




INTEROFFICE MEMORANDUM

FROM THE DEPARTMENT OF ENVIRONMENTAL AND ENGINEERING SERVICES

DATE: August 22, 2018

TO: Mayor and City Commission

THRU: Spencer Shambray, Purchasing Manager

FROM: Sierra Marrero, Project Manager 

RE: **Amended Award Recommendation for Bid No. 2018-015, Generator Enclosure Replacement**

Per my July 10, 2018 Award Recommendation Memo, I recommended the award of the above referenced bid to Pantropic Power, Inc., the low bidder. After submitting the contract to Pantropic Power, Inc. for signature, I received a response with an altered contract (see attached). I responded to Pantropic Power, Inc. informing them that this contract was part of the bid documents and their alterations to the contract would not be accepted.

Due to being unable to enter into an agreement with Pantropic Power, Inc., I recommend award of bid number 2018-015 to the second lowest bidder, All Florida Contracting Services; not to exceed the amount of \$129,900.

I reviewed All Florida Contracting Services' bid for completeness and conformance to the contract documents and have determined they provided a responsive bid for the project.

All Florida Contracting Services is a state certified general contractor, electrical contractor and certified pollutant storage system contractor. The Florida Department of Business and Professional Regulation website shows that All Florida Contracting Services has a current, active license without any listed license complaints. The Florida Division of Corporations website shows that the bid documents were signed by the President of the corporation.

cc: Richard Nixon, Acting DEES Director



CONTRACT

THIS CONTRACT, made and entered into this ____ day of _____, 2018, by and between:

CITY OF MARGATE, FLORIDA, a municipal corporation organized and existing under the laws of the State of Florida, 5790 Margate Blvd., Margate, Florida, 33063, (hereinafter referred to as "CITY"); and Pantropic Power, Inc. (hereinafter referred to as "CONTRACTOR").

WITNESSETH:

IN CONSIDERATION of the mutual covenants and conditions as herein expressed and of the faithful performance of all such covenants and conditions, the parties do mutually agree as follows:

ARTICLE I

THE CONTRACT DOCUMENTS

The Contract Documents consist of all of the following: Notice Inviting Bid, Instructions to Bidders, Special Conditions, Bid Proposal Form, Schedule of Bid Prices, Information Required of Bidders, Bid Bond, Reference Sheet, Non-Collusive Affidavit, Drug-Free Workplace Form, Performance Bond, and Certificate of Insurance, and which are made a part of this contract, or any additional documents which are required to be submitted under the Contract, and all amendments, modifications and supplements issued on or after the effective date of the Contract.

ARTICLE 2

SCOPE OF THE WORK

CONTRACTOR shall furnish all of the labor, materials, equipment, transportation, supplies and services necessary to perform all of the work required by the Contract Documents for:

**BID NO. 2018-015 GENERATOR ENCLOSURE REPLACEMENT
(CORAL GATE)
BID # 2018-015**

ARTICLE 3

CONTRACT TIME

TIME IS OF THE ESSENCE OF THIS CONTRACT. The work to be performed under this Contract shall be commenced upon the date of Contract Commencement specified in the Notice to Proceed and subject to authorized adjustments shall be totally complete and ready for final payment within 365 days from the date of Contract Commencement. ~~Failure to achieve timely final completion shall be regarded as a breach of this Contract and subject to appropriate remedies including but not limited to liability for liquidated damages in accordance with this Article.~~

~~Upon failure of the CONTRACTOR to complete the WORK within the time specified for completion, (plus approved extensions if any) CONTRACTOR shall pay to CITY the sum of five hundred and xx/100 dollars (\$500.00) for each calendar day that the substantial or final completion of the WORK is delayed beyond the time specified in the Contract for completion, as fixed and agreed liquidated damages and not as a penalty. Liquidated damages are hereby fixed and agreed upon between the parties, recognizing the impossibility of precisely ascertaining the amount of damages that will be sustained by CITY as a consequence of such delay and both parties desiring to obviate any question of dispute concerning the amount of said damages and the cost and effect of the failure of CONTRACTOR to complete the Contract on time. Regardless of whether or not a single Contract is involved, the above-stated liquidated damages shall apply separately to each portion of the WORK for which a time of completion is given. CITY shall have the right to deduct from and retain out of moneys which may be then due or which may become due and payable to CONTRACTOR, the amount of such liquidated damages and if the amount retained by CITY is insufficient to pay in full such liquidated damages, the CONTRACTOR shall pay in full such liquidated damages. CONTRACTOR shall be responsible for reimbursing CITY, in addition to liquidated damages or other per day damages for delay, for all costs of engineering, and inspection and other costs incurred in administering the construction of the Project beyond the completion date specified or beyond an approved extension of time granted to CONTRACTOR whichever is later. Notwithstanding the aforementioned, in no event shall either Party be liable to the other for any special damages, speculative damages, indirect, special, incidental, and consequential, loss of profits or other damages or losses of any kind whatsoever, no matter what cause.~~

ARTICLE 4

CONTRACT SUM

1. THIS IS A LUMP SUM CONTRACT. CITY shall pay to CONTRACTOR the amount of \$124,600.00 upon its determination that the project has been completed.

2. Payment shall be made at the Contract lump sum price. This price shall be full compensation for all costs associated with completion of all the work in full conformity with the requirements as stated or shown, or both in the Contract Documents.

ARTICLE 5

PAYMENT

1. ~~The CONTRACTOR shall requisition payment for work completed.~~ Payment shall be made as above provided upon full completion of the job as determined by CITY together with properly executed releases of liens by all subcontractors, suppliers and materialmen as may be required by CITY. CITY shall make payment to CONTRACTOR within 30 ~~365~~ calendar days after CONTRACTORs ~~its approval~~ completion of the WORK.

2. CITY may withhold in whole or in part, payment to such extent as may be necessary to protect itself from loss on account of:

- a. Defective work not remedied.
- b. Claims filed or unreasonable evidence indicating the probable filing of claims by other parties against the CONTRACTOR.
- c. Failure of the CONTRACTOR to make payment to subcontractors or suppliers for materials or labor.
- d. Damage to the CITY or to another contractor not remedied.
- e. Reasonable evidence that the work cannot be completed for the unpaid balance of the Contract time.
- f. Reasonable evidence that the work will not be completed within the Contract Time.
- g. Persistent failure to carry out the work in accordance with the Contract documents.

When the above grounds are removed or resolved or the CONTRACTOR provides a surety

bond or a consent of surety satisfactory to the CITY which will protect the CITY in the amount withheld, payment may be made in whole or in part. Notwithstanding anything to the contrary, if the City believes that there is an issue with the Work performed by the Contractor, the parties shall meet at the Project site to try to amicably resolve any issues which have arisen. In furtherance thereof, the parties shall designate a contact person for the Project after the Execution of this Contract.

ARTICLE 6

FINAL PAYMENT

Final payment, constituting the entire unpaid balance of the Contract Sum, shall be paid by the CITY to the CONTRACTOR when all outstanding work has been completed and all controversy regarding the preceding has been settled to the CITY'S reasonable satisfaction.

ARTICLE 7

MISCELLANEOUS PROVISIONS

1. Terms used in this Agreement which are defined in the Special and General Conditions of the Contract shall have the meanings designated in those Conditions.
2. This agreement shall have been deemed to have been executed within the State of Florida. The validity, construction, and effect of this Agreement shall be governed by the laws of the State of Florida. Any claim, objection or dispute arising out of this Agreement shall be litigated only in the Seventeenth Judicial Circuit in and for Broward County, Florida.
3. No waiver of any provision, covenant or condition within this agreement or of the breach of any provision, covenant or condition within this agreement shall be taken to constitute a waiver of any subsequent breach of such provision, covenant or condition.
4. CONTRACTOR shall not assign or transfer the Contract or its rights, title or interests therein without CITY'S prior written approval. The obligations undertaken by CONTRACTOR pursuant to the Contract shall not be delegated or assigned to any other person or firm unless CITY shall first consent in writing to the assignment. Violation of the terms of this Paragraph shall constitute a breach of Contract by CONTRACTOR and the CITY may, at its discretion, cancel the Contract and all rights, title and interest of CONTRACTOR shall thereupon cease and terminate.
5. This agreement, and attachments, represents the entire understanding of the parties as to the matters contained herein. No prior oral or written understanding shall be of any force and effect with respect to those matters covered hereunder. This agreement may only be modified or amended unless by the unanimous written consent ~~amendment in writing~~

signed by each party.

6. CITY AND CONTRACTOR HEREBY KNOWINGLY, IRREVOCABLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT EITHER MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY ACTION, PROCEEDING, LAWSUIT OR COUNTERCLAIM BASED UPON THE CONTRACT, ARISING OUT OF, UNDER, OR IN CONNECTION WITH THE CONSTRUCTION OF THE WORK, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR THE ACTIONS OR INACTIONS OF ANY PARTY.

7. Contractor shall not be liable for delay in the performance of or for failure to perform any of its obligations if such delay or failure results from acts of God, war, declared or undeclared, rebellion, riot, civil disorders, acts of public enemies, blockade or embargo, lockouts, lack or failure of transportation facilities, fire, explosion, lack of resources, labor strikes, weather, hurricanes, storms, lightning, acts or regulations of governmental agencies or their representatives, or from other circumstances whatsoever, whether or not of a similar or wholly dissimilar character, not reasonably within the control of the Contractor.

8. By signing this Agreement on behalf of a Party, the undersigned hereby represents and warrants that he or she has full authority and capacity to enter into this Agreement on that Party's behalf.

9. The parties acknowledge and agree that CITY has drafted this Agreement and that any under the rule of construction resolving ambiguities against the drafting party all ambiguities shall be construed against the CITY.

10. Unless otherwise provided in this Agreement, all modifications or any amendments to this Agreement shall be valid only if made in writing and signed by duly authorized representatives of the Parties.

ARTICLE 8

PUBLIC RECORDS

CONTRACTOR agrees to keep and maintain public records in CONTRACTOR's possession or control in connection with CONTRACTOR's performance under this Agreement. CONTRACTOR additionally agrees to comply specifically with the provisions of Section 119.0701, Florida Statutes. CONTRACTOR shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the Agreement, and following completion of the Agreement until the records are transferred to the OWNER.

Upon request from the OWNER custodian of public records, CONTRACTOR shall provide the OWNER with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Chapter 119, Florida Statutes, or as otherwise provided by law.

Unless otherwise provided by law, any and all records, including but not limited to reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of the OWNER.

Upon completion of this Agreement or in the event of termination by either party, any and all public records relating to the Agreement in the possession of the CONTRACTOR shall be delivered by the CONTRACTOR to the CITY MANAGER, at no cost to the OWNER, within seven (7) days. All such records stored electronically by CONTRACTOR shall be delivered to the OWNER in a format that is compatible with the OWNER'S information technology systems. Once the public records have been delivered upon completion or termination of this Agreement, the CONTRACTOR shall destroy any and all duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.

Any compensation due to CONTRACTOR shall be withheld until all records are received as provided herein.

CONTRACTOR's failure or refusal to comply with the provisions of this section shall result in the immediate termination of this Agreement by the OWNER.

Section 119.0701(2)(a), Florida Statutes

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS.

Custodian of Records: JOSEPH KAVANAGH, CITY CLERK

Mailing address: 5790 Margate Boulevard, Margate, FL 33063

Telephone number: 954-935-5325

Email: JJKAVANAGH@MARGATEFL.COM

IN WITNESSETH WHEREOF, CITY and CONTRACTOR have signed this Contract in duplicate. One counterpart each has been delivered to CITY and CONTRACTOR. All portions of the Contract Documents have been signed or identified by CITY and CONTRACTOR.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

CITY OF MARGATE

Arlene R. Schwartz, Mayor
____ day of _____, 2018

Samuel A. May, City Manager
____ day of _____, 2018

ATTEST:


APPROVED AS TO FORM:

Joseph J. Kavanagh, City Clerk
____ day of _____, 2018

James A. Cherof, City Attorney
____ day of _____, 2018

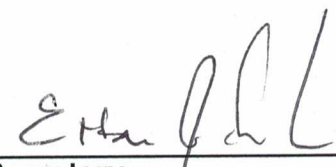
FOR CONTRACTOR

FOR CORPORATION:



President

17 day of August, 2018



Secretary

____ day of _____, 2018

**AGREEMENT BETWEEN CITY OF MARGATE AND CONTRACTOR FOR THE
PROPOSED PROJECT – GENERATOR ENCLOSURE REPLACEMENT (CORAL
GATE) - BID NO. 2018-015**



INTEROFFICE MEMORANDUM


FROM THE DEPARTMENT OF ENVIRONMENTAL AND ENGINEERING SERVICES

**SEE REVISED AWARD
RECOMMENDATION DATED 8/22/18**

DATE: July 10, 2018

TO: Mayor and City Commission

THRU: Spencer Shambray, Purchasing Manager

FROM: Sierra Marrero, Project Manager 

RE: **Award Recommendation for Bid No. 2018-015, Generator Enclosure Replacement**

On June 12, 2018 the City of Margate received two bids for the above referenced project.

I have reviewed the two lowest bids for completeness and conformance to the contract documents and have determined that Pantropic Power, Inc. has provided the lowest responsible and responsive bid for the project. All Florida Contracting Services was the second lowest bidder.

Pantropic Power, Inc. is a state certified general contractor. The Florida Department of Business and Professional Regulation website shows that Pantropic Power, Inc. has a current, active license without any listed license complaints. The Florida Division of Corporations website shows that the bid documents were signed by the Vice President of the corporation.

Based on my review of the submitted bids, I recommend awarding the project to Pantropic Power, Inc.

cc: Ronald Eyma, P.E., Acting DEES Director