

CITY OF PORT ORANGE, FLORIDA

REQUEST FOR PROPOSAL

RFP #21-05

EXECUTIVE SEARCH SERVICES



City of Port Orange Purchasing Division

Prepared by Jim Tillman, CPPO, C.P.M., Purchasing Mgr.

Release Date: November 19, 2020

**Proposal Due Date and Time:
December 10, 2020 at 2:30
P.M.**

City of Port Orange, Florida
1000 City Center Circle
Port Orange, FL 32129
(386) 506-5718

purchdiv@port-orange.org

www.port-orange.org



Legal Notice to Proposers

RFP #21-05 EXECUTIVE SEARCH SERVICES

Notice is hereby given that the City of Port Orange is soliciting proposals for EXECUTIVE SEARCH SERVICES. Proposals will be accepted in the City Clerk's Office, Port Orange City Hall, 1000 City Center Circle, Port Orange, Florida 32129 until **2:30 P.M. on December 10, 2020**, which may be amended by addendum issued by the City. All untimely proposals will not be considered and will be returned to the Proposer unopened. All proposals will be evaluated to ensure they contain all required forms in order to deem the Proposer responsive or non-responsive. **Proposals will be opened, and Proposers Names will be read aloud at 2:30 P.M. in the council chambers located on the first floor of City Hall, 1000 City Center Circle, Port Orange Florida, 32129.**

DESCRIPTION: The City of Port Orange invites qualified firms to submit a proposal to conduct an **executive search** for the **City Manager** position. Submittals will be reviewed and evaluated as to qualification to perform the services required by the City Council. The successful respondent will assist in establishing the process for the recruitment, including a timeline for various actions during the recruitment process.

All Requests for Proposals are solicited and will be evaluated on the criteria outlined in the RFP. The City Council will evaluate and rank the Proposals received in accordance with the Code of Ordinances, City of Port Orange, Chapter 2, Article VI, Division 2, and the Policies and Procedures as set forth in the City's Purchasing Manual. Code of Ordinances, City of Port Orange is on file in the Office of the City Clerk, City Hall, 1000 City Center Circle, Port Orange, Florida, 32129, and at www.municode.com.

Copies of the Proposal documents, requirements, scope of service and all other pertinent information necessary to submit a complete package may be obtained electronically from the City of Port Orange website at www.port-orange.org/bids.aspx and DemandStar via their website at www.demandstar.com. All questions shall be directed in **writing** to the to the Purchasing Manager, Jim Tillman CPPO. C.P.M., jtillman@port-orange.org or purchdiv@port-orange.org and reference **"Questions on RFP #21-05 Executive Search Services" in the subject line.** Last day for questions will be **December 1, 2020 at 5:00 P.M.**

All Proposers are required to complete and submit a Public Entity Crime Statement, the Anti-Collusion Statement, and Drug Free Tie Proposal Preference Statement, as well as other documents as required by the solicitation.

No proposals received after the time and date specified for the opening will be considered. The City of Port Orange, Florida reserves the right to reject any and all proposals, to waive any and all non-substantial irregularity in Proposals received, whenever such waiver or rejection is in the best interest of the City.

Proposals shall be **submitted in the City Clerk's office** with one (1) original and one (1) identical digital version in PDF format on CD or USB flash/thumb drive, addressed to the Purchasing Division, Finance Department, City Hall, 1000 City Center Circle, Port Orange, Florida, 32129 in a **SEALED ENVELOPE/PACKAGE** plainly marked on the outside: **"RFP #21-05 Executive Search Services"**.

Jim Tillman CPPO, C.P.M., Purchasing Manager

Legal Ad - One Time –November 23, 2020

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SECTION 1 – PURPOSE AND OVERVIEW

The purpose for this Request for Proposals (RFP) is to solicit competitive sealed proposals. The City of Port Orange invites qualified firms to submit a proposal to conduct an executive search for the City Manager position. Submittals will be reviewed and evaluated as to qualification to perform the services required by the City Council. The successful respondent will assist in establishing the process for the recruitment, including a timeline for various actions during the recruitment process. The City Council desires to work with a designated representative from the firm to develop a profile of the desired qualifications and experience necessary to be successful as the next City Manager of the City of Port Orange. The City of Port Orange will begin operating under an Interim City Manager on December 11, 2020. The previous City Manager was with the City of Port Orange for five years.

It is the intent and purpose of the City of Port Orange (City) that this Request for Proposal promotes competitive selection. It shall be the Proposer's responsibility to advise the Purchasing Division if any language, requirements, etc., or any combination thereof, inadvertently restricts or limits the requirements stated in this RFP to a single source.

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SECTION 2 – INSTRUCTIONS TO PROPOSERS

Firms or companies (Proposer) desiring to provide services, as described herein shall submit sealed proposals, including one original copy, and one (1) identical digital version in PDF format on CD or USB flash/thumb drive, in conformance with the detailed submittal instructions.

TIMELINE (Local Time):

The City reserves the right to alter dates as needed.

Date of Distribution:.....November 19, 2020
Deadline for Questions:.....December 1, 2020 by 5:00 P.M.
Final Addendum Posting:.....December 3, 2020 by 5:00 P.M.
Proposals Due:.....December 10, 2020 by 2:30 P.M.
Evaluation Period:..... To be Determined
Evaluation Meeting: To Be Determined
Shortlisted Firms Presentations/Discussions in person **(Required)**:.....To Be Determined
City Council Meeting for Approval and Award:.....To Be Determined

Proposals must be delivered in a sealed envelope/package and delivered to:

City of Port Orange City Clerk’s Office
Attn: Jim Tillman CPPO, C.P.M., Purchasing Mgr.
1000 City Center Circle
Port Orange, FL, 32129

Sealed Proposals must be delivered **no later** than the date and time listed in the Timeline above. All times referenced are local time.

Proposals shall be sealed, and Proposers **must** indicate on the outside of their proposal the following:

- a) Request for Proposal (RFP) Number and Title
- b) Date of Opening
- c) Name of Proposer
- d) Address of Proposer

Due to the timing of mail service, the City cautions Proposers to assure actual delivery of proposals to the City prior to the deadline set for receiving proposals. Carrier and hand deliveries of proposals will be accepted in the City Clerk’s Office, Port Orange City Hall, 1000 City Center Circle, Port Orange, Florida until the date and time referenced in the Timeline above or as amended by addendum issued by the City. Proposals received after the established deadline shall not be considered.

Offers by telephone, email or telegram shall not be accepted. Also, Proposers are instructed NOT to fax their proposal package. **Faxed proposals shall be rejected as non-responsive regardless of where or when the fax is received.**

All proposals will be opened publicly, and the names of all Proposers shall be read aloud. All conferences and meetings regarding this RFP are recorded electronically (audio only). The City of Port Orange reserves the right to reject any or all proposals or parts of proposals, if it is in the best interest of the City.

QUESTIONS REGARDING THIS RFP:

All questions shall reference “**Questions on RFP #21-05 EXECUTIVE SEARCH SERVICES**” in the subject line. All questions concerning this RFP shall be submitted in writing no later than the date and time referenced in the Timeline above to:

Jim Tillman
Purchasing Mgr.
1000 City Center Circle
Port Orange, FL, 32129
jtillman@port-orange.org or
purchdiv@port-orange.org

ADDENDA REGARDING THE REQUEST FOR PROPOSALS:

The City will issue responses to inquiries and any other corrections or amendments it deems necessary in written addenda issued prior to the Proposal Due Date. Proposers should not rely on any representations, statements or explanations other than those made in this RFP or in any addendum to this RFP. Where there appears to be a conflict between the RFP and any addenda issued, the last addendum issued will prevail.

It is the Proposer's responsibility to be sure all correct number of addenda was received. The Proposer should verify with the designated contact persons prior to submitting a proposal that all addenda have been received. Proposers should acknowledge the correct number of addenda received as part of their proposals. It is the responsibility of the Proposer to ensure all addenda have been received prior to submitting a proposal.

Written responses, in the form of an addendum, will be provided via the City website www.port-orange.org/bids.aspx and Demand Star websites. www.demandstar.com.

This provision exists solely for the convenience and administrative efficiency of the City of Port Orange. No Proposer or other third party gains any rights by virtue of this provision or the application thereof, nor shall any Proposer or third party have any standing to sue or cause of action arising therefrom.

CLARIFICATIONS:

It is the Proposer's responsibility to become familiar with and fully informed regarding the terms, conditions, and specifications of this RFP. Lack of understanding and/or misinterpretation of any portions of this RFP shall not be cause for withdrawal of your proposal after opening or for subsequent protest of award. Should clarifications be requested, Proposers must submit any inquiries in accordance with ADDENDA REGARDING THE REQUEST FOR PROPOSALS Section, hereinabove.

Modification or alteration of the documents contained in the solicitation or contract shall only be valid if mutually agreed to in writing by the parties.

MINIMUM QUALIFICATIONS:

Proposers must be commercial entity licensed to do business in the State of Florida or appropriate qualified commercial entity licensed in the area specified in the scope of work and to perform the services identified herein.

Proposers must be properly registered and licensed to engage in the scope of work pertaining to this RFP, by all applicable state and local agencies.

Proposers must provide a minimum of three (3) verifiable references from similar scopes of work as identified in this RFP following the requirements in Section 7. Failure to provide references that verify required experience will cause the Proposer to be deemed non-responsive. The City of Port Orange is not to be used as a reference.

NO LOBBYING:

All Proposers are hereby placed on notice that the City of Port Orange Council, City Employees/Staff, nor Members of the Evaluation Committee (with the exception of the City of Port Orange Purchasing Division personnel designated to receive requests for interpretations or corrections) are not to be lobbied, directly or indirectly either individually or collectively, regarding this RFP. During the entire procurement process, all Proposers and their subcontractors, sub-consultants, or agents are hereby placed on notice that they are not to contact any persons listed above for such purposes as holding meetings of introduction, dinners, etc., if they intend to submit or have submitted proposals for this project. Any Proposer contacting individuals mentioned herein in violation of this warning may automatically be disqualified from further consideration for this RFP.

PRICING SHEETS:

Pricing sheets are to be completed as directed and without modification and returned as part of the RFP submittal prior to the RFP deadline for submission. Failure to fill out the price sheets as directed and without modification may negatively affect the evaluation of your proposal.

EXCEPTIONS TO SPECIFICATIONS:

If taking exception to any portion of the RFP specifications, the Proposer must indicate those exceptions as stated on the Proposer's Acknowledgement Form.

PROPOSAL SUBMISSION AND WITHDRAWAL:

Unless otherwise specified, Proposer shall use the forms supplied by the Purchasing Division. Proposals, once opened, become the property of the City, cannot be withdrawn, & will not be returned to the Proposers. Upon opening, Proposals become subject to public disclosure in accordance with Chapter 119, Florida Statutes.

CORRECTION OF PROPOSALS:

Correction of inadvertently erroneous proposals shall be permitted up to the time of RFP opening. Proposers shall not be allowed to modify their proposals after the opening time and date.

WITHDRAWAL OF PROPOSALS:

NO proposal shall be withdrawn for a period of ninety (90) days subsequent to the proposal opening without the consent of the City of Port Orange, Florida. Negligence on the part of the Proposer in preparing the proposal confers no right of withdrawal or modification after the proposal has been opened, at the appointed time and place by the City of Port Orange. Any such withdrawn proposal shall not be resubmitted.

OPENING OF PROPOSALS:

Proposals will be received until the date and time stated in this RFP and will be publicly opened and read at the place, time and date stated. No responsibility will attach the Purchasing Division for the premature opening of a proposal not properly addressed and identified.

REJECTION OF PROPOSALS:

The City reserves the right to reject any and/or all proposals when such rejection is in the best interest of the City.

PROPOSALS MAY BE REJECTED AND/OR PROPOSER(S) DISQUALIFIED FOR THE FOLLOWING REASONS:

- (a) Failure to update the information on file including address, product, service or business descriptions.
- (b) Failure to perform according to contract provisions.
- (c) Conviction in a court of law of any criminal offense in connection with the conduct of business.
- (d) Evidence of a violation of any federal or state antitrust law based on the submission of proposals, or the awarding of contracts.
- (e) Evidence that the proposer has attempted to give a City of Port Orange employee a gratuity of any kind for the purpose of influencing a recommendation or decision in connection with any part of the City of Port Orange purchasing activity.
- (f) Other reasons deemed appropriate by the City.

OWNERSHIP OF DOCUMENTS:

All documents resulting from this project will become the sole property of the City of Port Orange. The Proposer must meet all requirements for retaining public records and transfer, at no cost, to the City all public records in the possession of the Proposer upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the City.

AMERICANS WITH DISABILITIES ACT (ADA):

If you need special services provided for under the Americans with Disabilities Act, contact the ADA Coordinator in our Human Resources office at 386-506-5560 at least 48 hours before the scheduled event.

SECTION 3 – SCOPE OF SERVICES AND REQUIREMENTS

1.0 SCOPE OF WORK

The City of Port Orange invites qualified firms to submit a proposal to conduct an executive search for the City Manager position. Submittals will be reviewed and evaluated as to qualification to perform the services required by the City Council. The successful respondent will assist in establishing the process for the recruitment, including a timeline for various actions during the recruitment process. The City Council desires to work with a designated representative from the firm to develop a profile of the desired qualifications and experience necessary to be successful as the next City Manager of the City of Port Orange. The City of Port Orange will begin operating under an Interim City Manager on December 11, 2020. The previous City Manager was with the City of Port Orange for five years.

The City of Port Orange is located on Florida's East Central Coast in Volusia County. Port Orange, a population of just over 62,000, covers an area of approximately 29 square miles and is a full-service city that provides its own police, fire, emergency medical services, parks and recreational activities, streets and parks maintenance, water, wastewater, and reclaimed water services, stormwater improvements, community development, code enforcement, planning and zoning, forest management, wetland mitigation, and general administration. The Fiscal 2021 total budget was \$121,999,168, with the General Fund totaling \$43,180,416. More details may be found at www.port-orange.org.

The City has a council-manager form of government, with a five-member council. The Council is made up of four Council Members, each representing a district, and the Mayor. All members of the Council are elected at large. The City administration is made up of eight departments. The City employs approximately 500 employees on an annual basis, and approximately 80% of the employees are covered by four collective bargaining units.

2.0 Deliverables. The search firm shall provide the following services:

2.1 Candidate Profile. The search firm will prepare a candidate profile to guide the selection process.

- Citizen input may be solicited in the process. This involvement will be determined by Council and may include the use of an advisory committee. The search firm may recommend various avenues for citizen engagement but should detail in their proposed timeline the impact of the different types of involvement. If an advisory committee is utilized, the search firm will be required to facilitate meetings with said committee in accordance with the Sunshine Law. In developing the candidate profile, the search firm representative shall make one or more visits to the City and will conduct individual meetings with City Council members.
- The search firm shall facilitate meetings with the City Council to finalize the candidate profile, which will include, but not limited to, specific experience, specific strengths, and a possible compensation and benefits package.

2.2 Recruitment. The search firm shall undertake the necessary actions to recruit the maximum number of candidates who qualify based upon the profile. The search firm shall be required to advertise the position as well as directly solicit candidates.

- If deemed necessary, the search firm may propose to the City Council a targeted application format for the recruitment process.
- The search firm shall be responsible for receiving and compiling all applications.

Screening. The City Council will schedule interviews and the search firm representative shall be available to guide the City

Council through the process. This includes offering assessments and recommendations regarding the candidates and the process. The search firm shall:

- Provide the City with application summaries of all candidates, and recommend which candidates are qualified.
- Provide and offer alternative courses of action if it becomes apparent that no qualified candidates can be presented, or that the length of the search will differ considerably from that originally specified.
- Be prepared to recommend a shortlist of candidates, which it believes are the most qualified to successfully serve as City Manager of the City of Port Orange, based upon its understanding of the City's needs and the Council's desires.
- Present a written report on background, strengths, accomplishments, any video interviews, and reference lists on each recommended finalist. The representative shall meet with the City Council to review the recommendation.
- Assist the City in scheduling interviews with the final candidates and such other candidates as the City Council may deem appropriate. The search firm will coordinate any public outreach with the Community. The search firm shall coordinate all travel arrangements for candidates to be interviewed, within the budgetary parameters established by the City. The City shall process candidate reimbursements.
- Facilitate the interview process, including providing suggested questions, candidate evaluation matrix, and coordinating psychological or assessments if desired by the City Council. The search firm shall attend the interview sessions with the candidates selected by the City Council.
- Conduct thorough references and background checks. The background check should include, but not be limited to, verification of educational background, verification of prior employment, criminal history, financial stability, all media including news and social media, and civil litigation checks.
- Be prepared to assist the City Council and City Attorney with the negotiation of the contract.

3.0 Time Frame. The search firm shall provide City Council with a bi-weekly progress report, or more frequently as requested. The City wishes to complete this selection process as expeditiously as possible. The search firm shall provide a realistic but aggressive timeline for the process.

SECTION 4 – STANDARD PURCHASE DEFINITIONS

The City will use the following definitions in instructions to proposers, terms and conditions, special provisions, technical specifications and any other solicitation documents.

1. **Addendum** is a formal written document, released prior to the public opening that modifies any aspect of a Solicitation. Plural: Addenda
2. **Alternate Bid** means multiple Bids with substantive variations from the same Bidder in response to a Solicitation.
3. **Amendment** is a formal written agreement, signed by both parties, that modifies an existing contractual agreement.
4. **Appropriate, Appropriated, or Appropriation** means the adoption by the City Council of the City of a budget for a fiscal year that includes payments to be made under the Contract during the respective fiscal year.
5. **Best Value** means the highest overall value to the City based on factors that include, but are not limited to, price, quality, design, and workmanship.
6. **Bid** is a complete, properly signed response to an Invitation to Bid, which if accepted, would bind the Bidder to perform the resultant Contract.
7. **Bid Guaranty (Bid Bond)** guarantees that the Bidder (a) will not withdraw the Bid within the period specified for acceptance, and (b) will execute a Contract and furnish required bonds and any necessary insurance within the time specified in the Solicitation, unless a longer time is allowed by the City. The guarantee will be returned to the Bidder upon execution of a Contract.
8. **Bidder or Proposer** is a person, firm, or entity that that submits a Response to a Solicitation. Any Bidder/Proposer may be represented by an agent after submitting evidence demonstrating the agent's authority. The agent cannot certify as to his own agency status.
9. **City** means the City of Port Orange.
10. **Competitive Negotiation** means a method for acquiring goods, services, and construction for public use in which discussions or negotiations may be conducted with responsible offerors who submit Responses through a Request for Proposals, Request for Statements of Qualifications, or Invitation to Negotiate.
11. **Competitive (Formal) Solicitation** is the process of requesting and receiving two or more sealed bids, proposals, statements of qualifications or replies submitted by responsive Proposers in accordance with the terms of a competitive process, regardless of the method of procurement.
12. **Competitive Range** means the responsive submissions that meet the evaluation criteria and are considered to be reasonably susceptible of award.
13. **Construction** means the process of building, repairing, improving, and alterations, conversion or extension of building, parks, utilities, streets or other improvements or alterations to real property.
14. **Contract** is a written agreement or purchase order issued for the purchase of goods or services.
15. **Contractor** means the person, firm or entity selling goods or services to the City under a Contract.
16. **Deliverables** means the goods, products, materials, and/or services to be provided to the City by a Bidder.
17. **DemandStar** is the official online repository for all City competitive solicitations.
18. **Due Date** means the date and time specified for receipt of Responses to a Solicitation.
19. **End User** is a person, program, agency, or other eligible user who uses a contract to purchase a commodity or contractual service.
20. **Evaluation Committee/Team** is a temporary group of City personnel who are responsible for the evaluation of proposals, statements of qualifications or replies as part of a Request for Proposals (RFP), Request for Submission of Qualifications (RFSQ), or Invitation to Negotiate (ITN), or competitive grant

process.

21. **Evaluator** is a member of the evaluation committee/team.
22. **Goods** are supplies, materials, or equipment.
23. **Intent to Award** is a document that informs the public and respondents of the City's decision to award a contract pursuant to a previously issued competitive solicitation.
24. **Invitation to Bid (ITB) or Bid** means a formal request to prospective Bidders requesting pricing for a specified Good or Service which has been advertised for Bid in a newspaper.
25. **Invitation to Negotiate (ITN)** means a formal request to prospective Proposers requesting proposed specifications and pricing of a product and/or service which has been advertised for replies in a newspaper.
26. **Issues** means points, matters, or concerns to be addressed during negotiations.
27. **Lead Negotiator** is the negotiator responsible for leading and facilitating the formal negotiation discussions and selecting other required negotiation team members. Is often the "driver of change" and seeks alternatives/options.
28. **Lowest Responsible Bid** means the responsive bid meeting all requirements of the specifications, terms, and conditions of the Invitation to Bid resulting in the lowest cost to the City in a total cost concept or based solely on price, taking into consideration the financial and practical ability of the Bidder to perform the Contract, past performance of the Bidder, and compliance with all City ordinances concerning the purchasing process.
29. **Lowest Responsible Bidder** means the Bidder submitting Lowest Responsible Bid.
30. **Negotiation Team** is a temporary group of City personnel who are responsible for negotiations as part of an Invitation to Negotiate (ITN).
31. **Negotiator** is a member of the negotiation team.
32. **Non-Professional Services** are services performed that are not of a professional nature such as lawn care, security, janitorial, etc.
33. **Offer** means a complete signed Response submitted to the City in response to a Solicitation including, but not limited to, a Bid submitted in response to an Invitation to Bid, a Proposal submitted in response to a Request for Proposal, a Quote submitted in response to a Request for Quotation, a Statement of Qualifications and interest submitted in response to a Request for Statements of Qualifications, or a Reply submitted in response to an Invitation to Negotiate.
34. **Outlier** is a bid, offer, or proposal which is determined by the Purchasing Director or Manager to be significantly dissimilar to or inconsistent with, competing bids or offers.
35. **Pre-Bid/Proposal/Statement/Reply Conference** means a meeting conducted by the Purchasing Office, held in order to allow Proposers to ask questions about the proposed Contract and particularly the Contract specifications with the City department requesting the goods/services.
36. **Price Analysis** is an evaluation of the total cost of a contract in order to determine if the price is reasonable.
37. **Procurement (Process)** is a term used in the governmental sector for the combined functions of acquiring (purchasing) needed goods and/or services, receiving and inspection, inventory management, contract administration, and disposal/surplus.
38. **Professional Services** means those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping, as defined by the laws of the state, or those performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper in connection with his or her professional employment or practice.
39. **Protest** is a formalized process by which respondents have an opportunity to challenge a procurement

practice or contract award.

40. **Proposal** is a complete, properly signed Response to a Request for Proposal, based on performance that is offered rather than on that of price alone, which if accepted, would bind the Proposer to perform the resultant Contract.
41. **Purchase Order** is an order placed by the Purchasing Division for the purchase of Goods or Services written on the City's standard Purchase Order form and which, when accepted by the Bidder, becomes a contract. The Purchase Order is the Bidder's authority to deliver and invoice the City for Goods or Services specified, and the City's commitment to accept the Goods or Services for an agreed upon price.
42. **Request for Proposal (RFP)** means a formal request to prospective Proposers requesting qualifications of the Proposer and pricing for a specified Good or Service which has been advertised for Proposal in a newspaper.
43. **Request for Statement of Qualifications (RFSQ)** means a formal request to prospective Proposers requesting statements of qualifications pursuant to Florida Statute 287.055 "Consultant's Competitive Negotiation Act" which has been advertised for Statement in a newspaper.
44. **Respondent** means an entity that has (or will, i.e. "prospective respondents") submitted a response to a competitive solicitation conducted to create a contractual relationship for the provision of commodities or services.
45. **Response/Submission** means all materials submitted to the City by a respondent as part of a solicitation. A response may be called a bid, proposal, statement of qualifications, or a reply, depending on the type of competitive solicitation being issued.
46. **Responsible (Proposer)** is a Proposer who has the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good faith performance.
47. **Responsive (Proposer)** is a Proposer that has submitted a bid, proposal, statement of qualifications, or reply that conforms in all material respects to the solicitation.
48. **Scope** means the extent of the area or subject matter that something deals with or to which it is relevant.
49. **Scope of Work** means a description of the work activities, deliverables, and/or timeline that a Proposer must execute in terms of delivering specific commodities or in performance of contractual services.
50. **Services** include all work or labor performed for the City on an independent contractor basis other than construction.
51. **Solicitation** means a formal request, as applicable, for prospective Proposers to submit responses to an Invitation to Bid, Request for Proposal, Request for Qualifications, Invitation to Negotiate, or a Request for Quotation.
52. **Solicitation Document** means a document, or collection of documents, either paper or electronic, that contains all information required to conduct a competitive procurement project according to §287.057, Florida Statutes.
53. **Stakeholder** means an individual, who is not likely to become a Proposer, who has an interest in the commodities/contractual services needed.
54. **Subcontractor** means a person, firm or entity providing goods or services to a Proposer to be used in the performance of the Proposer's obligations under the Contract.
55. **Subject Matter Expert** means a person who has working or expert knowledge about a particular topic or field.
56. **Unbalanced Bid** means a Bid that is based on prices which are significantly less than cost for some bid items and significantly more than cost for others.

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SECTION 5 – GENERAL TERMS AND CONDITIONS

These instructions are standard for all contracts for commodities or services issued through the City of Port Orange Purchasing Division. General Requirements apply to all advertised Solicitations; however, **these may be superseded, in whole or in part, by the SPECIAL REQUIREMENTS/INSTRUCTIONS OR OTHER DATA CONTAINED HEREIN.**

READ THIS ENTIRE DOCUMENT CAREFULLY. FOLLOW ALL INSTRUCTIONS. YOU ARE RESPONSIBLE FOR FULFILLING ALL REQUIREMENTS AND SPECIFICATIONS. BE SURE YOU UNDERSTAND THEM.

1. **ADDENDUM**

When specifications are revised, the City of Port Orange Purchasing Division will issue an addendum addressing the nature of the change. Proposers should acknowledge all addenda by circling the number of addenda received on the “Proposer Acknowledgment Form” and include it in the returned Response package. Failure to acknowledge the correct number of addenda issued may result in rejection of the Response. It is the responsibility of the Proposer to ensure all addenda have been received prior to submitting a proposal . All Addenda shall be posted by the CITY on www.demandstar.com and City of Port Orange Website, www.port-orange.org.

The City shall issue responses to inquiries and any other corrections or amendments it deems necessary in written addenda issued prior to the Solicitation Response Due Date. Proposers should not rely on any representations, statements or explanations other than those made in this Solicitation or in any addendum to the Solicitation. Where there appears to be a conflict between the Solicitation and any addenda issued, the last addendum issued shall prevail.

2. **ANTI-COLLUSION STATEMENT**

By submitting this Response to a Formal Solicitation, the Proposer affirms that this Response is without previous understanding, agreement, or connection with any person, business, or corporation submitting a Response for the same materials, supplies, or equipment, and that this Response is in all respects fair, and without collusion or fraud. Additionally, Proposer agrees to abide by all conditions of this Solicitation and certifies that they are authorized to sign this Response for the Proposer. In submitting a Response to the City of Port Orange, the Proposer offers and agrees that if the Response is accepted, the Proposer shall convey, sell, assign or transfer to the City of Port Orange all rights, title and interest in and to all causes of action it may now or hereafter acquire under the Anti-trust laws of the United States and the State of Florida for price fixing relating to the particular commodities or services purchased or acquired by the City of Port Orange. At the City’s discretion, such assignment shall be made and become effective at the time the City tenders final payment to the Proposer.

3. **APPLICABLELAWS**

In connection with the furnishing of supplies or performance of work under the Contract, the Proposer agrees to comply with the Fair Labor Standards Act, Equal Opportunity Employment Act, and all other applicable federal and state laws, regulations and executive orders to the extent that the same may be applicable.

4. **ASSIGNMENT**

The successful Proposer shall not sell, assign, transfer or convey this contract in whole or in part, without the prior written consent of the City of Port Orange. Any such assignment or transfer

shall not release Proposer from all contractual obligations.

5. AUTHORITY TO CONDUCT BUSINESS IN FLORIDA

A Florida corporation or partnership is required to provide evidence with its response that the Proposer is authorized to transact business in Florida and is in good standing with the Florida Department of State. If not with the response from the successful Proposer, such evidence must be submitted to the City no later than five (5) business days from request of the Purchasing Manager.

A foreign (out-of-state) corporation or partnership is required to provide evidence with its response that the Proposer is authorized to transact business in Florida and is in good standing with the Florida Department of State. If not with the response from the successful Proposer, such evidence must be submitted to the City no later than five (5) business days from request of the Purchasing Manager.

A joint venture is required to provide evidence with its response that the joint venture, or at least one of the joint venture partners, is authorized to transact business in Florida and is in good standing with the Florida Department of State. If not with its response, such evidence must be submitted to the City no later than five (5) business days from request of the Purchasing Manager. However, the joint venture is required to provide evidence prior to contract execution that the joint venture is authorized to transact business in Florida and provide the City with a copy of the joint venture Agreement.

A joint venture is also required to provide with its response a Statement of Authority indicating that the individual submitting the joint venture's proposal has the legal authority to bind the joint venture. If not with its response, such evidence must be submitted to the City no later than five business days from the request of the Purchasing Manager.

6. AWARDS

The City does not award publicly funded contracts to those who knowingly employ unauthorized alien workers in violation of section 274A(e) of the Immigration and Naturalization Act, 8 United States Code s1324a(e). Such employment deprives legal workers of job opportunities. Violation of section 274A(e) shall be grounds for unilateral cancellation of the contract, proposal or quote for purchase of services and goods by the City of Port Orange.

7. AWARD AND EXECUTION OF CONTRACT

The Proposer(s) to whom the award is made shall execute the Contract(s) and return it, together with the properly executed bonds and insurance certificates to the office of the Owner, within the time specified.

8. PROPOSAL RETURNS

Proposers shall return all completed Responses to the City of Port Orange at the address set forth in Section 2 of this document on the date and at the time specified. Late submissions will not be accepted and shall be returned to Proposers unopened.

9. PROTEST

Any person who is adversely affected by the City's decision or intended decision shall file with the City Purchasing Manager a notice of protest in writing within 72 hours after the posting of the notice of decision or intended decision. With respect to a protest of the terms, conditions, and specifications contained in a solicitation, including any provisions governing the methods for

ranking Bids, Proposals, Statements, or Replies, awarding contracts, reserving rights of further negotiation, or modifying or amending any contract, the notice of protest shall be filed in writing within 72 hours after the posting of the Solicitation. Saturdays, Sundays, and state holidays shall be excluded in the computation of the 72-hour time established herein. The formal written protest shall be filed with the Purchasing Manager in writing within ten (10) days after the date the notice of protest is filed. The formal written protest shall state with particularity the facts and law upon which the protest is based. Failure to file a notice of protest or failure to file a formal written protest shall constitute a waiver of proceedings. Upon receipt of the formal written protest that has been timely filed, the City shall stop the solicitation or contract award process until the subject of the protest is resolved by final City action. However, the City may continue the solicitation or award process, provided the City Manager sets forth in writing particular facts and circumstances which require the continuance of the solicitation or contract award process without delay in order to avoid an immediate and serious danger to the public health, safety, or welfare. The City shall provide an opportunity to resolve the protest by mutual agreement between the parties. The policy this City has established is as follows:

- a. As soon as possible after receipt, the Purchasing Manager shall provide written protest to City Manager, City Attorney, Department Head involved, and Supervisor directly involved in the acquisition.
- b. Purchasing Manager shall schedule within seven (7) business days, excluding weekends and holidays, a meeting with the above-mentioned individuals or designee and protestor. The intent of the meeting is to provide a review and/or solution prior to going before Council. After reviewing all relevant information, the City Manager shall render a decision.
- c. If the protestor disagrees, he may appeal to the City Council at a formal council meeting. After reviewing the evidence, the City Council will issue their decision. The City Council's decision is final; however, the protestor can appeal the decision to the Circuit Court in Volusia County, Florida within thirty (30) days of the City Council's final decision. Decisions at all levels shall be in writing to the protestor.

10. PROPOSAL TABULATION

Proposers who wish to receive a copy of the proposal tabulation may obtain it via www.demandstar.com or on the City of Port Orange website, Bid opportunities page at www.port-orange.org/bids.aspx or by email purchdiv@port-orange.org.

11. BONDS

If this Solicitation requires submission of bid guarantee and performance bonds, there will be a separate page explaining those requirements. Responses submitted without the required bid bond or certified check shall be deemed non-responsive. When the Purchasing Manager deems it necessary, bid bonds/deposits shall be prescribed and are advertised in the public notices inviting bids. Normally, if a bid bond/deposit is requested, it is in the amount of five percent (5%) of the bid amount. Payment and Performance Bonds requested for construction projects shall be in an amount equal to one hundred percent (100%) of the total contract amount. Upon award, the successful Proposer may also be required to furnish and pay for a satisfactory contract one hundred percent (100%) Payment and Performance Bond which will be recorded by the City, at the Proposer's sole cost and expense, with the Clerk of the Circuit Court, Volusia County, Florida, and to enter into a written contract with the City of Port Orange. After

recording, the City will furnish to the contractor the recording information for the bond to evidence that the contractor has met the requirements of Florida law. The City will bill the cost of recording to the contractor. Payment and Performance Bonds shall also be recorded at the Proposer's expense in the Office of the Clerk of the Circuit Court, Volusia County, Florida. All bonds no matter which kind, are advertised in the Solicitation which appears in the newspaper. Unsuccessful Proposers are entitled to the return of their surety where the Purchasing Manager has required such. A successful Proposer shall forfeit any surety required by the Purchasing Manager upon failure on the part of the Proposer to enter into a contract within the time specified after the award of bid.

12. CERTIFICATE OF INSURANCE

If required upon notice of intent to award contract resulting from this solicitation, the selected Proposer will be required to submit a Certificate of Insurance showing proof of adequate coverage for professional general liability, errors and omissions and workers' compensation as identified under the insurance requirements of this solicitation and listing the City of Port Orange as a Certificate Holder prior to execution of the contract.

13. CHANGE ORDERS

No oral statement of any person shall modify or otherwise change, or affect the terms, conditions or specifications stated in the resulting contract. All change order requests shall be made in writing by the Contractor for review by the Contract Administrator for the City of Port Orange. No work shall be performed as set forth in the change order until the Contractor receives an executed Purchase Order for the requested change.

14. CHANGE ORDER REQUEST NOTIFICATION

The Successful Contractor is responsible for giving the City of Port Orange, prior to the Contract expiration date, at least forty-five (45) calendar day's advance notice for any anticipated changes to time and/or scope of the awarded Contract. The Contractor **shall not** continue to provide services past the Contract expiration date unless approved by a written Change Order Notice from the City.

15. CLEAN UP

Upon completion of the delivery of materials, the Contractor shall restore any/all public and private property which was damaged during delivery. Restoration is meant to include removal of any spillage or restoring damage to the edge of pavement, sidewalks, driveways, landscaped areas, etc. Contractor shall make repairs consistent with or better than what existed prior to delivery. This shall be understood to include the use of sod or seed and mulch to replace (if necessary) existing grass that has been damaged. If sod is used it shall match the sod present on the effected property. Contractor shall make all repairs and restorations at his expense.

16. CONDUCT OF PROPOSERS

All Proposers or individuals acting on behalf of a Proposer are hereby prohibited from lobbying or otherwise attempting to persuade or influence any member of the Evaluation Committee, City Council members, or City staff at any time during the course of the solicitation process. The solicitation process shall end upon issuance of the written City Manager and staff recommendation for selection of a Proposer. All Proposers or individuals acting on behalf of a Proposer are further prohibited from contacting or otherwise attempting to communicate with any member of the staff, Evaluation Committee or City Council members regarding the

pending solicitation or its outcome until after the issuance of the written recommendation of the most qualified Proposer. Until such recommendation is issued in writing, any questions regarding the pending solicitation shall be submitted to the Purchasing Manager. Failure to comply with this procedure shall result in rejection/disqualification of said submittal without exception. Contact with staff, City Council members and the Evaluation Committee during a public meeting shall not be considered a violation of this requirement.

17. CONE OF SILENCE

The Cone of Silence is designed to protect the integrity of the procurement process by shielding it from undue influences prior to the execution of the award. The Cone of Silence is defined as the period beginning with the issuance of the solicitation document and continues through the execution of the award document. During this time Proposers, service providers and the like are prohibited from all communications regarding the solicitation with City staff, City consultants, City Agents, or elected officials.

Any Proposer who initiates any discussions or attempts to influence a member or members of the aforementioned shall be disqualified from continued participation in the procurement process with regard to that particular solicitation.

Exceptions to the Cone of Silence:

- Written communication directed to the Procurement Officer;
- All communications occurring at Pre-Proposal Conferences;
- Oral presentations before publicly notice committee meetings;
- Procurement of goods and services for Emergency situations; and
- Contractors already on contract with the City to perform services for the City are allowed discussions necessary for the completion of an existing contract.

18. CONFLICT OF INTEREST

For purposes of determining any possible conflict of interest, all Proposers must disclose if any City of Port Orange employee is also an owner, corporate officer, or employee of Proposers business. No official or employee of the City who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of the Scope of Work covered by the Contract shall voluntarily acquire any personal interest, directly or indirectly, in the contract or proposed Contract.

19. CONFLICT OF INSTRUCTIONS

If a conflict exists between the General Terms and Conditions and instructions contained herein, and the Special Terms and Conditions and instructions contained herein, the Special Terms and Conditions shall govern.

20. CONTRACT

Any acquisition above the \$25,000 level shall be done through one of the formal competitive methods except upon City Council waiver and/or shall have City Council approval. Only the Purchasing Manager and/or City Manager, have the authority to obligate the City by entering into a written contract to purchase goods and/or services up to \$25,000.00. The City of Port Orange, Florida reserves the right to reject any and all Responses or to waive any and all non-substantial irregularity in Responses received, whenever such waiver or rejection is in the best interest of the City.

21. CONTRACT OBLIGATION

The City of Port Orange City Council shall approve the contract if greater than \$25,000.00 annually. The Mayor or other person authorized by the Mayor must sign the contract before it becomes binding on the City of Port Orange or the Proposer. Department heads are NOT authorized to sign contracts for the City of Port Orange. Binding agreements shall remain in effect until all products and/or services covered by this purchase have been satisfactorily delivered and accepted.

22. CONTRACT RENEWALS

Renewals may be made ONLY by written agreement between the City of Port Orange and the Proposer. Any price escalations are limited to those stated by the Proposer on the original Response.

23. COOPERATIVE PURCHASING

The City Manager may elect to purchase through or join with other governmental units in cooperative purchasing ventures when the best interest of the City would be served thereby, provided the same is in accordance with all applicable laws. In the event the City Manager should elect to purchase through or join with other governmental agencies in cooperative purchasing ventures, all purchases in excess of twenty-five thousand dollars (\$25,000.00) shall require council approval before the purchasing contracts are entered into. (Code 1981, § 8-33, Ord. 1997-22, § 5.6-1997; Ord. No. 2004-15, § 4, 7-20-2004)

24. COPYRIGHT AND PATENT RIGHTS

Proposer warrants that there has been no violation of copyrights or patent rights in manufacturing, producing and/or selling the item(s) ordered or shipped as a result of this Response, and successful Proposer agrees to hold the City harmless from any and all liability, loss or expense by any such violation.

25. COST INCURRED BY PROPOSER

All expenses, including costs for required bonds, involved with the preparation and submission of Responses to the City, or any work performed in connection therewith shall be borne by the Proposer. No payment shall be made for any response received, nor for any other effort required of or made by the Proposer prior to commencement of work as defined by the contract approved by the City Council.

26. DEBARMENT HISTORY

The City will consider a Proposer’s debarment history information in its review and determination of responsibility. All Proposers are required to disclose to the City all cases of debarment filed, pending, or resolved by the City or other public entity during the last five (5) years prior to the solicitation response due date, whether such actions were brought by or against the Proposer, any parent or subsidiary of the Proposer or any predecessor organization. If the Proposer is a joint venture, the information provided should encompass the joint venture (if it is not newly formed for purposes of responding to the solicitation) and each of the entities forming the joint venture. Although the review of a Proposer’s debarment history is an issue of responsibility, the failure to provide debarment history as required in the Proposal Submittal and Requirements Section may result in a recommendation of non- responsive by the Purchasing Manager.

27. DEFAULT PROVISIONS

In the event of default by the Proposer the City reserves the right to procure the item(s) solicited from other sources and hold the Proposer responsible for excess costs incurred as a result. If a contractor defaults on a City contract the City Council may elect to refrain from doing business with the Proposer for a period of 36 months from the date of default.

28. DISCLOSURE OF CONFLICTS

The award is subject to the provisions of Chapter 112.313, Florida Statutes. All Proposers must disclose with their Response the name of any officer, director, or agent who is also an employee of the City. Further, all Proposers must disclose the name of any employee who owns, directly or indirectly, an interest in the Proposer's firm or any of its branches. The Proposer shall not compensate, in any manner, directly or indirectly, any officer, agent, or employee of the City for any act or service that he/she may do, or perform for, or on behalf of any officer, agent or employee of the Proposer. No officer, agent, or employee of the City shall have any interest, directly or indirectly, in any contract or purchase made, or authorized to be made by anyone for, or on behalf of the City. The Proposer shall have no interest and shall not acquire any interest that shall conflict in any manner or degree with the performance of the services required under the Solicitation.

29. EXCEPTIONS TO REQUIREMENTS

For purposes of evaluation, the Proposer must indicate any exception to the requirements, terms, and/or conditions, no matter how minor. This includes any agreement or contract forms supplied by the Proposer that are required to be signed by the City. If exceptions are not stated by the Proposer, in his proposal, it will be understood that the item(s)/services fully comply with the requirements, terms and/or conditions stated by the City. Exceptions are to be listed by the Proposer on an attachment included with the proposal. The City will not determine exceptions based on a review of any attached sales or manufacturer's literature.

30. E-VERIFY

Proposers shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Proposer during the term of contract and shall expressly require any subcontractor performing services pursuant to the contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the term of contract.

31. FACILITIES

The City reserves the right to inspect the Proposer's facilities at any time.

32. FAILURE TO RESPOND

If the Proposer elects not to propose, please return the enclosed "Proposer's Acknowledgement Form" by the proposal due date and state the reason(s) for not proposing. Failure to respond, either by submitting a proposal, or by submitting a "Statement of No Proposal", three (3) times, shall result in the Proposer's name being removed from the City's mailing list.

33. FINANCIAL STABILITY

Proposers shall be prepared to supply a financial statement upon request, preferably a certified audit of the last available fiscal year. A third party prepared financial statement and the latest Dunn & Bradstreet report will be accepted in lieu thereof.

34. FORCE MAJEURE

Neither party shall be liable for any delay in performance or failure to perform any obligation hereunder if, and to the extent that, such failure or delay is caused by an event of Force Majeure. Force majeure shall mean any act, event or condition that is beyond the party's reasonable control, that materially and adversely affects the party's ability to perform its obligations hereunder, and that is not the result of the party's willful neglect, error, omission or failure to exercise reasonable due diligence.

35. GOVERNING FORMS

In the event of any conflict between the terms and provisions of these requirements and the specifications, the specifications shall govern. In the event of any conflict of interpretation of any part of this overall document, the City's interpretation shall govern.

36. GOVERNING LAW

Proposers shall comply with all applicable federal, state and local laws and regulations. All Responses are solicited and shall be made pursuant to the Code of Ordinances, City of Port Orange, Chapter 2, Article VI, Division 2, Section 2-263, and all Responses will be evaluated in accordance with the provisions thereof. Code of Ordinances, City of Port Orange is on file in the Office of the City Clerk, City Hall, 1000 City Center Circle, Port Orange, Florida and at www.municode.com.

The City of Port Orange is also governed by the Consultants' Competitive Negotiation Act, Section 287.055, Florida Statutes, as the method of selecting architects, engineers and land surveyors. The City has utilized the procedures in the Act for Professional counselors, environmentalists, planners, general contractors, computer systems, designers, telecommunications consultants, maintenance technicians, financial services and other professional services.

Every acquisition equal to or greater than \$10,000.00 must have a signed, notarized "Public Entity Crimes Form" to comply with Section 287.133(3)(a), Florida Statutes. Also required is the "Drug-Free Preference Form" to comply with Section 287.087, Florida Statutes. Each form is included in the Solicitation.

37. GRANT FUNDING

Any contract entered into by the City that is to be paid from grant funds shall be limited to payment from the grant funding and the Proposer/provider understands that the City has not set aside any City funds for the payment of obligations under a grant contract. If grant funding should become unavailable at any time for the continuation of services paid for by the grant, and further funding cannot be obtained for the contract, then the sole recourse of the provider shall be to terminate any further services under the contract and the contract shall be null and void.

38. HIPAA COMPLIANCE

The Proposer agrees to comply with the Standards for Privacy of Individually Identifiable Health Information of the Health Insurance Portability and Accountability Act of 1996, PL 104-191, 45 CFR Parts 160-164, as amended, referred to as "HIPAA," to the extent that the Proposer uses, discloses or has access to protected health information as defined by HIPAA.

39. INDEMNIFICATION/HOLD HARMLESS

Contractor covenants and agrees that it will indemnify and hold harmless the City and all of the City's officers, agents, and employees from any claim, loss, damage, costs, charge or expense

arising out of any act, action, neglect or omission by contractor during the performance of the contract, whether direct, or indirect, and whether to any person or property to which the City of said parties may be subject, except that neither the contractor nor any of its sub-contractors will be liable under this section for damages arising out of injury or damage to persons or property directly caused or resulting from the sole negligence of City or any of its officers, agents, or employees.

40. INDEPENDENT CONTRACTOR

It is expressly understood and agreed by both parties hereto that the City is contracting with the successful Proposer as an independent contractor. The parties hereto understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the successful Proposer under this contract and that the successful Proposer has no authority to bind the City.

The Proposer represents itself to be an independent contractor offering such services to the public and shall not represent himself or his employees to be an employee of the City. Therefore, the Proposer shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, worker's compensation, employee insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save, and hold the City, its officers, agents, and employees, harmless from and against, any and all loss; cost (including attorney's fees); and damage of any kind related to such matters. The Proposer shall further understand that the City cannot save and hold harmless and or indemnify the Proposer and/or the Proposer's employees against any liability incurred or arising as a result of any activity of the Proposer or any activity of the Proposer's employees performed in connection with the Contract.

41. INSPECTIONS AND TESTING

City of Port Orange reserves the right to inspect any item(s) or service location for compliance with specifications and requirements and needs of the using department. If a Proposer cannot furnish a sample of a Response item, where applicable, for review, or fails to satisfactorily show an ability to perform, the City can reject the Response as inadequate and non-responsive.

42. INSURANCE

If required upon execution of a contract, the Proposer shall maintain insurance during the life of this agreement, and the City of Port Orange shall be listed as additional insured on that insurance document. A waiver of subrogation must be added in all areas and shall suffice in lieu of additional insured on workers' compensation, in an amount and a form set forth herein, to insure against risks, which are identified herein. Insurance providers must be rated "A" or better accordingly to the A.M. Best Company.

43. INSURANCE CANCELLATION

No change or cancellation in insurance shall be made without thirty (30) days' written notice by the Proposer to the City. Insurance coverage required in these specifications shall be in force throughout the contract term. Should any awardee fail to maintain or to provide acceptable evidence of current insurance within five (5) days after receipt of written notice at any time during the contract term, the City shall have the right to consider the Contract breached which shall justify the termination thereof.

44. **INSURANCE REQUIREMENTS**

If required, the Proposer shall provide to the City a certificate of insurance identifying the City of Port Orange as an additional insured. For workers' compensation coverage, the Proposer's insurance certificate shall include the insurer's waiver of subrogation in lieu of naming the city as an additional insured for workers' compensation.

Proposer may use leased employees if the Proposer ensures that all workers who access the jobsite are employees covered by the employee leasing company, and no non-employees are permitted to access the jobsite. Any Proposer using a leased employee shall complete the City's Leased Employee Affidavit Form Exhibit.

Policies other than Workers' Compensation shall be issued by insurers licensed and/or duly authorized under Florida Law to do business in the State of Florida and all Insuring companies are required to have a minimum rating of "A" in the "Best Key Rating Guide" published by A.M. Best & Company, Inc. Policies for Workers' Compensation may be issued by companies authorized as a group self-insurer by F.S. 440.572. The Proposer shall not commence work under the contract until the City has received a certificate or certificates of insurance and endorsement. Evidencing in the required insurance. The Proposer shall provide the City written notice of cancellation, non-renewal or any other changes in coverage no later than ten (10) days prior to the effective date of the change. **The City reserves the right to increase insurance coverage as determined for higher risk contracts and shall reimburse the Contractor for the reasonable additional costs of increased coverage.**

| <i>Standard Insurance Requirements</i> | | | |
|---|---|---|--|
| | Insurance | Standard s | Additional Requirements |
| <input type="checkbox"/> Required | <u>Workers' Compensation</u> The Contractor shall maintain coverage for its employees with statutory workers' compensation limits, and no less than the limits indicated in the Schedule of Limits for Employers' Liability. Said coverage shall include a waiver of subrogation in favor of the City. The City will not accept elective exemptions. Any contractor using an employee leasing company shall complete the Leased Employee Affidavit (Exhibit A). | <u>Contract Amount</u> <u>Limits</u> Up to \$10 million Statutory/\$500,000 \$10 - \$20 million Statutory/\$1,000,000 0 Contracts over \$20 million to be determined by the City. | <input type="checkbox"/> If Contract requires work on or about navigable waters, Longshoreman's and Harbor Workers' Coverage required. <input type="checkbox"/> If vessels involved, Jones Act coverage with limits of \$500,000 required. |
| <input type="checkbox"/> Required | Comprehensive General Liability (including Completed Operations and Contractual Liability) | <u>Limits:</u> Combined Single Limit Bodily Injury and Property damage \$1,000,000 occurrence \$1,000,000 aggregate | <input type="checkbox"/> When work is on or under Railroad rights of way or properties, the Contractor shall take out and maintain during the life of the Contract, Railroad protective liability and property damage insurance in amounts as requested by the Railroad. |
| <input type="checkbox"/> Required | Comprehensive Business, Automobile Liability to include all owned, hired and non-owned automobiles. | <u>Limits:</u> Auto Liability Body Injury and Property Damage: \$1,000,000 each occurrence \$1,000,000 aggregate | |
| <i>Additional Insurance Requirements</i> | | | |
| <input type="checkbox"/> | Property Insurance Builders Risk. <u>Additional Coverage:</u> | Limits: Buildings - Completed value of Contract. "All Risk" coverage on latest IS O for or its equivalent. Permission granted to occupy. Owner named as insured AIMA | If Agreement requires handling or installation of Owner's equipment, coverage should be furnished on "All Risk" form, including transit and Owner shall be named. |
| <input type="checkbox"/> Required | Professional Liability | Limits: Coverage - \$1,000,000 | |
| <input type="checkbox"/> | Installation Floater (IT) | Limits: Coverage - \$ <u>To be determined.</u> | |
| <input type="checkbox"/> | Contractor Pollution Liability | Limits: Coverage - \$1,000,000 | |
| <input type="checkbox"/> Required | Errors and Omissions | Limits: Coverage - \$1,000,000 | |
| <input type="checkbox"/> | Umbrella Policy | Limits: Coverage - \$ <u>To be determined.</u> | |
| <input type="checkbox"/> | Payment and Performance Bond Required | Limits: Coverage - Equal to amount of Contract. | |
| <input type="checkbox"/> | City Manager waives Payment and Performance Bond for work under \$25,000.00. | | |

45. INVOICES AND PAYMENTS

All invoices shall be sent to: City of Port Orange, Accounts Payable, P.O. Box 291759, Port Orange, Florida, 32129. In accordance with Florida Statutes, Chapter 218, payment will be made within 45 days after receipt of merchandise and a proper invoice. The City will attempt to pay within fewer days if Proposer offers a payment discount. The City cannot make advance payments, make deposits in advance of receipt of goods, or pay C.O.D. Proposers should state any payment discount in the space provided on the proposal form for construction services.

46. IRREVOCABILITY OF RESPONSES

Each Proposer agrees that Responses shall remain open until the effective date not to exceed 90 days after selection, shall not be subject to revocation or withdrawal, and shall be subject to the City Council's acceptance of a contract with the Proposer.

47. LATE SUBMISSIONS, LATE MODIFICATIONS AND LATE WITHDRAWALS

Responses received after the Response Due Date and time are late and shall not be considered. Modifications received after the Response Due Date are also late and shall not be considered. Letters of withdrawal received after the Response Due Date are late and shall not be considered. Letters of withdraw received after contract award shall be deemed a breach of contract, subject to penalties as set forth in the contract and Solicitation.

48. LEGAL REQUIREMENTS

Applicable provision of all federal, state, county and local laws, and all ordinances, rules, and regulations shall govern development, submittal and evaluation of all Responses received in response hereto and shall govern any and all claims and disputes which may arise between person(s) submitting a response to a Solicitation hereto and the City by and through its officers, employees and authorized representatives, or any other person, natural or otherwise; and lack of knowledge by any Proposer shall not constitute a cognizable defense against the legal effect thereof.

Upon execution of a contract, the successful Proposer shall hold harmless, indemnify and defend the City of Port Orange, its members, officials, officers and employees against any claim, action, loss, damage, injury, liability, cost and expense of whatsoever kind or nature (including, but not by way of limitation, attorneys' fees and court costs) arising out of or incidental to the performance of the Contract, whether or not due to or caused by negligence of the City of Port Orange, its members, officials, officers or employees. This Contract requirement shall be reflected in the insurance coverage certificate.

49. LICENSES, PERMITS AND TAXES

The Proposer shall comply with all rules, regulations, laws and permitting requirements of the City, Volusia County, the State of Florida, and the United States Government now in force or hereafter to be adopted. The Proposer shall abide by all ordinances and laws pertaining to his operations and shall secure, at his expense, all licenses and permits necessary for construction and operation.

50. **LITERATURE (if applicable)**

If no brand, model or make is specified, Proposers shall submit descriptive literature and technical data, fully detailing all features, designs, construction, appointments, finishes and the like not covered in the specifications, necessary to fully describe the equipment, material, and/or services he proposes to furnish.

51. **LOCAL PREFERENCE**

In accordance with City of Port Orange City Code 2-275, except where federal or state law, or any other funding source, mandates to the contrary, the City shall give preference to local businesses in the following manner:

A. Request for proposals, qualifications or other qualitative submittal(s). In any ranking conducted pursuant to a request for proposals, qualifications, or other qualitative submittal(s) where the Proposers are rated by a point system, local businesses shall be granted the following preference:

1. Port Orange business shall be granted up to eight (8) percent of the available points.
2. Volusia County business shall be granted up to five (5) percent of the available points.
3. Florida business shall be granted up to three (3) percent of the available points.
4. Tied bid preference. In case of a tie between a local business and a non- local business, the local business shall prevail. In case of a tie between two or more local businesses, the following order of preference shall control: first priority to Port Orange business, second priority to Volusia County business, and third priority to Florida business.

a) Misrepresentation prohibited; penalty. Any business that misrepresents the local preference status of its firm in a proposal or bid submitted to the city shall lose the privilege to claim preference status and shall lose eligibility to claim local preference status for a period of one year.

b) Local preference not required. This section shall not be deemed to require the granting of a local preference, and nothing herein prohibits the award of a contract to a non- local business where such award is in the public interest.

B. Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Port Orange Business means a business having its headquarters and principal place of business within the City of Port Orange at least twelve (12) months prior to the bid or proposal opening date, as evidenced by a valid business tax receipt or such other documentation, to the City's satisfaction, demonstrating the physical business presence of the firm within the limits of the City of Port Orange.

Volusia County Business means a business having its headquarters and principal place of business within the County of Volusia, and not within the City of Port Orange, at least

twelve (12) months prior to the bid or proposal opening date, as evidenced by a valid business tax receipt or such other documentation, to the City's satisfaction, demonstrating the physical business presence of the firm within the limits of Volusia County.

Florida Business means a business having its headquarters and principal place of business within the State of Florida, and not within Volusia County, at least twelve (12) months prior to the bid or proposal opening date, as evidenced by a valid business tax receipt or such other documentation, to the city's satisfaction, demonstrating the physical business presence of the firm within the limits of the State of Florida.

52. NON-DISCRIMINATION

There shall be no discrimination as to race, color, religion, gender, age, marital status, national origin, ancestry, and physical or mental disability in the operations conducted under this contract. Included as applicable activities by the contractor under this section are the solicitation for or purchase of goods or services, or the subcontracting of work in performance of this contract.

53. NON-EXCLUSIVITY OF CONTRACT

The selected Proposer understands and agrees that any resulting contractual relationship is non-exclusive, and the City of Port Orange reserves the right to seek similar or identical services elsewhere if deemed in the best interest of the City of Port Orange.

54. NON-PERFORMANCE

Failure to meet the expected quality of workmanship, schedule, or other criteria agreed upon, shall be considered a default. In case of default, the City may procure the required services from other sources and hold the Consultant responsible for any excess costs occasioned thereby and may immediately cancel the contract.

55. NOTICE TO CONTRACTOR

The employment of unauthorized aliens by any contractor is considered a violation of Section 274A (e) of the Immigration and Nationality Act. If the contractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of the contract.

56. OPTIONAL CONTRACT USAGE

As provided in Section 287.042(16), Florida Statutes, State of Florida agencies may purchase from a contract resulting from this solicitation, provided the Department of Management Services, Division of Purchasing, has certified its use to be cost effective and in the best interest of the State. Contractor(s) may sell such commodities or services certified by the Division to State of Florida agencies at the contractor's option.

57. PRE-PROPOSAL CONFERENCE

The Purchasing Manager shall determine if a pre-proposal conference is required and provide the date, time and location in the Solicitation legal advertisement and Solicitation requirements. The conference shall normally be held in the Council Chambers, located on the first floor of City Hall, 1000 City Center Circle, Port Orange, Florida. A site visit may be included and shall immediately follow. Attendance to the pre-proposal conference is normally non- mandatory. Only Proposers attending a mandatory pre-proposal conference will be eligible to submit a Response. The

representative of each Proposer shall be an authorized employee of the Proposer and shall sign in accordingly.

58. POSTPONEMENT / CANCELLATION / WAIVER OF IRREGULARITIES

The City may, at its sole and absolute discretion, reject any and all, or parts of, Responses; re-advertise the Solicitation for new Responses; postpone or cancel, at any time, the Solicitation process; or waive any irregularities in the Solicitation or in the Responses received as a result of the Solicitation, or to accept that Response which best serves the interest of the City.

59. PROPRIETY INFORMATION

Upon receipt by the City, responses to Solicitations, become public records subject to the provisions Florida's state policy on public records, Section 119, Florida Statutes. If you believe that any portion of your response is exempt, you should clearly identify the specific documents for which confidentiality is claimed and provide specific legal authority of the asserted exemption. Any financial statement that an agency requires a prospective Proposer to submit in order to prequalify for responding to a proposal for a road or any other public works project is exempt from Section 119.07, Florida Statutes, and Article I, 24(a), Florida Constitution.

60. PROTECTION

Precaution shall be exercised at all times for the protection of persons, (including employees) and property. All existing structures, utilities, services, roads, trees, shrubbery, etc. shall be protected against damage or interrupted service at all times by the Proposer during the term of contract, and the Proposer shall be held responsible for any damage to the property occurring by reason of his operation on the property.

61. PUBLIC ENTITY CRIMES

In accordance Section 287.133 (2)(a), Florida Statutes: A person or affiliate who has been placed on the convicted Proposer list following a conviction for a public entity crime may not submit a bid on 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 Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 Months from the date of being placed on the convicted Proposer list.

62. PUBLIC RECORDS COMPLIANCE

Contractor shall comply with public records laws as set forth in Section 119, Florida Statutes, and shall specifically:

- a. Keep and maintain public records that ordinarily and necessarily would be required by the City in order to perform the service.
- b. Provide the public with access to public records on the same terms and conditions that

the City would provide the records and at a cost that does not exceed the cost provided in Section 119, Florida Statutes, or as otherwise provided bylaw.

- c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized bylaw.
- d. Meet all requirements or retaining public records and transfer to the City, at no cost, all public records in possession of the Contractor upon termination of the Contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the City.

The failure of Contractor to comply with a public records request shall constitute a material breach of the contract.

63. PUBLIC RECORDS/PUBLIC MEETINGS EXEMPTIONSTATEMENT

Section 119.071(1)(c), Florida Statutes: Any financial statement that an agency requires a prospective Proposer to submit in order to prequalify for responding to a proposal for a road or any other public works project is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. On June 2, 2011, Governor Scott signed HB 7223 into law. This new legislation amends Florida's Public Records and Sunshine Laws, by expanding "exemptions" applicable to bids, proposals and replies to sealed competitive solicitations, and closes evaluation meetings from the public in certain instances. First, Section 119.071, Florida Statutes was amended to provide that sealed bids, proposals, or replies received by a Florida public agency shall remain exempt from disclosure until an intended decision is announced or until 30 days from the opening, whichever is earlier. This means that Proposers will not be able to procure a copy of their competitor's proposals until an intended decision is reached, or 30 days has elapsed since the time of the bid opening. The prior version of the law provided for a 10-day exemption. Next, Section 286.0113, Florida Statutes was amended to provide that meetings of persons appointed to evaluate proposals and negotiate contracts shall be closed in certain circumstances. Specifically, portions of such meetings may now be closed to the public during oral presentations made by a Proposer, or where a Proposer answers questions. In other words, neither Proposers, nor the public will be permitted to sit in on meetings, unless this exemption is waived by the City Council, wherein their competitors are making presentations or discussing their bid or proposal with the committee members. The portions of these meetings must still be recorded and are subject to disclosure at the time of an intended award decision or within 30 days of the bid or proposal opening, whichever is earlier. Portions of the meetings that do not involve presentations, questions and answers, or negotiation strategy or negotiation sessions are still open to the public and competing Proposers, but the new law limits public attendance to portions of such meetings.

64. QUESTIONS, INTERPRETATIONS

Questions regarding interpretation of Responses, Solicitation results or Solicitation awards shall be directed in writing to the Purchasing Division and referenced by the Solicitation number no

later than the last day for questions as specified in the Solicitation documents. The City of Port Orange shall not be responsible for oral interpretations given by any City personnel or representative or others. The issuance of a written addendum is the only official method whereby interpretation, clarification or additional information can be given.

65. **RECORDS/AUDIT**

The Proposer shall maintain records sufficient to document their completion of the scope of services as a public record and as a requirement of the Contract. At all reasonable times, these records, unless exempt or confidential, shall be subject to review, inspection, copy and audit by persons duly authorized by the City. These records shall be kept for a minimum of three (3) years after completion of the Contract and in accordance with the requirements of public records retention as prescribed by general law. Records which relate to any litigation, appeals or settlements of claims arising from performance under this requirement shall be made available until a final disposition has been made of such litigation, appeals, or claims.

66. **REQUEST FOR ADDITIONAL INFORMATION**

Prior to the final Solicitation selection, Proposers may be required to submit additional information which the City may deem necessary to further evaluate the Proposer's qualifications to perform under the terms of the Solicitation and subsequent Contract.

67. **REVIEW OF RESPONSES/SUBMISSIONS**

Each Response will be reviewed to determine if the Response is responsive to the submission requirements outlined in the Solicitation. A responsive Response is one which follows the requirements of the Solicitation, includes all required documentation, is submitted in the format outlined in the Solicitation, is of timely submission, and has the appropriate signatures as required on each document. Failure to comply with these requirements may deem your Response non-responsive.

68. **RIGHT OF NEGOTIATION RFP**

The City reserves the right to negotiate with the selected Proposer the exact terms and conditions of the Contract.

69. **RIGHT OF WITHDRAWAL**

A bid, proposal, statement, or reply may not be withdrawn before the expiration of ninety (90) days from the Response due date.

70. **RIGHTS TO SOLICITATION SUBMITTED MATERIAL**

All Responses, inquiries, or correspondence relating to or in reference to a Solicitation, and all reports, charts, and other documentation submitted by Proposers shall become the property of the City when received.

71. **RULES, REGULATIONS AND LICENSING REQUIREMENT**

The Proposers shall comply with all laws, ordinances and regulations applicable to the services contemplated herein, including those applicable to conflict of interest and collusion. Proposers

are presumed to be familiar with all federal, state and local laws, ordinances, codes and regulations that may in any way affect the services offered.

72. SEPARATION AND DISTRIBUTION

The Solicitation has been designed for transmittal as a complete document to interested parties. It is recommended that it not be separated; however, it may be reproduced in its entirety as additional distribution might dictate.

73. SEVERABILITY

If any section, subsection, paragraph, sentence, clause, phrase or word of these requirements or the specifications shall be held invalid, such holding shall not affect the remaining portions of these requirements and the specifications and it is hereby declared that such remaining portions would have been included in these requirements and the specifications as though the invalid portion had been omitted.

74. SIGNATURE REQUIRED

All Responses must show the company name and be signed by a company officer or employee who has the authority to bind the company or firm by their signature. **UNSIGNED RESPONSES WILL BE REJECTED.** All manual signatures must be original - no rubber stamp, photocopy, etc.

75. SIGNED RESPONSE CONSIDERED AN OFFER

The signed Response is considered an offer on the part of the Proposer, which offer shall be considered accepted upon approval by the City of Port Orange City Council (if required). The City of Port Orange will issue a purchase order or a letter of authorization to the successful Proposer, as authorization for delivery of the items awarded subject to requirements of detailed specifications and those contained herein. In the event of default on the part of the Proposer after such acceptance, the City may take such action as it deems appropriate including legal action for damages or specific performance.

76. SOLICITATION FORM COMPLETION, SUBMISSION AND RECEIPT OF RESPONSES

Unless otherwise specified, Proposer shall use the Solicitation forms supplied by the Purchasing Division. Responses shall be typewritten or handwritten in ink and shall bear the original signature of the Proposer's authorized representative. Responses containing erasures or corrections must be initialed by the Proposer in ink. Responses shall be submitted by mail or hand delivery only. No Response will be accepted by facsimile transmission, e-mail or other electronic delivery. Responses submitted by mail shall be addressed to: Michael Hall, Buyer, Purchasing Office, a division of the Finance Department, Port Orange City Hall, 1000 City Center, Port Orange, Florida 32129. Responses submitted by hand delivery shall be delivered to: City Clerk, Port Orange City Hall, 1000 City Center Circle, Port Orange, Florida 32129. Responses will be accepted until 2:30 P. M. on the date indicated in the Solicitation documents or as addenda issued by the City. One (1) sealed envelope or package shall be submitted. The sealed envelope/ package must contain the required forms and price proposals, where applicable, and will be evaluated and deemed responsive or non-responsive. All Responses deemed non-responsive will be returned to

the Proposer and will not be opened.

Proposals (Envelope/Package) shall contain one (1) original and one (1) digital (D or flash drive) PDF version unless otherwise indicated in the legal advertisement and shall be mailed or delivered as set forth in the preceding paragraph in one (1) SEALED ENVELOPE/PACKAGE. The envelope/package shall be clearly marked on the outside to include the project name, proposal number and name of the Proposer.

77. STATE LICENSING REQUIREMENTS

All entities defined under Chapters 607, 608, 617 or 620, Florida Statutes, seeking to do business with the City shall be on file and in good standing with the State of Florida's Department of State. Prior to making an offer, the Proposer shall have met the license, certification, and any other requirements of the state, county, city and/or other agency of authority with jurisdiction in such matters and should provide copies of documentation that evidence such qualifications with the response to the Solicitation; and, that the Proposer shall provide follow-up evidence that the Proposer maintains such credentials throughout the period of the agreement. A copy of a current certificate of authority from the Secretary of State authorizing the Proposer/Responder to do business in the State of Florida, or other evidence of legal authority to do business in the state, county, city and/or any other agency of authority should be provided with your response to the Solicitation. Information concerning certification with the Secretary of State may be obtained at <http://ccfcorp.dos.state.fl.us/index.html>. Contract documents shall be executed by the entity's duly authorized officer as evidence by entity records.

78. SUBCONTRACTING

The Proposer will not sub-contract or enter into any subcontracting agreements pertaining to this contract, without obtaining written approval from the City of Port Orange.

79. TAXES

The City of Port Orange is exempt from all federal excise, state and local taxes unless otherwise stated in this document. A Tax Exemption Certificate will be furnished upon written request to the City of Port Orange Purchasing Division.

80. TERMINATION

The City of Port Orange reserves the right to terminate the contract for default if the Proposer breaches any of the terms therein, including warranties of the Proposer or if the Proposer becomes insolvent or commits acts of bankruptcy. Such right of termination is in addition to and not in lieu of any other remedies which the City of Port Orange may have in law or equity. Default may be construed as, but not limited to, failure to deliver the proper goods and/or services within the proper amount of time, and/or to properly perform any and all services required to the City's satisfaction and/or to meet all other obligations and requirements. The City may cancel the Contract at any time for breach of contractual obligations by providing the Proposer with a written notice of such cancellation. Should the City exercise its right to cancel the contract for such reasons, the cancellation shall become effective on the date as specified in the notice of cancellation sent to the Proposer.

81. TERMINATION NOTICE

Either party may cancel the contract at any time after award, unless otherwise specified. The City shall be required to give the Proposer notice thirty (30) days prior to the date of cancellation of the contract. The Proposer shall be required to give the City written notice sixty (60) days prior to the date of cancellation of the contract. The City of Port Orange may terminate the contract without cause upon thirty (30) days written notice.

82. USE OF SOLICITATION FORMS

The Proposer shall complete the appropriate Solicitation Form(s) included in the Solicitation. All blanks on the Solicitation Forms shall be completed. If a question or confirmation is not applicable, it should be answered with an "N/A."

Supplemental information may be attached to the Solicitation Forms. Failure to fully complete the appropriate Solicitation Forms may result in disqualification of the Response.

If additional space for a response is required, attach an additional page to the page on which the question is stated. Clearly identify the number of the question to which the response is attached. Further, if additional Solicitation Form pages are needed, photocopy or replicate as appropriate, and attach such additional pages to the page on which the question or chart is stated.

The signature of the Authorized Person or Entity must be that of an officer, partner or a sole proprietor of the entity making the Response. The original Response, and each copy submitted shall contain an original signature on the Proposer's Acknowledgement Form contained in each Solicitation.

83. VARIANCES

For purposes of Response evaluation, Proposers must indicate any variances, no matter how slight, contained in the Response. No variations or exceptions by a Proposer will be considered or deemed a part of the Response submitted unless such variances or exceptions are listed in the Response and referenced in the space provided on the Response pages. If variances are not stated, or referenced as required, it will be assumed that the product or service complies with the City's terms, conditions and specifications. By receiving a Response, the City does not necessarily accept any variances contained in the Response. All variances submitted are subject to review and approval by the City. If any Response contains material variances that, in the City's sole opinion, make that Response conditional in nature, the City reserves the right to reject the Response or part of the Response that is declared, by the City, as conditional.

84. WAIVER OF IRREGULARITIES

The City of Port Orange reserves the right to waive and/or reject any non-substantial irregularity in Responses received whenever such waiver or rejection is in the best interest of the City and/or it does not meet the minimum requirements set forth. All reasonably responsive Responses will be considered. However, the City reserves the right to waive formalities or informalities in Responses, to reject, with or without cause, any or all Responses or portions of Responses, or to interview or not interview individual Proposers, and to accept any Responses or portions of Responses deemed to be in the best interest of the City. The city council shall grant the City Manager to waive any and all non-substantial irregularities in any and all formal Solicitations. (Code 1981, § 8-29; Ord. No. 2015-17, § 1, 5-19-2015)

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SECTION 6 – SPECIAL CONDITIONS

PERIOD OF OFFER VALIDITY:

Proposal offered in this RFP must remain firm for a period of ninety (90) days from the RFP opening date.

CONTRACT TERM:

The term of the contract shall be from the Time of execution to completion of all services. The search firm shall provide City Council with a bi-weekly progress report, or more frequently as requested. The City wishes to complete this selection process as expeditiously as possible. The search firm shall provide a realistic but aggressive timeline for the process.

LICENSES AND PERMITS:

Contractor is responsible for all applicable local and state licenses, permits and fees.

INSURANCE:

See page 27.

ELIGIBILITY OF PROPOSER:

To be eligible to respond to this RFP, the Proposer must have the ability to prove in their submission that they meet all qualifications and working experience with the services as described in the RFP.

[Remainder of this page left intentionally blank]

SECTION 7 – PROPOSAL SUBMITTAL & REQUIREMENTS

Proposals shall include all of the information solicited in this RFP, and any additional data that the respondent deems pertinent to the understanding and evaluation of the proposal. The respondent should not withhold any information from the written response in anticipation of presenting the information orally or in a demonstration, since oral presentations or demonstrations may not be solicited.

Submittal of a proposal shall constitute the Proposer's agreement and intent to follow and adhere to all statements, offerings and monetary incentives contained within this proposal.

The sections of the submitted Proposals that will be scored during the evaluation process are identified with the maximum attainable points. Additional areas used for awarding evaluation points are addressed in "Section 8 – Evaluation of Proposals."

In conjunction with other material and information requested in the RFP, all Proposers responding to this solicitation shall provide one (1) original, and one (1) identical digital version in pdf format on CD or USB flash/thumb drive. The digital version **must** be an identical copy of the fully signed original submission. All required attachments are to be in 8 ½" by 11" format, clearly legible, tabbed and bound in the following order:

TABLE OF CONTENTS:

The Table of Contents should outline in sequential order the areas of submittal. All pages, including enclosures, must be clearly and consecutively labeled and/or numbered and correspond to the Table of Contents.

STATEMENT OF INTEREST:

The responding firm will provide a letter, on letterhead, not exceeding two (2) pages, which serves as a statement of interest and introduction to the submittal. The Statement of Interest shall show the RFP number and title. This letter must be signed by the person authorized to bind the firm, company, or corporate entity. The Statement of Interest should also include the name and contact information of a customer contract manager who will serve as the main point of contact for all issues related to the services performed under the scope of this RFP.

COMPANY HISTORY, QUALIFICATIONS, ABILITY, and CAPACITY:

- Legal name and principal office address.
- Telephone number and e-mail address.
- State of incorporation of the entity.
- List of names and addresses of the primary owners/board members.
- Name of agent who is authorized to negotiate with the City of PortOrange.
- List of currently or previously performed projects of similar work.
- The number of current Executive Searches the project team is working on in Florida, as well as nationally

- A project schedule, including key milestones, keeping in mind the City’s desire to complete the recruitment process as quickly as possible.
- The location of the office where the work will be performed.
- A description of the work plan and process that will occur to address the specific concerns defined in the scope of services. The work plan should detail the facilitation process to be used with the Council and citizen’s involvement (if Council chooses) in developing the candidate profile and the strategy for recruitment of an appropriate and diverse candidate pool, and the screening and background process. The search firm should provide an indication of whether they recommend each part of the work plan be on-site or virtually conducted.
- A description of the time, nature, and scope of services that will be required from the City to assist in the project’s completion.
- Provide a sample brochure/advertisement/marketing materials of a previous Executive Search your firm has completed for another client.
- Placement guarantee.
- The name, contact information, and resume/qualifications of the lead project representative and any other staff, groups, or companies proposed to be assigned to this project or participate in any manner.

BUSINESS LICENSES/SUNBIZ:

- Include copy of license to do business in the State of Florida or Sunbiz report showing your company registered as “Active.” or appropriate qualified commercial entity licensed in the area specified in the scope of work
- Include a copy of any and all professional licenses and certifications as required to perform the services described herein and of the professional licenses for each team member.

FINANCIAL STABILITY/LITIGATION and DEBARMENT HISTORY:

- All Respondents shall be prepared to supply a financial statement upon request, preferably a certified audit of the last available fiscal year. A third party prepared financial statement and the latest Dunn & Bradstreet report will be accepted in lieu thereof.
- It is essential that the Proposer clearly demonstrates the financial ability to reliably deliver services. This Tab shall contain information on the nature and magnitude of any litigation or proceeding whereby, during the past five (5) years, a court or any administrative agency has ruled against the firm in any matter related to the professional activities of the firm.
This shall include any class actions within your company where named, industry investigations by the Attorney General, in addition to individual cases.
- This Tab shall contain information on the nature and magnitude of any debarment or proceeding during the past five (5) years against the firm in any matter related to the professional activities of the firm.
- This shall include any debarment actions against your company by the City or other public entity.
- Respondent must indicate whether any contract awarded by another government agency has been terminated in default or convenience.

- Respondent has a continuing duty to inform the City of any new claims filed against the Respondent.
- A copy of the most recent external peer review report and any letter of comment.

REFERENCES:

Include all required City of Port Orange forms. **FAILURE TO PROVIDE ALL INFORMATION** listed on each form may result in the rejection of your proposal or a reduction in evaluation points. Required forms include:

- Five references for similar Executive Searches completed within the last three years, to include a contact name and telephone number, brief description of the process, bid price, and date of completion. Public Sector experience is desired.;

***The information provided under this tab, must be current and the City must be able to contact references for verification as part of the evaluation process.**

- All reference contact information MUST be verified as current by the Proposer prior to submittal. References which cannot be verified using the provided contact information will receive no points under the evaluation criteria. Below is a sample of the verification questions that may be used:
 1. Did they meet the terms of the contract?
 2. Was the project completed on time and within budget?
 3. Did they respond in a timely manner to calls, requests, etc.?
 4. Did they provide adequate staff to take care of the needs of your company/agency?
 5. In your previous projects, were there any change orders? If so, how many?

COST INFORMATION:

The proposed fee should represent a full-service Executive Management recruitment process including, but not limited to, those detailed in this scope of services. The proposal may include a breakdown of milestone cost for each step in the work product, but must also include an all-inclusive fee that includes the following as well as any other associated costs:

- Job description and profile development services
- Recruitment services, including development and distribution of recruitment advertisement for local/national search
- All advertisement placements, including online, recruitment brochures, postage, etc.
- Selection services including initial screenings and recommendations, assessments, coordination of the interview, and selection process
- Thorough reference and background checks

Proposal price to perform the project as outlined in the Scope of Services, as well as the standard billing rates for the staff expected to be assigned to the project.

REQUIRED FORMS:

Include all required City of Port Orange forms. **FAILURE TO PROVIDE ALL INFORMATION** listed on each form may result in the rejection of your proposal or a reduction in evaluation points. Required forms include:

- Form 9.1 Proposal Submittal Checklist
- Form 9.2 Proposer's Acknowledgement Form
- Form 9.3 Addendum and Change Order Procedure Acknowledgement Form
- Form 9.4 Drug-Free Preference Statement
- Form 9.5 Sworn Statement on Public Entity Crimes
- Form 9.6 Affidavit of Anti-Collusion Form
- Form 9.7 Local Business Affidavit of Eligibility
- Form 9.8 Professional References for Previous Experience
- Schedule of Unit Pricing Sheet

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SECTION 8 – EVALUATION OF PROPOSALS

EVALUATION CRITERIA:

A. *EXPERIENCE and QUALIFICATIONS:* (Maximum - 50 points)

- a) Provide a brief company biography, two (2) pages maximum. Include general information on the company, number of years the company has been in business, the location of corporate headquarters, and the number of branch offices.
- b) Provide the address(es) of the company's office from which the services for the District will be provided. State the number of administrative personnel staffing the servicing office. Provide the local or toll-free telephone number for on-call emergency service call requests.
- c) State the names that will be providing service under this Agreement. List each technician's years of experience, current Florida Electrical Certifications, and manufacturers' certifications. Provide a copy of all certifications listed or license number.
- d) Provide a copy of your current State of Florida business license; pending licenses will not be accepted. If applicable, provide a copy of the county business license of primary business operations. If not applicable, please provide a statement that a business license is not required and provide the city, county, and state of your primary business operations.
- e) Complete the Reference Form and provide a list of professional references (other than the City of Port Orange) in which you have provided similar services proposed in this RFP within the last five (5) years. References must be from at least three (3) different entities. The Reference Form must be signed in order to be awarded any points.

B. *SCOPE OF SERVICES:* (Maximum - 30 points)

- a) Project Plan: A description of the work plan and process that will occur to address the specific concerns defined in the scope of services. The work plan should detail the facilitation process to be used with the Council and citizen's involvement (if Council chooses) in developing the candidate profile and the strategy for recruitment of an appropriate and diverse candidate pool, and the screening and background process. The search firm should provide an indication of whether they recommend each part of the work plan be on-site or virtually conducted.
- b) A project schedule, including key milestones, keeping in mind the City's desire to complete the recruitment process as quickly as possible.
- c) A description of the time, nature, and scope of services that will be required from the City to assist in the project's completion.
- d) Requirement from City Staff: The level of effort required from City staff as part of the overall project.
- e) Placement guarantee

C. *COST OF SERVICES:* (Maximum - 20 points)

- a) The proposed fee should represent a full-service Executive Management recruitment process including, but not limited to, those detailed in this scope of services. The proposal may include a breakdown of milestone cost for each step in the work product but must also

include an all-inclusive fee that includes the following as well as any other associated costs. Proposal price to perform the project as outlined in the Scope of Services, as well as the standard billing rates for the staff expected to be assigned to the project.

Proposal Evaluation/Selection. The City Council will evaluate proposals based on the criteria established in this RFP and will be responsible for reviewing and evaluating all proposals submitted. The City Council will establish a “shortlist” of proposals they deem to be most advantageous to the City and will interview and rank those firms and/or individuals that were included on the “shortlist.” Notwithstanding the above, the City Council reserves the right to conduct all interviews and oral presentations by any or all Proposers. The City Council is not bound to accept the top-ranked proposal. It is the sole authority of the City Council to select the proposal that best fits the intent and desires of the City Council regarding an executive search for the City Manager position.

Firms submitting the required criteria will have their proposals evaluated and scored for quality of response, qualifications, experience, including implementation and cost. The following represents the principal selection criteria, which will be considered during the evaluation process. Criteria will be weighted based on 100% of total value. Category Scores listed below are the maximum number of points to be awarded per each evaluator.

| <u>EVALUATION CRITERIA FOR WRITTEN PROPOSALS</u> | <u>CATEGORY SCORE</u> |
|---|------------------------------|
| EXPERIENCE and QUALIFICATIONS | (50 points) |
| SCOPE OF SERVICES | (30 points) |
| COST OF SERVICES | (20 points) |
| Total Maximum Points | (100 points) |

BONUS POINTS: Local Preference per Ordinance Sec. 2-275

- *Port Orange Business eight percent of available points (8points)*
- *Volusia County Business five percent of available points (5 points)*
- *Florida Business three percent of available points (3 points)*

Please note that prices may be negotiated in the best interest of the City after the scoring is completed.

RFP EVALUATION SCHEDULE:

Refer to the Timeline in Section 2 of the RFP document regarding proposed evaluation date(s) and time(s). *The City reserves the right to alter dates as needed.*

EVALUATION PROCEDURE:

The City Council Member will evaluate, and rank proposals based on a weighted score point formula. All interested professionals are

hereby cautioned **not** to contact any staff or Council member of the City of Port Orange. Any and all questions should be made through the Purchasing Manager and any attempts to lobby or persuade through any other channels may result in disqualification.

All proposals will be subject to a review and evaluation process. It is the intent of the City that all Proposers responding to this RFP, who meet the requirements, will be ranked in accordance with the criteria established in these documents. The City will consider all responsive and responsible proposals received in its evaluation and award process. The City Council may choose to conduct an oral interview with each finalist.

The City's evaluation criteria, as identified above, for written proposals will include consideration of, but will not be limited to the following:

1. Responsiveness of the proposal related to the Scope of Services;
2. The ability, capability and skill of the Proposer to perform the contract, including the range of services offered.
3. Whether the provider can perform the contract within the time specified without delay or interference.
4. The quality, availability and adaptability of the supplies or contractual services to the particular use required;
5. The character, integrity, reputation, judgment, experience and efficiency of the Proposer;
6. Professional licensure required when service of a skilled nature is required by law to perform such service and/or skill;
7. The quality of performance of previous contracts;
8. The number and scope of conditions attached to the bid or proposal;
9. Responsiveness of client references;
10. Net costs.
11. Local preference policy (if applicable)

FORMAL ORAL PRESENTATIONS/INTERVIEWS in person (Required):

The City has chosen to conduct oral interviews with or receive oral presentations from one or more of the Proposers. The City is requiring oral interviews and/or presentations, such interviews or oral presentations will be open to the public pursuant to the conditions set forth in Florida Statute § 286.0113. If oral presentations or interviews are held the following guidelines will be used:

The City's Purchasing Division will establish the schedule and Proposers will be notified via www.demandstar.com at least five (5) calendar days in advance of the date, time and place of the presentations.

The City will allot equal time for each Proposer divided into two sequential parts: formal presentations and questions and answers. The times allotted are maximums and no Proposer will be penalized for using less than the allotted time.

FINAL RANKING AND RECOMMENDATION FOR AWARD:

After oral presentations are completed, the City Council will score the presentations for qualifications, experience, engagement approach, and schedule to determine a final ranking of the shortlisted Proposers considered to be most capable of performing the required project in the best interest of the City. The following represents the principal selection criteria, which will be considered during the evaluation process. Criteria will be weighted based on 100% of total value. Category Scores listed below are the maximum number of points to be awarded per each evaluator.

| <u>EVALUATION CRITERIA FOR ORAL PROPOSALS</u> | <u>CATEGORY SCORE</u> |
|--|------------------------------|
| <i>EXPERIENCE and QUALIFICATIONS</i> | <i>(50 points)</i> |
| <i>SCOPE OF SERVICES:</i> | <i>(30 points)</i> |
| <i>COST OF SERVICES:</i> | <i>(20 points)</i> |
| <i>Total Maximum Points</i> | <i>(100 points)</i> |

BONUS POINTS: Local Preference per Ordinance Sec. 2-275

- *Port Orange Business eight percent of available points (8points)*
- *Volusia County Business five percent of available points (5points)*
- *Florida Business three percent of available points (3 points)*

The City Council’s final ranking will be provided to the Purchasing Manager to read aloud. The City’s Project Manager will provide a notice of intent to award to the Purchasing Manager. The intent to award will be posted on www.demandstar.com The City project manager will create an agenda item seeking award by the City Council. City Council’s decision will be final.

[Remainder of this page left intentionally blank]

SECTION 9 – REQUIRED FORMS

FORM 9.1 – PROPOSAL SUBMITTAL CHECKLIST

- _____ Form 9.2 – Proposer’s Acknowledgement
- _____ Form 9.3 – Addendum and Change Order Procedure Acknowledgement
- _____ Form 9.4 – Drug Free Preference Statement
- _____ Form 9.5 – Public Entity Crimes Statement
- _____ Form 9.6 – Affidavit of Anti-Collusion
- _____ Form 9.7– Statement of Qualifications
- _____ Form 9.8 – Professional References for Previous Experience
- _____ Form 9.9 – Local Business Affidavit of Eligibility
- _____ Copy of License (Contractor, Sunbiz, etc.)
- _____ Submission of one (1) original marked “ORIGINAL” and one (1) digital (CD or flash drive) version in PDF format.

Name of Business

BY: _____
Authorized Signature

Date

This document must be completed and returned with your Submittal

FORM 9.2 – PROPOSER’S ACKNOWLEDGEMENT FORM

I have carefully examined the Request for Proposals (RFP), Instructions to Proposers, General and/ or Special Conditions, Specifications, and any other documents accompanying or made a part of this invitation.

I hereby propose to furnish the goods or services specified in the Request for Statement of Qualifications at the prices or rates as finally negotiated. I agree that my Proposal will remain firm for a period of up to ninety (90) days in order to allow the City of Port Orange adequate time to evaluate the proposed Proposal. Furthermore, I agree to Proposal by all conditions of the Request for Proposals.

I certify that all information contained in this Proposal is truthful to the best of my knowledge and belief. I further certify that I am a duly authorized to submit this Proposal on behalf of the Proposer/Contractor as its act and deed and that the Proposer/Contractor is ready, willing and able to perform if awarded the contract.

I further certify that this Proposal is made without prior understanding, Contract, connection, discussion, or collusion with any person, firm or corporation submitting a Proposal for the same product or service; no officer, employee or agent of the City of Port Orange City Council or of any other Proposer interested in said RFP; and that the undersigned executed this Proposer’s Acknowledgement with full knowledge and understanding of the matters therein contained and was duly authorized to do so.

I further certify that having read and examined the specifications and documents for the designated services and understanding the general conditions for contract under which services will be performed, does hereby propose to furnish all labor, equipment, and material to provide the services set forth in the RFP.

I hereby declare that the following listing states any clarifications, any and all variations from and exceptions to the requirements of the specifications and documents. The undersigned further declares that the “work” will be performed in strict accordance with such requirements and understands that any exceptions to the requirements of the specifications and documents may render the Proposal non-responsive.

NO EXCEPTIONS ALLOWED AFTER THE PROPOSAL IS SUBMITTED:

Please check one: I take NO exceptions. Exceptions (list below; add additional pages if necessary):

| | |
|-----------------------------------|---------------------------------------|
| _____ NAME OF BUSINESS | _____ MAILING ADDRESS |
| _____ AUTHORIZED SIGNATURE | _____ CITY, STATE & ZIP CODE |
| _____ NAME, TITLE, TYPED | _____ TELEPHONE NUMBER / FAXNUMBER |
| _____ FEDERAL IDENTIFICATION # | _____ E-MAIL ADDRESS |

STATE OF _____ COUNTY OF _____

The foregoing instrument was acknowledged before me this day of _____, 20____ by _____, who is personally known to me or who has produced ad identification and who did take an oath.

My Commission Expires: _____ Notary Public

This document must be completed and returned with your Submittal

FORM 9.3 – ADDENDUM and CHANGE ORDER PROCEDURE ACKNOWLEDGEMENT

ADDENDUM ACKNOWLEDGEMENT

I have carefully examined the Request for Proposals (RFP), Instructions to Proposers, General and/ or Special Conditions, Specifications, and any other documents accompanying or made a part of this Request for Statement of Qualifications.

I acknowledge receipt and incorporation of the following addenda, and the cost, if any, of such revisions has been included in the price of the Proposal form.

Addendum # _____ Date: _____ Addendum # _____ Date: _____

Addendum # _____ Date: _____ Addendum # _____ Date: _____

CHANGE ORDER PROCEDURE ACKNOWLEDGEMENT

If awarded the Contract for this Solicitation, I acknowledge that no oral statement of any person shall modify or otherwise change, or affect the terms, conditions or specifications stated in the resulting contract. All change orders requests shall be made in writing by the Contractor for review by the Contract Administrator for the City of Port Orange. No work shall be performed as set forth in the change order until the Contractor receives an executed Purchase Order for the requested change.

I acknowledge the following statement regarding Change Orders to the awarded Contract:

Name of Business

By: _____

Printed Name: _____

Title: _____

STATE OF _____

COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this ____ day of _____, 20____, by _____, as _____ of _____

(NAME)

(TITLE)

_____ and who:
(NAME OF ORGANIZATION)

[Notary: Please select one]

is personally known to me; or

has produced _____ as identification.

Notary Public, State of _____

Printed, typed or stamped name, commission and expiration:

This document must be completed and returned with your Submittal

FORM 9.4 – DRUG-FREE PREFERENCE STATEMENT

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

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under Proposal a copy of the statement specified in subsection (1).
4. In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under Proposal, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of Section 287.087, Florida Statutes.

As an authorized representative of the firm, I certify that this firm complies fully with the above requirements.

Name of Business

By: _____

Printed Name: _____

Title: _____

STATE OF _____

COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this _____ day of _____, 20____, by _____, as _____ of _____

(NAME)

(TITLE)

_____ and who:

(NAME OF ORGANIZATION)

[Notary: Please select one]

is personally known to me; or

has produced _____ as identification.

Notary Public, State of _____

Printed, typed or stamped name, commission and expiration:

This document must be completed and returned with your Submittal

FORM 9.5 – SWORN STATEMENT UNDER SECTION 287.133(3)(A), FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES

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

Before me, the undersigned Authority, personally appeared affiant _____, who, being by me first duly sworn, made the following statement:

1. The business address of _____ (name of Offeror or business) is _____.
2. My relationship to _____ (name of Offeror or business) is _____ (relationship such as sole proprietor, partner, president, vice-president).
3. I understand that a public entity crime as defined in Section 287.133 of the Florida Statutes includes a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity in Florida or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any proposal or contract for goods or services to be provided to any public entity or such an agency or political subdivision and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy or material misrepresentation.
4. I understand that "convicted" or "conviction" is defined by the Florida Statutes to mean a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non-jury trial, or entry of a plea of guilt or nolo contendere.
5. I understand that "affiliate" is defined by the Florida Statutes to mean (1) a predecessor or successor of a person or a corporation convicted of a public entity crime, or (2) an entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime, or (3) those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate, or (4) a person or corporation who knowingly entered into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months.
6. Neither the Offeror or contractor, nor any officer, director, executive, partner, shareholder, employee, member or agent who is active in the management of the Offeror or contractor, nor any affiliate of the Offeror or contractor has been convicted of a public entity crime subsequent to July 1, 1989. (Draw a line through paragraph 6 if paragraph 7 below applies.)
7. There has been a conviction of a public entity crime by the Offeror or contractor, or an officer, director, executive, partner, shareholder, employee, member or agent of the Offeror or contractor who is active in the management of the Offeror or contractor or an affiliate of the Offeror or contractor. A determination has been made pursuant to Section 287.133(3) by order of the Division of Administrative Hearings that it is not in the public interest for the name of the convicted person or affiliate to appear on the convicted Proposer list. The name of the convicted person or affiliate is _____. A copy of the order of the Division of Administrative Hearings is attached to this statement. **(Draw a line through paragraph 7 if paragraph 6 above applies.)**

Name of Business

By: _____

Printed Name: _____

Title: _____

STATE OF _____

COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this _____ day of _____, 20____, by _____, as _____ of _____ and who:

[Notary: Please select one]

is personally known to me; or

has produced _____ as identification.

Notary Public, State of _____

Printed, typed or stamped name, commission and expiration:

This document must be completed and returned with your Submittal

FORM 9.6 – ANTI-COLLUSION FORM

ANTI-COLLUSION STATEMENT PROPOSAL FORM:

By signing this form, the Proposer agrees that this Proposal is made without any other understanding, agreement, or connection with any person, corporation, or firm submitting a Proposal for the same purpose and that the Proposal is in all respects fair and without collusion or fraud.

SIGN in ink in the space provided below. Unsigned Proposals will be considered incomplete, and will be disqualified, and rejected.

IT IS AGREED BY THE UNDERSIGNED PROPOSER THAT THE SIGNING AND DELIVERY OF THE PROPOSAL REPRESENTS THE PROPOSER’S ACCEPTANCE OF THE TERMS AND CONDITIONS OF THE FOREGOING SPECIFICATIONS, CONTRACT AND PROVISIONS, AND IF AWARDED, THIS CONTRACT WILL REPRESENT THE AGREEMENT BETWEEN THE PROPOSERS AND THE CITY OF PORT ORANGE.

NAME OF FIRM: _____

SIGNED BY: _____
(MUST BE SIGNED BY A COMPANY OFFICER OR AUTHORIZED AGENT)

PRINTED SIGNATURE: _____

TITLE: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

TELEPHONE: _____ FAX: _____

COMPLETION TIME: _____

F.E.I.N. NUMBER: _____

NO Proposal may be withdrawn for a period of ninety (90) days subsequent to the submittal of the Proposals, without the consent of the City of Port Orange.

NO PROPOSAL (REASON): _____

This document must be completed and returned with your Submittal

FORM 9.7 – STATEMENT OF QUALIFICATIONS

The undersigned warrants that he or she is duly authorized to complete this document, and hereby affirms that the information contained in Form 9.7 is complete, true, and correct to the best of their knowledge and belief. If necessary, questions may be answered on separate paper and attached, with any additional information that may be pertinent.

- A. Name of Proposer.
- B. Permanent main office address.
- C. Date organized.
- D. If a corporation, where incorporated.
- E. How many years have you been engaged in the contracting business under your present firm or trade name?
- F. Contracts on hand: (Schedule these, showing amount of each contract and the appropriate anticipated dates of completion.)
- G. General character of work performed by your company.
- H. Have you ever failed to complete any work awarded to you? If so, where and why?
- I. Have you ever defaulted on a contract? If so, where and why?
- J. List the more important projects recently completed by your company, stating the approximate cost for each and the month and year completed.
- K. List your major equipment currently owned or leased.
- L. Experience in work similar to this type of project.
- M. Background and experience of the principal members of your organization, including the officers.
- N. Credit currently available: \$ _____
- O. Give bank reference: _____
- P. Will you, upon request, fill out a detailed financial statement and furnish any other information that may be required by the Owner?
- Q. The undersigned hereby authorizes and requests any person, firm, or corporation to furnish any information requested by the Owner in verification of the recitals comprising this Statement of Qualifications.

 Name of Business
 By: _____
 Printed Name: _____
 Title: _____

STATE OF _____
 COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this _____ day of _____, 20____, by
 _____, as _____
 of _____ and who:

[Notary: Please select one]
 is personally known to me or
 has produced as identification.

 Notary Public, State of _____
 Printed, typed or stamped name, commission
 and expiration

This document must be completed and returned with your Submittal

FORM 9.8 – PROFESSIONAL REFERENCES FOR PREVIOUS EXPERIENCE

The Proposer proposes that he/she is qualified to perform the referenced work and has successfully done so on recent projects similar in nature and size. The City reserves the right to check references and confirm information provided herein.

Please provide three (3) current and correct references from clients for similar services. (Do not include the City of Port Orange)

1. Company Name: _____
Contact Person: _____
City, State: _____
Telephone Number: _____
Email Address: _____
Description of goods or
Services provided: _____
Contract Amount: _____
Start/End Date of Contract: _____

2. Company Name: _____
Contact Person: _____
City, State: _____
Telephone Number: _____
Email Address: _____
Description of goods or
Services provided: _____
Contract Amount: _____
Start/End Date of Contract: _____

3. Company Name: _____
Contact Person: _____
City, State: _____
Telephone Number: _____
Email Address: _____
Description of goods or
Services provided: _____
Contract Amount: _____
Start/End Date of Contract: _____

This document must be completed and returned with your Submittal.

LISTING OF PREVIOUS EXPERIENCE

Commercial Client List

The Proposer proposes that he/she is qualified to perform the referenced work and has successfully done so on recent projects similar in nature and size. A minimum of three (3) projects must be listed below. The Owner reserves the right to check references and confirm information provided herein.

List all clients to whom you currently provide or have in the past provided **Architectural Services** equal or similar to those required under the City’s contract and as outlined in this Proposal package. A minimum of three (3) projects shall be listed below in order to Proposal on this contract. The Owner reserves the right to check references and confirm information provided herein.

| | Contact Name | Phone | Current Client? Y or N | Number of years service provided | Description of service |
|---|--------------|-------|---------------------------|----------------------------------|------------------------|
| 1 | | | | | |
| 2 | | | | | |
| 3 | | | | | |

This document must be completed and returned with your Submittal.

FORM 9.9 – LOCAL BUSINESS AFFIDAVIT OF ELIGIBILITY

City of Port Orange

This declaration is executed under penalty of perjury of the laws to the United States and State of Florida

THIS AFFIDAVIT IS SUBMITTED IN REFERENCE TO THE FOLLOWING SOLICITATION:

RFSQ/RFP/ITN/BID/CONTRACT/PROJECT#(as applicable): _____

BUSINESS NAME: _____ CONTACT PERSON/TITLE: _____ MAILING ADDRESS: _____

CITY-STATE-ZIP: _____ Length of Time at Address Provided: _____

Physical Presence of Business: Headquarters, Manufacturing Facility, or Locally Owned Franchise

And within Legal Boundaries: The City of Port Orange Volusia County The State of

Florida FEIN (Federal Employer Identification Number): _____

BUSINESS STRUCTURE: Corporation LLC Partnership Sole Proprietorship

Other (Specify): _____

PHONE NUMBER: _____ FAX: _____

EMAIL: _____

****Please attach a valid business tax receipt, or other such documentation****

ATTESTATION – I understand that:

- In accordance with City Of Port Orange City Code 2-275, local businesses shall have five (5) business days from bid/proposal opening to submit a best and final bid for evaluation. To qualify: A Port Orange business initial bid must be within (8%) of the lowest and best responsible bid from a non-Port Orange business; A Volusia County business initial bid must be within (5%) of the lowest and best responsible bid from a Non-Volusia County business; A State of Florida business initial bid must be within (3%) of the lowest and best responsible bid from a non-State of Florida business.
- A local business must have its headquarters, manufacturing facility, or locally owned franchise located within the legal boundaries of the City of Port Orange, Volusia County, or the State of Florida, as indicated herein, for at least twelve (12) months prior to the bid or proposal opening date and a valid business license, issued by the corresponding government agency. Post office boxes are not verifiable and shall not be used for the purpose of establishing said physical address. Bidders shall attach to this affidavit of eligibility with a bid or proposal, a copy of a valid business tax receipt or such other documentation, to the city’s satisfaction, demonstrating the physical business presence of the firm within corresponding local limits.
- The preference does not apply to goods or services exempted by statute or prohibited by Federal law, State law, or other funding source restrictions.
- The preference established in this policy does not prohibit the right of the City, or other authorized purchasing authority, to compare quality or fitness for use of supplies, materials, equipment and services proposed for purchase and compare qualifications, character, responsibility and fitness of all persons, firms or corporations submitting bids or proposals.
- The information contained herein may be subject to verification.
- A Proposer who misrepresents the local preference status of its firm in a proposal or bid submitted to the City of Port Orange will lose the privilege to claim local preference status, and shall lose eligibility to claim local preference for a period of one (1) year. The City Manager may also recommend that the firm be referred for debarment.

As an authorized representative of the firm, I certify that this firm complies fully with the above requirements.

Name of Business

By: _____

Printed Name: _____

Title: _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of _____ physical presence or _____ online notarization, this _____ day of _____, 20____, by _____, as _____ of _____, a _____. He or she is _____ personally known or _____ produced _____ as identification.

Notary Public, State of _____

Printed, typed or stamped name, commission and expiration:

This document must be completed and returned with your Submittal

ATTACHMENT 1 – PROPOSAL FORM

| |
|---|
| "ATTACHMENT 1" SCHEDULE OF UNIT PRICING |
| PROPOSAL FORM |
| CITY OF PORT ORANGE |
| RFP# 21-05 |
| Executive Search Services |
| Completed Attachment 1 Bid Proposal form MUST be included with Bid Submission |
| Instruction to save Attachment from DemandStar website: Perform "File Save As" and save spreadsheet to your computer. Fill in pricing in highlighted cells, preferably electronically. |

| |
|--|
| Bidders are required to complete all fields shaded in green. All other fields will be automatically calculated. |
| NAME OF BUSINESS: |
| CONTACT PERSON: |
| EMAIL ADDRESS: |
| AUTHORIZED NAME: |
| AUTHORIZED SIGNATURE: |

| PROPOSAL | | |
|-----------------|----------------------------|-------------------|
| Item | Description | Unit Price |
| | GENERAL | |
| 1 | COST PER SCOPE OF SERVICES | \$0.00 |

This document must be completed and returned with your Submittal

**CERTIFICATE OF INSURANCE
FOR WORKERS' COMPENSATION**

IMPORTANT

This certificate must be completed and returned by the Awarded Vendor, upon issuance of a Notice of Intent to Award by the Purchasing Department of the City of Port Orange. Please note, the City of Port Orange does not accept exemptions for Workers' Compensation coverage. This certificate must be completed by a duly authorized official of the Insurance Company carrying the risk, or a separate certificate of similar context executed On Insurance Company's Standard Form may be attached hereto.

This is to certify that _____, Company has issued to _____, of the City of _____, State of _____, the following policy or policies:

Workers' Compensation and Employer's Liability Policy No. _____
Effective on _____, 20____, and expiring on _____, 20____.
Description of limits: _____

If at any time this coverage is to be cancelled, the undersigned will notify the insured and the _____ in writing thirty (30) days prior to cancellation of policy.

WITNESS:

By: _____

Name: _____

INSURANCE COMPANY:

Company: _____

By: _____

Name/Title: _____

AFFIDAVIT REGARDING WORKERS' COMPENSATION

IMPORTANT

This certificate must be completed and returned by the Awarded Vendor, upon issuance of a Notice of Intent to Award by the Purchasing Department of the City of Port Orange. Please note, the City of Port Orange does not accept exemptions for Workers' Compensation coverage.

State of _____

County of _____

I, _____, being duly sworn according to law, deposes and says (it, he, she, they) have accepted the Workers' Compensation laws of the State of Florida, with its supplements and amendments and has insured (its, his, her, their) liability there under accordance with the terms of said Laws with the _____ Company, under the terms of Policy Number _____ for a period from _____, 20__ to _____, 20_.

WITNESS:

By: _____

Name: _____

CONTRACTOR:

Company: _____

By: _____

Name/Title: _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of _____ physical presence or _____ online notarization, this _____ day of _____, 20__, by _____, as _____ of _____, a _____. He or she is _____ personally known or _____ produced _____ as identification.

Notary Public, State of _____
Printed, typed or stamped name, commission and expiration:

This certificate must be completed and returned by the Awarded Vendor, upon issuance of a Notice of Intent to Award by the Purchasing Department of the City of Port Orange. Please note, the City of Port Orange does not accept exemptions for Workers' Compensation coverage.

**LEASED EMPLOYEE AFFIDAVIT
EXHIBIT CONTRACT # _____**

I hereby certify that I do not utilize an employee leasing company or employee leased employees. I further agree to notify the City in the event these circumstances change.

OR

I affirm that an employee leasing company provides my workers' compensation coverage. I further understand that my contract with the employee leasing company limits my workers' compensation coverage to enrolled worksite employees only. My leasing arrangement does not cover un-enrolled worksite employees, independent contractors, uninsured sub-contractors or casual laborexposure.

I hereby certify that 100% of my workers are covered as worksite employees with the employee leasing company. I certify that I do not hire any casual or uninsured labor outside the employee leasing arrangement. I agree to notify the City in the event that I have any workers not covered by the employee leasing workers' compensation policy. In the event that I have any workers not subject to the employee leasing arrangement, I agree to obtain a separate workers' compensation policy to cover these workers. I further agree to provide the City with a certificate of insurance providing proof of workers' compensation coverage prior to these workers entering any City jobsite.

I further agree to notify the City if my employee leasing arrangement terminates with the employee leasing company and I understand that I am required to furnish proof of replacement workers' compensation coverage prior to the termination of the employee leasing arrangement.

I certify that I have workers' compensation coverage for all of my workers through the employee leasing arrangement specified below:

Name of Employee Leasing Company: _____

Workers' Compensation Carrier: _____

A.M. Best Rating of Carrier: _____

Inception Date of Leasing Arrangement: _____

I further agree to notify the City in the event that I switch employee-leasing companies. I recognize that I have an obligation to supply an updated workers' compensation certificate to the City that documents the change of carrier.

I hereby attest that the information provided in this affidavit is accurate. In addition, I certify that I have read and understand the above statements regarding my responsibility under the Workers' Compensation coverage.

Name of Contractor: _____

Signature of Owner/Officer: _____

Title: _____ Date: _____



CITY OF PORT ORANGE STANDARD CONTRACT FOR SERVICES

This Standard Contract for Services ("Contract") is entered into this ____ day of _____, 20__, by and between the CITY OF PORT ORANGE, a Florida municipal corporation, whose principal address is 1000 City Center Circle, Port Orange, Florida 32129 (the "City"), and _____, a _____ corporation whose principal address is _____ ("Contractor"). (The City and Contractor are collectively referred to herein as the "Parties.")

1. Provision of Services

- (a) The Contractor hereby agrees to provide Executive Management Search Firm Services as outlined in Request for Proposal 21-05, Addenda, if any, and Contractor's proposal ("Services"). This Contract, together with the Request for Proposal 21-05 ("RFP 21-05"), Addenda, and Contractor's proposal, all of which are made a part hereof by reference, shall constitute the formal written contract between the City and Contractor, hereinafter "Contract". For convenience, Section 3, Scope of Services of RFP 21-05, Addenda, and the Contractor's response as submitted by Contractor in Contractor's Proposal, are attached hereto as Exhibit "1". A complete copy of RFP 21-05, Addenda, and Contractor's Proposal are available in the Office of the City Clerk, City Hall, 1000 City Center Circle, Port Orange, Florida. Contractor represents that they are familiar with the documents that make up the Contract, as referenced hereinabove.

- (b) The time, manner and place for performance of such services shall be:

Term: The term of this Contract shall commence on the date this Contract is signed on behalf of the City and shall continue thereafter until a City Manager is hired and on the job. The City desires to have a new City Manager hired and ready to start work on May 3, 2021.

Manner and Place: As outlined in RFP 21-05 and any attachments of exhibits to this Contract whether delivered herewith or subsequently approved as a part thereof, and in a manner as required by all current federal, state, county, fire, building and land development codes, laws, ordinances and regulations, and with applicable permits and licenses per the City Code of Ordinances. Contractor shall not deliver goods or services without a written purchase order, signed by an authorized agent of the City of Port Orange.

Time and Essence: Contractor acknowledges that time is of the essence for the Purchase Order(s) or Notice to Proceed issued hereunder.

Authorization for Services: This Contract standing alone does not authorize the purchase of any goods or services or require the City to place any orders for goods or service. Authorization for the purchase of goods or services from Contractor under this Contract shall be upon issuance of a Notice to Proceed and a written Purchase Order issued and executed by the City. The City reserves the right to contract with other parties for the goods and services contemplated by this Contract, as determined in the City's sole and absolute discretion.

2. City Obligations. In return for the services identified above, the City agrees to compensate Contractor at the prices set forth in Exhibit " " attached hereto, subject to a limit up to but not to exceed \$. The City's obligation to pay Contractor under this Contract is limited to the budgeted amount for the fiscal year approved by the Port Orange City Council for the then current fiscal year. All payments shall be governed by the Local Government Prompt Payment Act as set forth in Sections 218.70 through 218.79, Florida Statutes, as amended.

3. Contract Administration. The Administrative Services Director, Jamie Miller, shall perform contract administration of this Contract. The City may change the contract administrator, from time to time and at any time, upon written notice to Contractor. For notice provisions, see the paragraph below entitled "Notice."

4. Liens. Contractor acknowledges that Contractor shall not be entitled to lien the City or other public property.

5. Termination for Convenience of the City

(a) The parties agree that the City may terminate this Contract, or any work or delivery required hereunder, from time to time either in whole or part, whenever the City Manager of Port Orange shall determine that such termination is in the best interest of the City.

(b) Termination, in whole or in part, shall be effected by delivery of a Notice of Termination signed by the City Manager or his designee, mailed or delivered to the Contractor, and specifically setting forth the effective date of termination.

(c) Upon receipt of such Notice, the Contractor shall:

- (i) cease any further deliveries or work due under this Contract, on the date, and to the extent, which may be specified in the Notice;
- (ii) place no further orders with any subcontractors except as may be necessary to perform that portion of this Contract not subject to the Notice;
- (iii) terminate all subcontracts except those made with respect to contract performance not subject to the Notice;
- (iv) settle all outstanding liabilities and claims which may arise out of such termination, with the ratification of the Finance Director of Port Orange; and
- (v) use best efforts to mitigate any damages which may be sustained by the Contractor as a consequence of termination under this clause.

(d) After complying with the provisions of subparagraph (c), above, the Contractor shall submit a termination claim, in no event later than six (6) months after the effective date of termination, unless one or more extensions of three (3) months each are granted by the Finance Director.

(e) The Finance Director, with the approval of the City Manager, shall pay from the using department's budget, reasonable costs of termination, including a reasonable amount for profit on supplies or services delivered or work completed. In no event shall this amount be greater than the original contract price, reduced by any payments made prior to Notice of Termination, and further reduced by the price of the supplies not delivered or the services not provided. This Contract shall be amended accordingly, and the Contractor shall be paid the agreed amount.

(f) In the event that the parties cannot agree on the whole amount to be paid to the Contractor by reason of termination under this clause, the Finance Director shall pay the Contractor the amounts determined as follows, without duplicating any amounts which may have already been paid under the preceding paragraph of this clause:

- (i) With respect to all Contract performance prior to the effective date of Notice of Termination, the total of:
 - (1) the cost of work performed or supplies delivered;
 - (2) the cost of settling and paying any reasonable claims as provided in paragraph (c) (iv), above;
 - (3) a sum as profit on (a) determined by the Finance Director to be fair and reasonable.
- (ii) The total sum to be paid under (i) above shall not exceed the contract price, as further reduced by the contract price of work or supplies not terminated.

(g) In the event that the Contractor is not satisfied with any payments which the Finance Director shall determine to be due under this clause, the Contractor may appeal any claim to the City Council in accordance with Paragraph 20 of this contract concerning disputes.

6. Termination for Convenience for Subcontractors. In accordance with the termination for the convenience of the City provision of this contract, the Contractor shall include similar provisions in any subcontract, and shall specifically include a requirement that subcontractors make all reasonable efforts to mitigate damages which may be suffered. Failure to include such provisions shall bar the Contractor from any recovery from the City whatsoever of loss or damage sustained by a subcontractor as a consequence of termination for convenience.

7. Termination for Default. Either party may terminate this Contract, without further obligation, for the default of the other party or its agents or employees with respect to any agreement or provision contained herein. In the event of default by the contractor, the City reserves the right to procure the item(s) bid from other sources and holds the bidder responsible for excess costs incurred as a result. City Council may elect to refrain from doing business with the bidder as stipulated in City Code 2-276 Suspension and Disbarment.

8. Examination of Records

(a) The Contractor agrees that the City, or any duly authorized representative, shall, until the expiration of five (5) years after final payment hereunder, have access to and the right to examine and copy any pertinent books, documents, papers and records of the Contractor involving transactions related to this Contract.

(b) The Contractor further agrees to include in any subcontract for more than \$10,000 entered into as a result of this Contract, a provision to the effect that the subcontractor agrees that the City or any duly authorized representative shall, until the expiration of five (5) years after final payment under the subcontract, have access to and the right to examine and copy any pertinent books, documents, papers and records of such contractor involved in transactions related to such subcontract, or this Contract. The term subcontract as used herein shall exclude purchase orders for public utility services at rates established for uniform applicability to the general public.

(c) The period of access provided in subparagraphs (a) and (b) above for records, books, documents and papers which may relate to any arbitration, litigation, or the settlement of claims arising out of the performance of this contract or any subcontract shall continue until any appeals, arbitration, litigation or claims shall have been finally disposed of.

9. Public Records Compliance. Contractor shall comply with public records laws as set forth in Chapter 119, Florida Statutes, and shall specifically:

(a) Keep and maintain public records required by the City to perform the service.

(b) Upon request from the City's custodian of public records, provide the City with a copy of the requested record or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Section 119, Florida Statutes, or as otherwise provided by law.

(c) Ensure that public records that are exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term and following completion of the Contract if the Contractor does not transfer the records to the City.

(d) Upon completion of the Contract, Contractor shall transfer to the City, at no cost, all public records in possession of the Contractor and destroy any duplicate public records that are exempt from public records disclosure requirements. 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.

If Contractor does not comply with a public records request, the City shall deem the non-compliance a breach of this Contract, and the Contractor may be subject to penalties under Section 119.0701, Florida Statutes.

CONTRACTOR QUESTIONS RELATING TO CONTRACTOR'S DUTIES TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT MUST BE FORWARDED TO THE OFFICE OF THE CITY CLERK, CITY HALL, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129; TELEPHONE: (386) 506-5563; E-MAIL: CITYCLERK@PORT-ORANGE.ORG.

10. Termination for Non-Appropriation of Funds

(a) If funds are not appropriated for any succeeding fiscal years subsequent to the one in which this contract is entered into, for the purpose of this Contract, then the City may terminate this Contract upon thirty (30) days prior written notice to the Contractor. Should termination be accomplished in accordance with this Section, the City shall be liable only for payments due through the date of termination.

(b) The City agrees that should it terminate in accordance with this Section, it shall not obtain services which are substantially equal to or similar to those for which this contract was entered into. This provision shall survive any termination of the Contract.

11. Insurance. Contractor shall maintain insurance, as required herein, during the life of this Contract. Contractor shall provide to the City, a certificate of insurance endorsing the City of Port Orange as an additional named insured. All insurance coverages of the Contractor shall be primary and non-contributory. All insurance coverages of the Contractor shall not seek contribution from any other insurance or self-insurance available to the City. For workers' compensation coverage, the Contractor's insurance certificate shall include the insurer's waiver of subrogation in lieu of endorsing the City as an additional insured for workers' compensation. The City shall not accept Workers' Compensation Exemptions. Contractor may use leased employees if the Contractor ensures that all workers who access the jobsite are employees covered by the employee leasing company, and no non-employees are permitted to access the jobsite. Any Contractor using a leased employee shall complete the City's Leased Employee Affidavit Form Exhibit. Policies for Workers' Compensation may be issued by companies authorized as a group self-insurer by F.S. 440.572.

Policies other than Workers' Compensation shall be issued by insurers licensed and/or duly authorized under Florida Law to do business in the State of Florida and all insuring companies are required to have a minimum rating of "A-" in the "Best Key Rating Guide" published by A.M. Best & Company, Inc. Contractor shall not

commence work under this Contract until the City has received a certificate or certificates of insurance with endorsement evidencing the required insurance. Insurer shall provide the City written notice of cancellation, nonrenewal or any other changes in coverage no later than thirty (30) days prior to the effective date of the change and shall provide notice to the City no later than 10 days after non-payment. The Certificates of Insurance and required insurance policies shall contain provisions that thirty (30) days prior written notice shall be given to the City of any cancellation, intent not to renew, or reduction in the policies or coverages.

Contractor shall require and ensure each of its subcontractors to maintain, until the completion of the subcontractor's work, insurance of the types and to the limits set forth herein. All insurance coverages shall be primary and non-contributory. All insurance coverages of the subcontractors shall not seek contribution from any other insurance or self-insurance available to the City. The Contractor is responsible for ensuring that its subcontractors maintain the required coverage. Failure of the Contractor to ensure the subcontractors maintain the required coverage, shall not relieve the Contractor of any contractual responsibility, obligation or liability.

The City reserves the right to increase insurance coverage as determined for higher risk contracts.

The acceptance by the City of any Certificate of Insurance does not constitute approval or agreement by the City that the insurance requirements have been satisfied or that the insurance policy shown on the Certificate of Insurance is in compliance with this Contract and does not waive the insurance required by this Contract.

Should at any time the Contractor or subcontractors not maintain the insurance coverages required herein, the City may terminate the Contract or at its sole discretion shall be authorized to purchase such coverages and charge the Contractor for such coverages purchased. The City shall be under no obligation to purchase such insurance, nor shall it be responsible for the coverages purchased or the insurance company or companies used. The decision of the City to purchase such insurance coverages shall in no way be construed to be a waiver of any of its rights under the Contract.

| <i>Standard Insurance Requirements</i> | | | | |
|--|--|--|---|---|
| | Insurance | Standards | | Additional Requirements |
| ☒ | <u>Workers' Compensation</u> The Contractor shall maintain coverage for its employees with statutory workers' compensation limits, and no less than the limits indicated in the Schedule of Limits for Employers' Liability. Said coverage shall include a waiver of subrogation in favor of the City. The City will not accept elective exemptions. Any contractor using an employee leasing company shall complete the Leased Employee Affidavit Form Exhibit. | <u>Contract Amount</u> Up to \$10 million \$10 - \$20 million Contracts over \$20 million To Be Determined by the City. | <u>Limits</u> Statutory/\$500,000 Statutory/\$1,000,000 | <input type="checkbox"/> If Contract requires work on or about navigable waters, Longshoreman's and Harbor Workers' Coverage required. <input type="checkbox"/> If vessels involved, Jones Act coverage with limits of \$500,000 required. |

| | | | |
|--|---|---|--|
| <input checked="" type="checkbox"/> | Comprehensive General Liability (including Completed Operations and Contractual Liability) | <u>Limits:</u> Combined Single Limit Bodily Injury and Property damage \$1,000,000 occurrence \$1,000,000 aggregate | <input type="checkbox"/> When work is on or under Railroad rights of way or properties, the Contractor shall take out and maintain during the life of the Contract, Railroad protective liability and property damage insurance in amounts as requested by the Railroad. |
| <input checked="" type="checkbox"/> | Comprehensive Business, Automobile Liability to include all owned, hired and non-owned automobiles. | <u>Limits:</u> Auto Liability Body Injury and Property Damage: \$1,000,000 each occurrence \$1,000,000 aggregate | |
| Additional Insurance Requirements | | | |
| <input type="checkbox"/> | Property Insurance Builders Risk. <u>Additional Coverage:</u> | <u>Limits:</u> Buildings - Completed value of Contract. "All Risk" coverage on latest ISO for or its equivalent. Permission granted to occupy. Owner named as insured AIMA | If Agreement requires handling or installation of Owner's equipment, coverage should be furnished on "All Risk" form, including transit and Owner shall be named. |
| <input checked="" type="checkbox"/> | Professional Liability | <u>Limits:</u> Coverage - \$1,000,000 | |
| <input type="checkbox"/> | Installation Floater (IT) | <u>Limits:</u> Coverage - \$ <u>To be determined.</u> | |
| <input type="checkbox"/> | Contractor Pollution Liability | <u>Limits:</u> Coverage - \$1,000,000 | |
| <input checked="" type="checkbox"/> | Errors and Omissions | <u>Limits:</u> Coverage - \$1,000,000 | |
| <input type="checkbox"/> | Umbrella Policy | <u>Limits:</u> Coverage - \$ <u>To be determined.</u> | |
| <input type="checkbox"/> | Payment and Performance Bond Required | <u>Limits:</u> Coverage - Equal to amount of Contract. | |
| <input type="checkbox"/> | City Manager waives Payment and Performance Bond for work under \$25,000.00. | | |
| <input type="checkbox"/> | Unless otherwise required by law, City Manager waives Insurance for FOB goods under \$25,000.00. | | |

12. A Contract for the purchase of supplies shall be governed by the City of Port Orange Code of Ordinances, as amended, and such supplies shall be deemed "goods," as defined therein.

13. Assignability of Contract. Neither this contract, nor any part hereof, may be assigned by the Contractor to any other party without the express written approval of the City Council.

14. Modifications or Changes to this Contract

(a) Change Orders. The Department Head, with the concurrence of the City's signatory as required by the City's Purchasing Policy, shall without notice to any sureties, have the authority to order changes in this Contract which affect the cost or time of performance. Such changes shall be ordered in writing specifically designated to be a change order. Such orders shall be limited to reasonable changes in the services to be performed or the time of the performance. The City will not be held liable for any changes which have not been properly authorized and approved in accordance with this Contract.

(b) If any change under this clause causes an increase or decrease in Contractor's cost of, or time required for the performance of the work hereunder, Contractor shall receive an equitable adjustment in accordance with subparagraph (d), which shall include all compensation to the Contractor, or the City, of any kind in connection with such change, including all costs and damages related to or incidental to such change.

(c) Contractor need not perform any work described in any change order unless it has received a certification from the City that there are funds budgeted and appropriated sufficient to cover the cost of such changes.

(d) No claim for changes ordered hereunder shall be considered if made after final payment in accordance with the Contract.

15. Sovereign Immunity. The City expressly retains all rights, benefits and immunities of sovereign immunity in accordance with Section 768.28, Florida Statutes. Notwithstanding anything set forth in any section of this Contract to the contrary, nothing in this Contract shall be deemed as a waiver of immunity or limits of liability of the City beyond any statutory limited waiver of immunity or limits of liability which may have been adopted by the Florida Legislature or may be adopted by the Florida Legislature and the cap on the amount and liability of the City for damages regardless of the number or nature of claims in tort or equity shall not exceed the dollar amount set by the legislature for tort. Nothing in this Contract shall inure to the benefit of any third party for the purpose of allowing any claim against the City which would otherwise be barred under the Doctrine of Sovereign Immunity or operation of law.

16. Warranties/Guarantees. Contractor guarantees services to be delivered to the City of Port Orange as stated in the Contractor's proposal dated [REDACTED] as previously referenced herein and made part of this Agreement. This guarantee includes replacement of successful candidate for twenty-four (24) month period following the date of placement with the client, at no additional professional fees.

17. Inspection

(a) All supplies (which term throughout this clause includes without limitation raw materials, components, intermediate assemblies, and their products) shall be subject to inspection and test by the City, to the extent practicable at all times and places including the place of manufacturer, and in any event prior to acceptance.

(b) In the event any supplies or lots of supplies are defective in material or workmanship, or otherwise not in conformity with the requirements of this Contract, the City shall have the right either to reject them (with or without instructions as to their disposition) or to require their correction. Supplies or lots of supplies which have been rejected or required to be corrected shall be removed or, if permitted or required by the Finance Director, corrected in place by and at the expense of Contractor promptly after notice, and shall not thereafter be tendered for acceptance unless the former rejection or requirement of correction is disclosed. If Contractor fails promptly to remove such supplies or lots of supplies which are required to be removed or promptly to replace or correct such supplies or lots of supplies, the City may either (i) by contract or otherwise replace or correct such supplies and charge Contractor the cost for such replacement or correction; or (ii) may terminate this Contract for default as provided in the clause of this Contract entitled "Termination for Default." Unless Contractor corrects or replaces such supplies within the delivery schedule, the Finance Director may require the delivery of such supplies at a reduction in price, which is equitable under the circumstances. Acceptance or rejection of the supplies shall be made as promptly as practicable after delivery, except as otherwise provided in this Contract. Failure to inspect and accept or reject supplies shall neither relieve Contractor from responsibility for such supplies as are not in accordance with the Contract requirements nor impose liability on the City therefor.

(c) The inspection and test by the City of any supplies or lots thereof does not relieve Contractor from any responsibility regarding defects or other failures to meet the Contract requirements, which may be discovered prior to acceptance. Except as otherwise provided in this Contract, acceptance shall be conclusive except as regards latent defects, fraud, or such gross mistakes as amount to fraud.

18. Liability for Loss or Damage.

(a) Contractor shall be liable for any loss of, or damage to, City property caused by the negligence, recklessness, or intended wrongful misconduct of Contractor, his/its agents, servants and employees and shall indemnify and save the City harmless against all actions, proceedings, claims, demands, costs, damages and expenses, including attorney's fees, by reason of any suit or action brought for any actual or alleged injury to or death of any person or damage to property other than City property, resulting from the performance of the Contract by Contractor, his/its agents, servants and employees. Contractor shall submit a full written report to the Finance Director within twenty-four (24) hours following the occurrence of such damage, loss or injury.

(b) To the fullest extent permitted by law, in addition to the express duty to indemnify City when there is any causal connection between Contractor's work and any injury, loss, damage, death or property damage, Contractor expressly undertakes a duty to defend City as a separate duty, independent of and broader than the duty to indemnify. The duty to defend agreed to by Contractor hereby expressly include all costs of litigation, attorney's fees, settlement costs and reasonable expenses in connection with the litigation, whether or not the claims made for loss, injury, damage or property damage are valid or groundless and regardless of whether the defense of City is maintained by the City or assumed by Contractor as long as the claims made could be causally connected to Contractor as reasonable determined by City.

19. Non-discrimination. During the performance of this Contract, Contractor agrees as follows:

(a) Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, disability, marital status, age or national origin, except where such is a bona-fide occupational qualification reasonably necessary to the normal operation of Contractor. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause. Contractor agrees and fully supports and complies with the Americans with Disabilities Act of 1990.

(b) Contractor shall state in all solicitations or advertisements for employees placed by or on behalf of Contractor that Contractor is an equal opportunity employer.

(c) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient compliance with this provision. Contractor shall include the provisions of the foregoing subparagraphs (a), (b), and (c) in every subcontract or purchase order of over \$10,000 so that the provisions will be binding upon each subcontractor or vendor.

20. Disputes. The City Manager, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to Contractor, shall decide disputes with respect to this Agreement. The decision by the City Manager shall be final and binding unless, within five (5) business days from the date of delivery of the decision of the City Manager, appeal is made to the City Council in writing and delivered to the City Clerk, Robin L. Fenwick, CMC. The decision of the City Council shall be final and binding unless set aside by a court of competent jurisdiction as fraudulent, capricious, arbitrary, or so grossly erroneous as necessary to imply bad faith, or not to be supported by any evidence.

21. Force Majeure. Neither party shall be liable for any delay in performance or failure to perform any obligation hereunder if, and to the extent that, such failure or delay is caused by an event of Force Majeure. Force Majeure shall mean any act, event or condition that is beyond the party's reasonable control, that materially and adversely affects the party's ability to perform its obligations hereunder, and that is not the result of the party's willful neglect, error, omission or failure to exercise reasonable due diligence.

22. Controlling Law. **THIS AGREEMENT CONTAINS IMPORTANT MATTERS AFFECTING LEGAL RIGHTS AND IS ACCEPTED AND ENTERED INTO IN FLORIDA AND ANY QUESTION REGARDING ITS VALIDITY,**

CONSTRUCTION, ENFORCEMENT, OR PERFORMANCE SHALL BE GOVERNED BY FLORIDA LAW. ANY LEGAL PROCEEDING ARISING FROM OR IN ANY WAY REGARDING THE AGREEMENT SHALL HAVE ITS VENUE LOCATED EXCLUSIVELY IN THE CIRCUIT COURT OF VOLUSIA COUNTY, FLORIDA, AND THE PARTIES HEREBY EXPRESSLY CONSENT AND SUBMIT THEMSELVES TO THE PERSONAL JURISDICTION AND VENUE OF THE COURT.

23. Additional Provisions. This Contract includes all additional provisions as may have been outlined in written quotes and purchase orders and any attachments or exhibits to this Contract whether delivered herewith or subsequently approved as a part hereof, such as drawings or technical specifications prepared in the performance of this work. In the event of a conflict between any attachments or exhibits to this Contract, and this Contract, the language of this Contract shall control.

24. Integration. This Contract and the documents incorporated herein by reference shall constitute the whole agreement between the parties. There are no promises, terms, conditions, or obligations other than those contained herein, and this Contract shall supersede all previous communications, representations, or agreements, written or verbal, between the parties hereto.

25. Notice. For purposes of this agreement, notices shall be sent as follows:

City: City of Port Orange
Attention: Interim/City Manager
1000 City Center Circle
Port Orange, Florida 32129
(386) 506-5501

Copy to: City of Port Orange
Attention: Administrative Services Director
1000 City Center Circle
Port Orange, Florida 32129
(386) 506-5560

Contractor: [REDACTED]
Attention: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Any notice or other communication given under the Contract will be in writing and delivered by hand, sent by facsimile (provided acknowledgement of receipt thereof is delivered to the sender), sent by certified, registered mail, or sent by any nationally recognized overnight courier service to the addresses provided herein. The parties may, from time to time and at any time, change their respective addresses and each will have the right to specify as its address any other address by at least 10 days written notice to the other party.

26. Contract Construction

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument. The delivery by facsimile or e-mail of an executed copy of this Agreement shall be deemed valid as if an original signature was delivered. No contract shall be formed between Contractor and the City until the City signs this Agreement.

27. Authority to Sign. Each person signing this Agreement warrants that he or she is duly authorized to do so and to bind the respective party to the Agreement.

[Remainder of this page intentionally left blank]

Witnesses:

Printed Name: _____

By: _____

Printed Name: _____

Title: _____

If this Contract is signed by an individual not identified as the President of the corporation in the records of the Florida Department of State, Division of Corporations, please provide written authorization for that individual to enter into contracts on behalf of the corporation.

Printed Name: _____

Date: _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ___ physical presence or ___ online notarization, this ___ day of _____, 20___, by _____, as _____ of _____, a _____. He or she is ___ personally known or ___ produced _____ as identification.

Notary Public, State of _____
Printed, typed or stamped name, commission and expiration:

Witnesses:

CITY OF PORT ORANGE

Printed Name: _____

By: _____
Donald O. Burnette, Mayor

Printed Name: _____

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of ___ physical presence or ___ online notarization, this ___ day of _____, 20___, by Donald O. Burnette, as Mayor the City of Port Orange, a Florida municipal corporation, on behalf of the city. He is ___ personally known or ___ produced _____ as identification.

Notary Public, State of Florida
Printed, typed or stamped name, commission and expiration:

Witnesses:

ATTEST:

Printed Name: _____

By: _____
Robin L. Fenwick, MMC, City Clerk

Printed Name: _____

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me, by means of ___ physical presence or ___ online notarization, this ___ day of _____, 20___, by Robin L. Fenwick, as City Clerk of the City of Port Orange, a Florida municipal corporation, on behalf of the city. She is ___ personally known or ___ produced _____ as identification.

Notary Public, State of Florida
Printed, typed or stamped name, commission and expiration:



End of Solicitation Documents