants/subcontractors) assigned by Contractor to perform work pursuant to the contract with the City. The Contractor acknowledges and agrees that use of the U.S. Department of Homeland Security's E-Verify System during the term of the contract is a condition of the contract with the City of Coconut Creek.

44.1 By submitting a quote, bid, or proposal, the Contractor becomes obligated to comply with the provisions of Section 448.095, Florida Statutes, "Employment Eligibility," as amended from time to time. This includes, but is not limited to, utilization of the E-Verify System to verify the work authorization status of all newly hired employees, and requiring all subcontractors to provide an affidavit to Contractor attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Contractor agrees to maintain a copy of such affidavit for the duration of this Agreement. Failure to comply with this paragraph will result in the termination of this Agreement as provided in Section 448.095, Florida Statutes, as amended, and Contractor may not be awarded a public contract for at least one (1) year after the date on which the Agreement was terminated. Contractor will also be liable for any additional costs to City incurred as a result of the termination of this Agreement in accordance with this Section.

45. **Antitrust Violations; Denial or Revocation under Section 287.137, Florida Statutes** Pursuant to Section 287.137, Florida Statutes, as may be amended, a person or an affiliate who has been placed on the antitrust violator vendor list (electronically published and updated quarterly by the State of Florida) following a conviction or being held civilly liable for an antitrust violation may not submit a bid, proposal, or reply for any new contract

to provide any goods or services to a public entity; may not submit a bid, proposal, or reply for a new contract with a public entity for the construction or repair of a public building or public work; may not submit a bid, proposal, or reply on new leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a new contract with a public entity; and may not transact new business with a public entity. By entering this Agreement, Contractor certifies neither it nor its affiliate(s) are on the antitrust violator vendor list at the time of entering this Agreement. False certification under this paragraph or being subsequently added to that list will result in termination of this Agreement, at the option of the City consistent with Section 287.137, Florida Statutes, as amended.

46. **Environmental and Social Government and Corporate Activism**

Pursuant to Section 287.05701, Florida Statutes, as may be amended, no preference for this solicitation may be given based on Contractor's social, political or ideological interests. Such interests include: political opinions, speech, or affiliations; religious beliefs, religious exercise, or religious affiliations; lawful ownership of a firearm or engagement in the lawful manufacture, distribution, sale, purchase, or use of firearms or ammunition; engagement in the exploration, production, utilization, transportation, sale, or manufacture of fossil fuel-based energy, timber, mining, or agriculture; support of the state or Federal Government in combatting illegal immigration, drug trafficking, or human trafficking; engagement with, facilitation of, employment by, support of, business relationship with, representation of, or advocacy for any person described in this paragraph; a failure to meet or commit to meet, or expected failure to meet, any of the following as long as such Contractor is in compliance with applicable state or federal law: (1) Environmental standards, including emissions standards, benchmarks, requirements, or disclosures; (2) Social governance standards, benchmarks, or requirements, including, but not limited to, environmental or social justice; (3) Corporate board or company employment composition standards, benchmarks, requirements, or disclosures based on characteristics protected under the Florida Civil Rights Act of 1992; or (4) Policies or procedures requiring or encouraging employee participation in social justice programming, including, but not limited to, diversity, equity, or inclusion training. By submittal of its quote or proposal, Contractor agrees it is also prohibited from giving preference to subcontractors based on the above referenced factors.

47. **Discriminatory Vendor List**

Contractor hereby acknowledges its continuous duty to disclose to the City if the Contractor or any of its affiliates, as defined by Section 287.134(1)(a), Florida Statutes, are placed on the Discriminatory Vendor List. Pursuant to Section 287.134(2)(a), Florida Statutes: "An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity."

48. **Labor Harmony**

Contractor agrees that all labor employed by Contractor, its agents or subcontractors for work on City property must be in harmony with all other labor being used by City or other contractors working on City's property. Contractor agrees to give City immediate notice of any threatened or actual dispute and will provide assistance as determined necessary by City to resolve any such dispute. Contractor, its agents or subcontractors, will remove from City's property any person objected to by City in association with the work.

49. **Third Parties Beneficiaries**

Neither Contractor nor City intends to directly or substantially benefit a third party by this Agreement. Therefore, the Parties acknowledge that there are no third-party beneficiaries to this Agreement and that no third party is or will be entitled to assert a right or claim against either of them based upon this Agreement.

50. **Agreement Subject to Funding**

The award of this solicitation to any specific Bidder is subject to necessary budget appropriations by the City Commission of the City of Coconut Creek in the annual budget for each fiscal year in which the services are provided, and is subject to termination without any penalty due to lack of funding.

51. **Remedies**

51.1 **Damages**

The City reserves the right to recover any ascertainable actual damages incurred as a result of the failure of the Contractor to perform in accordance with the requirements of this Agreement, or for losses sustained by the City resultant from the Contractor's failure to perform in accordance with the requirements of this Agreement.

51.2 **Correction of Work**

If, in the judgment of the City, work provided by the Contractor does not conform to the requirements of this Agreement, or if the work exhibits poor workmanship, the City reserves the right to require that the Contractor correct all deficiencies in the work to bring the work into conformance without additional cost to the City, and / or replace any personnel who fail to perform in accordance with the requirements of this Agreement. The City is the sole judge of non-conformance and the quality of workmanship.

52. **Disentanglement**

Contractor will complete the transition of any terminated work from Contractor and its subcontractors to City and/or any replacement providers City designates (collectively, the "Replacement Provider"), without causing any interruption of or adverse impact on the work, any other services and/or services provided by Third Parties (the "Disentanglement"). Without limiting the aforementioned obligations, Contractor will:

- a) Cooperate by promptly taking all steps required to assist City in completing the Disentanglement related to the work it had previously performed.
- b) Provide all information regarding the work that these parties will need to perform the Disentanglement.
- c) Promptly and orderly conclude all work as directed. This may include the documentation of work in progress and other measures to provide an orderly transition as set forth in Labor Harmony.

53. **Prohibited Telecommunications Equipment**

Contractor represents and certifies that it and its applicable subcontractors do not and will not use any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, as such terms are used in 48 CFR §§ 52.204-24 through 52.204-26. By submitting a proposal or quote hereunder, Contractor represents and certifies that Contractor and its applicable subcontractors must not provide or use such covered telecommunications equipment, system, or services for any scope of work performed for the City for the entire duration of this Agreement. If Contractor is notified of any use or provisions of such covered telecommunications equipment, system, or services by a subcontractor at any tier or by any other source, Contractor must promptly report the information in 40 CFR § 52.204-25(d)(2) to City.

54. **Drug Free Workplace**

During the performance of this contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or Contractor.

55. **Severability; Waiver of Provisions**

Any provision in this Solicitation, and any document that forms a material part of the agreement between the awarded Bidder and the City, that is prohibited or unenforceable in any jurisdiction will, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provisions in any other jurisdiction. The non-enforcement of any provision by either party will not constitute a waiver of that provision nor will it affect the enforceability of that provision or of the remainder of the agreement.

56. **Data Management; Data Security Standards**

Bidder must agree to comply with the City's written demands regarding cooperation (and any applicable financial responsibilities) for timely data breach incident reporting, response activities/fact-gathering, public and other governmental agency notification requirements, severity level assessment, after-action reporting. Consistent with Sections 282.3185(5) & (6), and 501.171, Fla. Stats., as amended from time to time. And specifically in the context of data breaches that involve Protected Health Information pursuant to Health Insurance Portability and Accountability Act (HIPAA), Bidder must comply with all requirements of the Health Information Technology for Economic and Clinical Health Act (HITECH); Section 105 of Title I of the Genetic Information Nondiscrimination Act of 2008 (GINA); and 45 C.F.R. Parts 160, 162 and 164 and Final Omnibus Rule eff. March 26, 2013). To ensure safety of personal data, Bidder must comply with the 2016 European Union's General Data Privacy Regulation (GDPR) that became effective in the European Union on May 25, 2018. For any system integration between the City's network systems

and that of the Bidder, the Bidder hereby agrees to comply with ISO/IEC 27001 for its internal system, and any integration with the City's network and information technology systems.

57. **WAIVER OF JURY TRIAL**

BY SUBMITTING A QUOTE WITH THE INTENT TO FORM A CONTRACTUAL RELATIONSHIP WITH THE CITY THEREUPON, THE BIDDER AND/OR CONTRACTOR EXPRESSLY AGREES AND THE CITY ALSO EXPRESSLY AGREES TO WAIVE ANY RIGHTS TO REQUEST A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS SOLICITATION, QUOTE AND/OR PROPOSAL. IF A PARTY FAILS TO WITHDRAW A REQUEST FOR A JURY TRIAL IN A LAWSUIT ARISING OUT OF THIS SOLICITATION OR QUOTE/PROPOSAL AFTER WRITTEN NOTICE BY THE OTHER PARTY OF VIOLATION OF THIS SECTION, THE PARTY MAKING THE REQUEST FOR JURY TRIAL WILL BE LIABLE FOR THE REASONABLE ATTORNEY'S FEES AND COSTS OF THE OTHER PARTY CONTESTING THE REQUEST FOR JURY TRIAL, AND SUCH AMOUNTS MUST BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION.

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SECTION II SPECIAL TERMS AND CONDITIONS

1. Point of Contact

To ensure fair consideration for all Bidders, the City prohibits communication to or with any department, elected official or employee during the submission process, other than the Procurement Administrator, regarding the requirements for this submittal. Any such contact may be considered grounds for disqualification. The City shall not be responsible for oral interpretations given by any City employee or its representative.

All inquiries concerning clarifications of this bid or for additional information shall be submitted in writing by mail, or email, and directed as follows:

Submit to: Lorie Messer, Procurement Analyst
Email: Lmesser@coconutcreek.net

All responses to questions/clarifications will be sent to all prospective Bidders in the form of an addendum. Such contact is to be for clarification purposes only. Material changes, if any, to the scope of services, or bid procedures will only be transmitted electronically through the eBid System.

2. Familiar with Conditions

The Bidder shall make a careful examination of the project site, shall familiarize themselves with existing conditions, and shall satisfy themselves as to the quantity and quality of materials and workmanship required for the work. Bidder shall carefully and thoroughly examine the Contract Documents before submitting a bid.

3. Eligibility of Bidders

To be eligible to respond to this IFB, the proposing firm must have at least five (5) years of experience in electrical services.

4. Licenses

Business Tax Receipt must be in effect as required by Florida Statute 205.065 or as amended. Master Electrician and Certified Electrical Contractor licenses are required.

5. Bid Submission

5.1 Bidder shall use the electronic eBid System to submit a response. **The bid shall be signed by a representative who is authorized to contractually bind the bidding entity. Bidder shall upload the response as one (1) file to the eBid System.** The maximum file size is 250 MB, however, that maximum applies to each file, not the Bid itself. You are allowed an unlimited number of attachments with the 250 MB being the maximum file size.

5.2 Bidder's response shall not contain any alteration to the document posted other than entering data in spaces provided or including attachments as necessary. By submission of a response, Bidder affirms that a complete set of bid

documents was obtained electronically from the eBid System and no alteration of any kind has been made to the solicitation.

- 5.3 All blanks on the Bid form(s) must be completed and notarized if applicable. Names must be typed or printed below the signature. Facsimile bids will not be accepted.
- 5.4 Each Bidder for services further represents that the Bidder has examined and is familiar with the local conditions under which the work is to be done and has correlated the observations with the requirements of the contract documents.
- 5.5 Bidders shall confine their bids to the project in its entirety. Partial bids will not be considered. Bids will not be accepted from anyone obtaining the documents from any other source. Each Bidder shall submit with this bid evidence that he is licensed to perform the work and services or qualified by examination to be so licensed.
- 5.6 All bids received from Bidders in response to the IFB will become the property of City and will not be returned to the Bidders. In the event of Contract award, all documentation produced as part of the Contract shall become the exclusive property of the City.
- 5.7 As the best interest of the City may require, the right is reserved to reject any and all bids or waive any minor irregularity or technicality in bids received. The City will determine which Bidders are "responsible and responsive".
- 5.8 Only one (1) bid from any individual, firm, partnership, or corporation, under the same or different names, will be considered. Should it appear to the City that any Bidder is interested in more than one (1) bid for work contemplated; all bids in which such a Bidder is interested will be rejected. Bidder by submitting this bid certifies that this bid is made without previous understanding, agreement or connection with any person, firm or corporation making a bid for the same material, supplies, equipment or services and is in all respects, fair and without collusion of fraud.

6. Price

Bidder will quote a firm, fixed price for the items listed on the Bid Schedule of Proposed Pricing page. All bid prices proposed by the Bidder shall remain fixed and firm for a period of ninety (90) calendar days from the date of bid opening unless otherwise stated by the City. All pricing MUST include delivery and be quoted FOB Destination, if applicable.

7. Estimated Quantities/Warranties of Usage

No warranty is given or implied by the City as to any components listed in this Bid and are considered to be estimates for the purpose of information only. The City reserves the right to accept all or any part of the bid and to increase or decrease quantities of Bidder's bid to meet additional or reduced requirements of the City.

8. Changes in Quantities

The City reserves the right to increase or decrease the amount of any class of unit price work that may be deemed necessary.

9. Additional Items/Duties

The City may require additional items/services of a similar nature, but not specifically listed in the contract. The Contractor agrees to provide such items/services, and shall provide the City prices on such additional items or services based upon a formula or method which is the same or similar to that used in establishing the prices in this Bid. If the price(s) offered are not acceptable to the City, and the situation cannot be resolved to the satisfaction of the City, the City reserves the right to procure those items from other vendors, or to cancel the contract upon giving the Contractor thirty (30) days written notice.

10. Risk of Loss

The risk of loss, injury or destruction, regardless of the cause of the casualty, shall be on the Successful Bidder until the completion of the project and inspection and acceptance of the project by the City.

11. No Exclusive Contract/Additional Services

Contractor agrees and understands that the contract shall not be construed as an exclusive arrangement and further agrees that the City may, at any time, secure similar or identical services at its sole option.

12. Schedule of Events

The City will use the following tentative time schedule in the selection process. The City reserves the right to change and/or delay scheduled dates.

IFB Available	Monday, November 12, 2023
Last Date of Receipt of Questions	Tuesday, November 28, 2023 by 4:00 P.M.
Addendum Release (if required)	Thursday, November 30, 2023
Bid Due Date (11:00 A.M. EST)	Wednesday, December 13, 2023
Compliance Review	Thursday, December 14, 2023
Commission Award of Contract	January 11, 2024

13. Method of Award

13.1 The City will determine which Bidders are “responsible and responsive”, quoting the lowest price for the items indicated on the Bid Schedule. Award may be by group or item, whichever is determined to be in the best interest of the City.

13.2 It is the intent of the City to award a Primary and a Secondary Contractor for services to be provided to the City under this bid. The Primary Contractor shall be the main contact for the City. The Secondary Contractor shall be utilized in instances where the Contract Administrator determines that it is in the best

interest of the City based on the specific requirements of the project or as needed or if the Primary Contractor is unavailable due to a schedule conflict.

- 13.3 The City reserves the right to waive minor variations in the specifications and bidding process. The City further reserves the right to accept or reject and/or all bids to award or not to award a contract based on this bid.
- 13.4 A recommendation will be presented to the City Commission, based on lowest responsible and responsive bid which conforms to all requirements and whose evaluation by the City indicates to the City that the award will be in the best interest of the City. The City is the sole judge in evaluation considerations.
- 13.5 If, at the time this contract is to be awarded, the total of the lowest acceptable bid(s) exceeds the funds then estimated by the City as available, the City may reject all bids, any part of the bids, or take such other action as best services the City's interest.
- 13.6 All Bidders will be notified electronically through the e-bid system when the City Commission makes an award recommendation. The Contract award, if any, shall be made to the Bidder whose bid shall be deemed by the City Commission to be in the best interest of the City. The City Commission's decision of whether to make the award is in the best interest of the City and shall be final.

14. **Contract Term**

- 14.1 The initial contract period shall be for three (3) years. The City reserves the right to extend the contract for two (2) additional one (1) year periods, providing both parties agree to the extension; all the terms, conditions and specifications remain the same; and such extension is approved by the City. Successful Bidder shall give written notice to the City no less than ninety (90) days prior to renewal date of any adjustment in the initial Contract amount. Contract renewal shall be based on satisfactory performance, mutual acceptance, and determination that the Contract is in the best interest of the City.
- 14.2 In the event services are scheduled to end because of the expiration of this contract, the Contractor shall continue the service upon the request of the Contract Administrator. The extension period shall not extend for more than ninety (90) days beyond the expiration date of the existing contract. The Contractor shall be compensated for the service at the rate(s) in effect when the City invokes this extension clause.

15. **Cost Adjustments**

- 15.1 Costs for all services purchased under this contract shall remain firm for the initial contract period. Costs for subsequent years and any extension term years shall be subject to an adjustment **only** if increases occur in the industry. However, unless very unusual and significant changes have occurred in the industry, such increases shall not exceed five percent (5%) per year or, whichever is less, the latest yearly percentage increase in the All Urban Consumers Price Index (CPI-U)

(All Items), for the Miami-Ft. Lauderdale, FL area, as published by the Bureau of Labor Statistics, U.S. Department of Labor. The yearly increase or decrease in the CPI shall be the latest index published and available ninety (90) days prior to the end of the contract year then in effect compared to the index for the same month one (1) year prior. Any requested price increase shall be fully documented and submitted to the City at least ninety (90) days prior to the contract anniversary date. Any approved cost adjustments shall become effective upon the anniversary date of the contract. In the event the CPI or industry costs decline, the City shall have the right to receive from the Contractor a reasonable reduction in costs that reflect such cost changes in the industry.

- 15.2 The City may, after examination, refuse to accept the adjusted costs if they are not properly documented, increases are considered to be excessive, or any decreases are considered to be insufficient. In the event the City does not wish to accept the adjusted prices and the matter cannot be resolved to the satisfaction of the City, the contract can be cancelled by the City upon giving thirty (30) days written notice to the Contractor.

16. Cleaning Up

The Successful Bidder at all times shall keep City premises free from accumulation of waste materials or rubbish caused by Bidder's operations. At the completion of the work Bidder shall remove all waste materials and rubbish from and about the site as well as all tools, equipment, machinery, and surplus materials and provide final cleaning and return the space to a condition suitable for use by the City.

17. Uncontrollable Circumstances ("Force Majeure")

The City and Contractor will be excused from the performance of their respective obligations under this agreement when and to the extent that their performance is delayed or prevented by any circumstances beyond their control including fire, flood, explosion, strikes, or other labor disputes, act of God or public emergency, war, riot, civil commotion, malicious damage, act or omission of any governmental authority, delay or failure or shortage or any type of transportation, equipment, or service from a public utility needed for their performance, provided that:

- A. The non performing party gives the other party prompt written notice describing the particulars of the Force Majeure including, but not limited to, the nature of the occurrence and its expected duration, and continues to furnish timely reports with respect thereto during the period of the Force Majeure;
- B. The excuse of performance is of no greater scope and of no longer duration than is required by the Force Majeure;
- C. No obligations of either party that arose before the Force Majeure causing the excuse of performance are excused as a result of the Force Majeure; and
- D. The non performing party uses its best efforts to remedy its inability to perform.

Notwithstanding the above, performance shall not be excused under this Section for a period of excess of two (2) months, provided that in extenuating circumstances, the City

may excuse performance for a longer term. Economic hardship of the Contractor will not constitute Force Majeure. The term of the agreement shall be extended by a period equal to that during which either party's performance is suspended under this Section.

18. Dispute Resolution

18.1 Dispute Resolution Process

- a) All claims, disputes and controversies arising out of or related to the performance, interpretation, application or enforcement of this Agreement, including but not limited to claims for payment and claims for breach of this Agreement, shall be settled internally with the City Manager or designee.
- b) In the event a dispute cannot be settled through the chain of command set forth in this section, all claims, disputes and controversies shall be referred to mediation before initiation of any adjudicative action or proceeding at law or in equity, unless it shall be unreasonable to do so or an emergency situation or necessity dictates otherwise. All applicable statutes of limitations and defenses based on the passage of time shall be tolled while the mediation process is pending. The parties will take all reasonable measures necessary to effectuate such tolling.
- c) Either party may initiate the mediation process by delivering written notice to the other party that sets forth with particularity the nature of the party's claim or demand, the authority for making the claim or demand, a proposed remedy, the nature and extent of any monetary claim, and a request for mediation. The Contractor and City shall then participate fully in the mediation process and conscientiously attempt to resolve their dispute.

The mediation shall be conducted in Broward County, Florida, in accordance with the Florida Supreme Court's mediation rules, within sixty (60) days after the joint selection of a certified civil mediator who is mutually acceptable to both parties. If a dispute is not resolved pursuant to mediation within sixty (60) days after the initiation of the mediation conference, either party to the dispute may elect to resolve the dispute by initiating litigation in a court of competent jurisdiction in Broward County, Florida, after providing ten (10) days' advance written notice to the other party.
- d) The parties agree that any claim filed in state or federal court concerning this Agreement shall be heard by a judge, sitting without a jury. THE CITY AND THE CONTRACTOR HEREBY KNOWINGLY, VOLUNTARILY, AND PERMANENTLY WAIVE ANY RIGHT THEY MAY HAVE TO A JURY TRIAL CONCERNING THE PERFORMANCE, INTERPRETATION, APPLICATION, OR ENFORCEMENT OF THIS AGREEMENT.

19. Insurance Requirements

Throughout the term of this Contract, Successful Bidder and/or any and all subcontractors or anyone directly or indirectly employed by either of them shall maintain in force at their own expense, insurance as follows:

19.1 Workers' Compensation

Statutory Limits of coverage to apply for all employees in compliance with all applicable State of Florida and federal laws. The policy must include Employers Liability with a limit of \$100,000 each accident.

19.2 General Liability

Commercial General Liability insurance with limits not less than \$1,000,000 each occurrence combined single limit for Bodily Injury and Property Damage including coverage for premises/operations, contractual liability, personal injury, explosion, collapse, underground hazard, products/completed operations, broad form property damage, cross liability and severability of interest clause, sexual abuse/molestation coverage. This policy of insurance shall be written in an "occurrence" based format.

19.3 Automobile Liability

Comprehensive or Business Automobile Liability insurance with limits not less than \$500,000.00 each occurrence combined single limit for Bodily Injury and Property Damage including coverage's for owned, hired, and non-owned vehicles and/or equipment as applicable. This policy of insurance shall be written in an "occurrence" based format.

19.4 General

Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit and provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence limits specified above.

Should any required insurance lapse during the Contract term, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this Contract, effective as of the lapse date. If insurance is not reinstated, City may, at its sole option terminate this Agreement effective on the date of such lapse of insurance.

Auto Liability and General Liability policies shall be endorsed to provide the following:

- a) Name as additional insured the City of Coconut Creek and its Officers, Agents, Employees and Commission Members.

- b) That such insurance is primary to any other insurance available to the additional insured with respect to claims covered under the policy and that insurance applies separately to each insured against whom claims are made or suit is brought, but the inclusion of more than one insured shall not operate to increase the insurer's limit of liability.

All policies shall be endorsed to provide sixty (60) days prior written notice of cancellation, non-renewal or reduction in coverage or limits to:

City of Coconut Creek
Attn: Risk Manager 4800
West Copans Road
Coconut Creek, Florida 33063

The issuing agency shall include full name, address and telephone number in each insurance certificate issued.

Certificates of Insurance, in form and evidencing all required insurance and endorsements, shall be submitted with the Bidders Bid Package. If Bidder is successful Bidder, then prior to commencement of Contract, Bidder must submit revised Certificate of Insurance naming the City of Coconut Creek as additional insured for all liability policies.

A copy of **any** current Certificate of Insurance should be included with your bid.

19.5 Insurance Company and Agent

All insurance policies herein required of the Successful Bidder shall be written by a company with a A.M. Best rating of A-VII or better that is duly authorized and licensed to do business in the State of Florida and shall be executed by agents, thereof that are duly licensed as agents in said state.

20. Payment

Payment to the Successful Bidder will be as a lump sum payment after satisfactory receipt of the services as determined by the City, and receipt of invoice or other billing instrument used by the Successful Bidder. If Successful Bidder can only deliver when available, the City will make payment on those that have been received and accepted by the City.

The City is exempt from Federal Excise and State Tax; therefore, tax must not be included in the bid price.

All prices quoted shall include all charges, including delivery and set-up fees if applicable.

21. Scrutinized Companies pursuant to Section 287.135 and 215.473

Contractor hereby certifies that it: a) has not been placed on the Scrutinized Companies that Boycott Israel List, nor is engaged in a boycott of Israel; b) has not been placed on the Scrutinized Companies with Activities in Sudan List nor the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; and c) has not been engaged in business operations in Cuba or Syria. If City determines that Contractor has falsely certified facts under this paragraph or if Contractor is found to have been placed on the

Scrutinized Companies Lists or is engaged in a boycott of Israel after the execution of this Agreement, City will have all rights and remedies to terminate this Agreement consistent with Section 287.135, Florida Statutes, as amended. The City reserves all rights to waive the certifications required by this paragraph on a case-by-case exception basis pursuant to Section 287.135, Florida Statutes, as amended. Beginning January 1, 2024, the City must not enter into a contract that grants access to an individual's personal identifying information to any Foreign Country of Concern such as: People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic, unless the Contractor provides the City with an affidavit signed by an authorized representative of the Contractor, under penalty of perjury, attesting that the Contractor does not meet any of the criteria in subparagraphs (2)(a)-(c) of Section 287.138, Florida Statutes, as may be amended. Beginning January 1, 2025, the City must not extend or renew any contract that grants access to an individual's personal identifying information unless the Contractor provides the City with an affidavit signed by an authorized representative of the Contractor, under penalty of perjury, attesting that the Contractor does not meet any of the criteria in subparagraphs (2)(a)-(c) of Section 287.138, Florida Statutes, as may be amended. Violations of this Section will result in termination of this Agreement and may result in administrative sanctions and penalties by the Office of the Attorney General of the State of Florida.

22. Trade Secrets and Proprietary Confidential Business Information

Documents submitted by Bidder which constitute trade secrets as defined in Sections 812.081 and 688.002, Florida Statutes, as amended from time to time, or proprietary confidential business information when held by the City as a utility owner, consistent with Section 119.0713(5), Florida Statutes, as amended from time to time, and which are clearly marked or stamped as confidential by the Bidder or Contractor at the time of submission to the City, will not be subject to public access. However, should a requestor of public records challenge Bidder's or Contractor's interpretation of the term "trade secrets" or "proprietary confidential business information," within five (5) calendar days of such challenge, Bidder or Contractor must provide a separate written affidavit that includes an indemnification and release guarantee, as approved by the City Attorney or designee, to the City to support its claim that the alleged trade secrets or proprietary confidential business information actually constitutes same as defined by law. Bidder or Contractor must demonstrate the need for confidentiality of the documentation by showing a business advantage or an opportunity to obtain an advantage if the documentation was released. Otherwise, Bidder or Contractor is required to timely seek a protective order in the Circuit Court of the Seventeenth Judicial Circuit in and for Broward County to prevent the City's release of the requested records.

23. Inspection, Direction, and Payment

23.4 The work will be conducted under the general direction of the Director of Public Works or designee, and is subject to inspection by his appointed inspectors to insure compliance with the terms of the Contract.

23.5 Contractor shall submit invoices to the Public Works department. The City shall pay the Contractor the amount due within thirty (30) days after approval of said invoice by the Director of Public Works or designee.

23.6 If, at any time during the Contract, the City shall not approve or accept the Contractor's work performance, and an agreement cannot be reached between the City and the Contractor to resolve the problem to the City's satisfaction, the City shall negotiate with the Contractor on a payment for the services provided.

23.7 The City of Coconut Creek, without invalidating the Contract may make changes to increase or decrease services and/or locations as required. Such work shall be executed under the conditions of the original Contract.

24. VISA Purchasing Card (P-Card) Program

The City of Coconut Creek has implemented a Visa Procurement Card (P-Card) Program through Truist Bank. The City's preference is to pay for goods/services with the P-Card. This program allows the City to expedite payment to our vendors. Some of the benefits of the P-Card Program to the vendor are: payment received within 72 hours of receipt and acceptance of goods, reduced paperwork, issue receipts instead of generating invoices, resulting in fewer invoice problems, and deal directly with the cardholder (in most cases).

Vendors accepting payment by the P-Card may not require the City (Cardholder) to pay a separate or additional convenience fee, surcharge or any part of any contemporaneous finance charge in connection with a transaction. Such charges are allowable, however must be included in the total cost of the bid. Vendors are not to add notations such as "+3% service fee" in their bid response. All bid responses shall be inclusive of any and all fees associated with the acceptance of the P-Card.

Vendors agreeing to accept payment by P-Card must presently have the capability to accept Visa or take whatever steps necessary to implement the ability before the start of the agreement term.

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SECTION III - DETAILED SPECIFICATIONS

1. General

It is the intent of this IFB to provide the City of Coconut Creek with qualified, licensed, and experienced Vendors to provide routine and emergency electrical services city-wide on an as-needed basis and as described herein. The work consists of furnishing all labor, equipment, materials, parts, services and supervision necessary to properly provide routine and emergency repair and replacement services.

The successful firm(s) shall provide a full range of electrical services on an as-needed basis including, but not limited to:

- Diagnostic/troubleshooting and testing services
- General electrical maintenance and repair
- Generator maintenance and repair
- Underground locates
- Repair and/or replacement of sport, street, and parking lot lights and fixtures
- Installation of conduit, wiring, junction boxes, fixtures and electrical equipment to repair or replace existing installations
- New service installations
- Panel/Breaker installation/replacement
- Installation, maintenance, and repair of solar powered equipment
- Emergency repair work
- Load Bank testing

2. Scope of Services

- 2.1 All work shall be provided in a professional workmanlike manner in accordance with the National Electric Code (NEC) and City Code. While working on behalf of the City, all Federal, State and Local safety rules and regulations including but not limited to OSHA, National Electric Safety Code, and F.D.O.T. (for traffic control) shall be complied with.
- 2.2 Firm shall be available to perform emergency repairs as the need arises: Twenty-four (24) hours per day, seven (7) days a week. Response time for emergency repairs shall be within one (1) hour of notification to firm by the City's representative of the need for such repairs. Emergency work requested by the City after normal working hours shall be billed at the "after normal operating hours" rate.
- 2.3 The City's normal operating hours are from 7:00 a.m. to 6:00 p.m. Monday through Friday. The City anticipates utilizing the selected firm(s) on an as-needed basis during normal operating hours. Firm may opt to work on a City Holiday subject to approval from the Contract Administrator. Firm understands and agrees that their decision to work on a City Holiday or after normal operating hours (unless directed to do so in accordance with Section 2.2) is by choice and charges for such work shall be at the regular rate.
- 2.4 Hourly Rates shall be inclusive of all costs with the exception of parts/new units and shall include but not be limited to all labor, equipment, tools, vehicles, profit, overhead, employee benefits, insurance, etc. necessary to perform the required work. Parts shall be billed at wholesale cost plus a percentage mark-up.
- 2.5 The City shall request an estimate of work to be performed, especially for large projects. Each request for estimate shall set forth the work to be accomplished, time to complete, and if available shall include the materials required and applicable specifications and drawings to be followed.
- 2.6 Firm shall provide written repair estimates for extensive repairs or emergency repairs as may be required. Estimates shall include all time and material charges. The firm must inform the City representative of the repair estimate and request authorization to proceed. Estimates must be approved in advance by the City.

- 2.7 Firm shall document all site visits recording work performed, labor hours incurred, material and parts used, and other expenses. Firm shall keep Contract Administrator apprised of all electrical issues.
- 2.8 Firm shall utilize energy management system(s) interfaced with City electrical systems.
- 2.9 Where applicable, a permit for said work shall be obtained from the City's Building Department. All work is subject to inspection and approval of the City's Building Official or designee.
- 2.10 Firm shall check-in and check-out with the Contract Administrator, when servicing City property.
- 2.11 Firm shall not charge travel time for any service, emergency or routine.
- 2.12 Firm shall promptly pay for all materials, supplies, and labor employed by it so that the property shall be free from materialmen's and mechanic's liens. At time of invoicing, firm shall provide City with final lien releases from all subcontractors providing materials, supplies and labor related to the work.
- 2.13 Firm warrants that for one (1) year from the City's acceptance, the work will be free from defects in material and workmanship and that all services and material furnished shall be in accordance with the requirements of this Contract. Firm also warrants that all material (including repair and replacement parts) will function properly for a period of one (1) year from the City's acceptance and that such material will be new and of original manufacture. Upon City's notice to the Firm of any defect or nonconformance, firm shall within one (1) business day of the City's notice promptly correct or re-perform, at no cost to the City, any such services and material. If firm fails or refuses to correct or re-perform, City may correct or replace with similar services and materials and charge to the firm the cost incurred by the City.

2.14 Load Bank Testing

2.14.1 Contractor shall perform Individual Load Bank testing once per year for the following City's locations:

Facility Name	Location
City Hall	4800 West Copans Road, Coconut Creek, FL 33063
Police Department	4800 West Copans Road, Coconut Creek, FL 33063
Fleet Building	4900 West Copans Road, Coconut Creek, FL 33063
Community Center	1100 Lyons Road, Coconut Creek, FL 33063
Fire Station #50	4500 Coconut Creek Parkway, Coconut Creek, FL 33063
Recreation Complex	4455 Sol Press Blvd., Coconut Creek, FL 33073
Fire Station #94	4455 Sol Press Blvd., Coconut Creek, FL 33073

2.14.2 Contractor shall perform Load Bank testing four (4) times per year for the Public Works Department:

Facility Name	Location
Public Works	4900 West Copans Road, Coconut Creek, FL 33063

2.14.3 Load Bank testing services are to be completed Monday through Thursday during normal business hours.