

# City of Stuart

121 SW Flagler Avenue • Stuart • Florida 34994  
Department of Financial Services  
Procurement Division  
[purchasing@ci.stuart.fl.us](mailto:purchasing@ci.stuart.fl.us)  
PH: 772-288-5320 • FAX: 772-600-1202



## RFP No. 2019-200

### Temporary Personnel Services

Event	Date
Date RFP Issued	November 8, 2018
Due date for proposer questions	November 16, 2018
RFP Due Date	November 27, 2018, 2:30 p.m.

City of Stuart  
RFP 2019-200  
Temporary Personnel Services

Advertisement

Proposals for Temporary Personnel Services will be received by the City of Stuart at the Procurement Office, 121 S.W. Flagler Avenue, Stuart, Florida, 34994, until November 27, 2018 at 2:30 P.M.

An original, four (4) copies and **one (1) electronic copy (PDF format preferred) on a CD or flash drive** must be submitted in sealed envelopes/packages addressed to Procurement Division, City of Stuart, and marked **RFP 2019-200 Temporary Personnel Services**. Submittals received after that date and time will not be accepted or considered and will be retained in the Procurement Office unopened.

A complete bid package can be obtained by contacting the Procurement Office at 772-288-5320, [purchasing@ci.stuart.fl.us](mailto:purchasing@ci.stuart.fl.us) or from Onvia DemandStar at <http://www.demandstar.com> or by calling (800) 711-1712. The City of Stuart is not responsible for the content of any bid package received through any 3<sup>rd</sup> party bid service or any source.

**Mail/Overnight/Hand Deliver Submittal Responses to:**

**Stuart City Hall  
Procurement Office  
121 S.W. Flagler Avenue  
Stuart, Florida 34994**

**Mark outside of envelope: RFP 2019-200 Temporary Personnel Services**

**Dated: 11/5/18**

**Published: 11/8/18**

## **PART 1 - GENERAL INFORMATION**

### **1.1. OVERVIEW**

This Request for Proposal (RFP) provides guidelines for the submission of proposals in response to the City of Stuart's solicitation for firms and individuals to provide temporary personnel services as described herein.

### **1.2. CONTRACT AWARD**

All responsive proposals submitted in response to this solicitation will be evaluated and considered. The recommendation for award by the Selection Committee will be presented to the City Commission at a regularly scheduled open meeting. The City expects to award to multiple vendors. Proposers do not have to bid all categories in order to be considered. They may submit for positions they staff.

The proposer understands that this RFP does not constitute an offer or a contract with the City. A contract shall not be deemed to exist, and is not binding, until proposals are reviewed and accepted by the City and executed by all parties. A sample Contract is attached to this RFP. The City anticipates that the final contract will be in substantial conformance with the Sample Contract; nevertheless, proposers are advised that any contract which may result from the RFP is subject to negotiation and may deviate from the Sample Contract, if in the City's opinion, such deviation is reasonable, justifiable, and serves the best interest of this procurement and the City.

The City reserves the right to reject all proposals, to waive non-material, technical variances in the proposal, to abandon the project or to solicit and re-advertise for other proposals. The City may in its discretion waive any informalities and irregularities contained in a proposal or in the manner of its submittal and award a contract thereafter.

### **1.3. DEVELOPMENT COSTS**

Neither the City, nor its' representatives shall be liable for any expenses incurred in connection with preparation of a response to this RFP. Proposers should prepare their proposals simply and economically, providing a straightforward and concise description of the proposer's ability to meet the requirements of the RFP.

### **1.4. INQUIRIES**

The City will not respond to oral inquiries. Interested proposers may contact the Purchasing Office regarding questions about the proposal at the Procurement Division, City Hall, 121 SW Flagler Avenue, Stuart, FL 34994, email: [purchasing@ci.stuart.fl.us](mailto:purchasing@ci.stuart.fl.us). The Procurement Office will also receive written requests for clarification concerning the meaning or interpretation of this RFP, until seven (7) days prior to the submittal date. Questions shall be faxed or emailed with reference to the RFP number. All proposers are expected to carefully examine the proposal documents. Any ambiguities or inconsistencies should be brought to the attention of the City through written communication with the City prior to opening of the proposals.

Respondents may not contact any member of the selection committee, City employee or City elected official during this solicitation process. All questions or requests for clarification must be routed through the Procurement Office.

### **1.5. DELAYS**

The City may delay scheduled due dates, if it is to the advantage of the City to do so. The City will notify proposers of all changes in scheduled due dates by written addenda submitted to the City.

## **1.6. QUALIFICATION SUBMISSION AND WITHDRAWAL**

The City will receive all proposals at the following address:

**Stuart City Hall  
Procurement Division  
121 S.W. Flagler Avenue  
Stuart, Florida 34994**

To facilitate processing, please mark the outside of the envelope as follows: **RFP 2019-200 Temporary Personnel Services**. The envelope shall also include the proposer's return address. Respondents shall submit one (1) original, four (4) copies and one (1) electronic copy (PDF format preferred) on a CD or flash drive of their proposal submittal in a sealed envelope marked as noted above. A proposer may submit the proposal by personal delivery, mail, or express shipping service.

**THE CITY MUST RECEIVE ALL PROPOSALS BY  
2:30 P.M. ON TUESDAY, NOVEMBER 27, 2018**

Due to the irregularity of mail service, the City cautions proposers to assure actual delivery of mailed or hand-delivered proposals directly to the City's Procurement Office, as specified above, prior to the deadline set for receiving proposals. A proposal received by the City Procurement Office after the established deadline will be returned unopened to the proposer.

Proposers may withdraw their proposal submissions by notifying the City in writing at any time prior to the deadline for proposal submittal. Proposers may withdraw their submissions in person or by an authorized representative. Proposers and authorized representatives must provide the letter of withdrawal, picture identification, proof of authorization (in the case of authorized representatives), and provide the City with a signed receipt for the withdrawn proposal. After the deadline, proposals once opened, become a public record of the City and are subject to the provisions of the Florida Public Records Law. As such they are subject to public disclosure in accordance with Chapter 119, Florida Statutes.

## **1.7. ADDENDA**

If revisions become necessary, the City will provide written addenda. It is the responsibility of the proposer to obtain any addenda issued. The City will make every effort to notify registered Proposers by email that an addendum has been made to the RFP. The City shall not be responsible for providing notice of addenda to potential proposers who receive a RFP package from sources other than the City or DemandStar by Onvia. All addenda issued by the City must be acknowledged within the proposal at the time it is submitted to the City. Failure to acknowledge all addenda may result in disqualification.

## **1.8. EQUAL OPPORTUNITY**

The City recognizes fair and open competition as a basic tenet of public procurement and encourages participation by minority and women owned business enterprises.

## **1.9. INSURANCE**

The successful professional shall not commence any work in connection with this agreement until it has obtained all of the following types of insurance and the City has approved such insurance. Nor shall the successful professional allow any subcontractor to commence work on its subcontract until all similar insurance required of the subcontractor has been so obtained and approved. All insurance policies shall be with insurers licensed and authorized to do business in the State of Florida. The successful professional shall maintain required insurance coverage for the full term of this agreement or for such longer periods as may be specifically required herein. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida and rated no less than "B"

as to management and no less than Class "VIII" as to strength in accordance with the A.M. Best Company Insurance Guide, or its equivalent as determined by the City in its sole discretion.

Loss Deductible Clause: The City shall be exempt from, and in no way liable for, any sums of money which may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the professional and/or subcontractor providing such insurance.

Worker's Compensation Insurance: The professional/service provider shall maintain during the life of this Agreement, Worker's Compensation Insurance for all of its employees connected with the work of this project that complies fully with the State of Florida Worker's Compensation Law, F.S. 440.

General Liability: The Proposer shall, during the life of this agreement take out and maintain broad form Commercial General Liability including but not limited to bodily injury, property damage, contractual liability, products and completed operations, and personal injury with limits of not less than \$1,000,000 per occurrence, \$1,000,000 aggregate covering all work performed under this Contract. Include broad form property damage (provide insurance for damage to property under the care custody and control of the contractor)

Business Automobile: The professional/service provider shall during the life of this agreement take out and maintain Business Automobile Liability form with coverage for symbol I (any auto) with limits of not less than \$1,000,000.00 combined single limit or \$500,000.00 per person/ \$1,000,000.00 per accident bodily injury and \$250,000.00 per accident property damage.

Certificates of Insurance: The Proposer, upon notice of award, will furnish Certificate of Insurance Forms. These shall be completed by the authorized Resident Agent and returned to the Purchasing Office. This certificate shall be dated and show:

- a) The name of the insured contractor, the specified job by name and job number, the name of insurer, the number of the policy, its effective date, and its termination date.
- b) Statement that the Insurer will mail notice to the City at least thirty (30) days prior to any material changes in provisions or cancellation of the policy.
- c) The City of Stuart is to be specifically included as an ADDITIONAL INSURED on General Liability Insurance and Business Automobile Liability Insurance.
- d) The City of Stuart shall be named as Certificate Holder. Please Note that the Certificate Holder should read as follows:

**City of Stuart  
121S.W. Flager Avenue  
Stuart, FL 34994**

- e) No City Division, Department, or individual name should appear on the certificate. NO OTHER FORMAT WILL BE ACCEPTABLE.
- f) The "Acord" certification of insurance form should be used.

#### **1.10. PUBLIC ENTITY CRIMES**

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit proposals or contract with the City for construction of a public building or public works; may not submit bids for 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

for in s. 287 for CATEGORY TWO for a period of 36 months from the date being placed on the convicted vendor list. Questions regarding this statement should be directed to the State of Florida, Bureau of State Procurement (850) 488-8440.

#### **1.11. SUSPENDED VENDOR**

An entity or affiliate who has been placed on the State of Florida Suspended Vendor List will not be considered for award. The Suspended Vendor List is available on the State's website at:

[http://dms.myflorida.com/business\\_operations/state\\_purchasing/vendor\\_information](http://dms.myflorida.com/business_operations/state_purchasing/vendor_information)

#### **1.12. ASSIGNMENT & SUBCONTRACTING**

The successful proposer will not be permitted to assign its contract with the City or to subcontract any of the work requirements to be performed.

#### **1.13. PUBLIC RECORDS**

Proposals become "public records" and shall be subject to public disclosure consistent with Chapter 119.07 Florida Statutes. Document files may be examined, during normal working hours by appointment. Requested information in this RFP will not be considered confidential and/or proprietary.

All documents and other materials made or received in conjunction with this project will be subject to public disclosure requirements of chapter 119, Florida Statutes. The proposal will become part of the public domain upon opening. Vendors shall not submit pages marked "proprietary" or otherwise "restricted".

#### **1.14. PUBLIC RECORDS LAW: Public Records Relating to Compliance, Request for Records; Noncompliance, & Civil Action**

**Note: If the Proposer has questions regarding the application of Chapter 119, Florida Statutes, to the Proposer's duty to provide public records relating to this contract, contact the office of the City Clerk as the custodian of Public Records for the City of Stuart, and all the respective departments at 772-288-5306 or [mkindel@ci.stuart.fl.us](mailto:mkindel@ci.stuart.fl.us), City of Stuart, City Clerk 121 SW Flagler Avenue, Stuart, Fl. 34994 per F.S. 119.12.**

In compliance with F.S. 119.0701 the Proposer shall:

- a) Keep and maintain public records required by the public agency to perform the service.
- b) Upon request from the public agency's custodian of public records, provide the public agency 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 in this chapter or as otherwise provided by law.
- c) 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 contract term and following completion of the contract if the Proposer does not transfer the records to the public agency.
- d) Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the Proposer or keep and maintain public records required by the public agency to perform the service. If the Proposer transfers all public records to the public agency upon completion of the contract, the Proposer shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Proposer keeps and maintains public records upon completion of the contract, the Proposer shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public

records, in a format that is compatible with the information technology systems of the public agency.

A request to inspect or copy public records relating to a public agency's contract for services must be made directly to the public agency. If the public agency does not possess the requested records, the public agency shall immediately notify the Proposer of the request, and the Proposer must provide the records to the public agency or allow the records to be inspected or copied within a reasonable time.

If a Proposer does not comply with the public agency's request for records, the public agency shall enforce the contract provisions in accordance with the contract.

A Proposer who fails to provide the public records to the public agency within a reasonable time may be subject to penalties under F.S. [119.10](#).

If a civil action is filed against a Proposer to compel production of public records relating to a public agency's contract for services, the court shall assess and award against the Proposer the reasonable costs of enforcement, including reasonable attorney fees, if:

1. The court determines that the Proposer unlawfully refused to comply with the public records request within a reasonable time; and
2. At least 8 business days before filing the action, the plaintiff provided written notice of the public records request, including a statement that the Proposer has not complied with the request, to the public agency and to the Proposer.

A notice complies with subparagraph 2 above, if it is sent to the public agency's custodian of public records and to the Proposer at the Proposer's address listed on its contract with the public agency or to the Proposer's registered agent. Such notices must be sent by common carrier delivery service or by registered, Global Express Guaranteed, or certified mail, with postage or shipping paid by the sender and with evidence of delivery, which may be in an electronic format.

A Proposer who complies with a public records request within eight (8) business days after the notice is sent is not liable for the reasonable costs of enforcement.

### **1.15. TAXES & LICENSES**

Proposer shall, at his own expense, pay all licenses, fees and taxes on labor, insurance benefits, vacations, holidays, and all manner of other charges, levies or fees of every description, and comply with all local ordinances, state and federal laws, rules and regulations applicable to business to be carried on under this contract.

- a) Licenses: Firms utilizing employee leasing companies, Proposers, both corporate and individual, must be fully licensed and certified for the type of work to be performed in the State of Florida at the time of receipt. The submittal of any Proposer that is not fully licensed and/or certified shall be rejected.
- b) Sunbiz: Proposers, both corporate and individual, must provide proof that their firm is registered with the Division of Corporations for the State of Florida.
- c) Business Tax Receipt: Proposer shall comply with Business Tax Receipt requirements for their business location. A copy of the business tax receipt or proof of exemption must be included with the submittal package, if applicable.

### **1.16. CONTRACT TERM**

At all times during the term of the contract, the successful Proposer shall act as an independent Contractor and at no time shall be considered an agent or partner of the City.

Contract Period: This contract shall be awarded for an initial term of one (1) year subsequent to approval by the proper City authorities. The contract may be renewed for four (4) additional one year periods provided both the successful proposer and the City agree and all terms and conditions remain

the same as specified below. Any contract or amendment resulting from this solicitation shall be subject to fund availability and mutual written agreement between the City and the successful proposer. Extension of the contract for additional thirty (30) day periods for the convenience of either party shall be permissible at the mutual consent of both parties.

Option to Extend: The performance period of any contract resulting from this solicitation may be extended upon mutual agreement between the Proposer and the City of Stuart with no change in terms or conditions. Any extension of performance period under this provision shall be in one-year increments. The contract may be renewed for four (4) additional one-year periods, provided both parties are in agreement. Total contract length, including individual one-year extensions, shall not exceed five (5) years. Consideration of price increases at each renewal period will be given provided such escalations are justified, reasonable and acceptable to the City. Any price increases must be documented and submitted for approval by the City of Stuart at least 90 days prior to renewal date. It is also expected that de-escalation of prices will be extended to the City if the market so reflects.

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

#### **1.17. CONTRACT AMENDMENT**

The City may require additional positions not specifically identified in the contract. The Proposer agrees to provide such services, and shall provide the City prices on such additional services based upon a formula or method which is the same or similar to that used in establishing the prices in this proposal. If the price(s) offered are not acceptable to the City, and the situation cannot be resolved to the satisfaction of the City, the City reserves the right to procure those services from other vendors or to cancel the contract. Furthermore, the City reserves the right to delete or revise items and services under this proposal at any time during the contract period when and where deemed necessary. Deletions may be made at the sole discretion of the City at any time during the contract period. Items revised must be mutually agreed upon in writing by the Proposer.

#### **1.18. STANDARDS/REGULATIONS**

The City reserves the right to request documentation of Proposer's compliance with standards and regulations to include, but not be limited to: OSHA, required employee safety & health training, written safety and health programs, provision of required personal protective equipment (PPE), minimum wage requirements, and United States citizenship. Proposer services shall comply with all applicable federal, state and local requirements, including but not limited to, Federal regulations related to temporary employee leasing.

#### **1.19. DEFAULT**

In the event that the Proposer cannot respond adequately to the needs of the City, the Proposer shall advise the City, as soon as possible, and further advise as to the length of said inability or replacement of personnel. If inability of placement of personnel in a timely manner is frequent, the City may then consider said inability to be a breach of this Contract and may undertake the necessary work through its own services or those of another Proposer. The City shall have the right to deduct the cost incurred in having to provide said services from the payments to be made to the Proposer under this Contract.

#### **1.20. BACKGROUND INFORMATION**

As part of the evaluation process, the City reserves the right, to require a Proposer to submit such evidence of his/her qualifications as it may deem necessary, and may consider any evidence available to it as to the qualifications and abilities of the Proposer, including past performance (experience) with the City by the Proposer or any of their Owners.

#### **1.21. REFERENCES/RECORD CHECK**



As part of the evaluation process, the City may conduct an investigation of references, including but not limited to, a record check of consumer affairs complaints. Proposer's submission of their RFP constitutes acknowledgment of the process and consent to investigate. City is the sole judge in determining Proposer's qualifications.

#### **1.22. DRUG-FREE WORKPLACE**

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

#### **1.23. COMPETENCY OF RESPONDENTS**

Proposals will be considered only from firms which are regularly engaged in the business of providing the goods and/or services as described in this RFP and who can provide evidence that they have established a satisfactory record of performance to insure that they can satisfactorily execute the services under the terms and conditions stated herein. The term "equipment and organization" as used herein shall be construed to mean a fully equipped and well established company in line with the best business practices in the industry and as determined by the proper authorities of the City.

#### **1.24. PERFORMANCE EVALUATION**

Throughout the contract period the vendor(s) performance will be monitored by City staff. If vendor performance fails to meet the standards specified and receives an unacceptable rating, the City may without cause and without prejudice to any other right or remedy, terminate the contract whenever the City determines that such termination is in the best interest of the City. Vendor's receiving an unacceptable rating will be notified by certified mail. Contract termination shall be served by written notice by the Procurement Division.

## **PART 2 - STATEMENT OF WORK**

### **2-1. PURPOSE**

The City of Stuart solicits qualified and experienced staffing firms to provide the most qualified and able bodied workers to fill the job positions as specified herein.

### **2-2. BACKGROUND INFORMATION**

The City of Stuart's past expenditures per fiscal year are as follows:

FY 2016	FY 2017	FY 2018
\$179,251	\$123,542	\$128,122

### **2-3. MINIMUM QUALIFICATIONS AND EXPERIENCE**

This RFP shall be awarded only to a responsive and responsible proposers, qualified to provide the work specified. The proposer should submit the following information with their proposal response package to be considered responsive in order for the City to fully evaluate the firm's qualifications. Failure to fully submit the requested information may result in the proposal response being considered non-responsive.

- a) Proposers firm must have a minimum of three years comparable experience, specializing in employment/staffing services.
- b) Proposer must provide trained personnel with adequate experience and skills to perform the work and provide information related to non-technical, technical, and skilled positions. All temporary personnel must be age 18 years or older.
- c) Proposer must provide a minimum of three (3) satisfactory references of similar accounts and size within the past five (5) years and provide details of the following: scope of work, location, date of service, names, addresses and phone numbers of owners.
- d) Proposer must provide an assigned Supervisor (to the City account) with a minimum of three (3) years' experience in similar work and provide details of their qualifications. This assigned Supervisor will be responsible for overseeing all work performed, including coordination of services.
- e) Firms using employee leasing companies must be in compliance with Chapter 468, Part XI, Florida Statutes and Rule 61G7, Florida Administrative Code; and must provide proof of license from regulating authority.

### **2-4. POSITION JOB DESCRIPTIONS**

See Attachment A.

### **2-5. SERVICING PROCEDURES**

All work must be established in advance and with prior approval. The City will contact the awarded Proposer to determine the type of work to be performed. All schedules and the necessary arrangements to implement the scope of work must be made with the review and approval of the supervisor needing the temporary personnel.

Proposer shall respond within four (4) hours after the initial request to review the requirement and develop a time for placement. Prior to order placement, Proposer shall electronically transmit all verification documents as specified in Item 2.6 to the Human Resources Department for prior approval.

The Proposer shall endeavor to assign all requested services during standard work week hours and without the necessity of overtime labor. City department will convey the work schedule at time of order placement. Should it be determined that work cannot be completed during the course of standard work week hours, the Proposer shall provide such information to City Project Manager or designee with a request to authorize such overtime labor. Authorization must be received prior to commencement of such work.

Upon completion of services, the City reserves the right to request the Proposer's assigned supervisor to review and provide written acknowledgement/documentation that work performed by their staff has been completed. Supervisors review to be at no additional charge to the City and considered part of the contract award. Supervisor shall document any areas of concern that are above and beyond on their report. The report shall be signed by the Supervisor or their designee and submitted to the City.

## **2-6. CONTRACTOR'S OBLIGATIONS**

Qualified Employees: All temporary employees provided by the proposer shall be qualified to perform the work as outlined in the job description provided herein. The City reserves the right to request immediate replacements for personnel in the event that any personnel from the successful proposer(s) assigned to the City is found to be unqualified for any specific assignment, the City has the right to return such employee at no cost to the City. The City shall be the sole judge of qualification and its decision shall be final.

Employees are Responsibility of Proposer: Proposers will be the legally responsible employer for the temporary personnel during the time they are assigned to work at the City. All employees of the proposer shall be considered to be, at all times, the sole employees of the proposer under its sole direction and not an employee or agent of the City. The proposer shall supply competent and physically capable employees. The City may require the proposer to remove an employee it deems careless, incompetent, insubordinate or otherwise objectionable and whose continued employment on the City's property is not in the best interest of the City. Each employee shall have and wear proper identification. The employees utilized under the resulting contract will be provided with and shall follow all policies and procedures of the City.

Proposer shall;

- a) Make necessary payroll deduction and corresponding tax insurance payments.
- b) Strictly comply with immigration and Naturalization Service reporting by processing the form I-9's as required by federal law.
- c) Supply State Unemployment insurance and Workers Compensation insurance for all temporary employees provided to the City pursuant to this Contract.
- d) Maintain a pool of temporary employees to provide City's temporary employment staffing needs.

Proposer shall provide the following documents to the City's Human Resources Department for prior approval for all temporary employees at the **proposers** expense to include the following:

- a) Results of 10 panel test for pre-employment drug screening
- b) Authorization to work in the US
- c) Statewide criminal check (minimal of 7 years) / background check
- d) Nationwide criminal/Discover (check state criminal records and sexual predator databases for all states)
- e) Positions associated with children services require fingerprinting and criminal records search (recreation aide, recreation leaders)
- f) Education verification

**2-7. TEMPORARY TO PERMANENT FEES**

In the event that the City employs a temporary employee, temporary to permanent charge shall not be assessed if the temporary employee has worked for the City a minimum of 160 hours. In the event the City employs a temporary employee that has worked less than 160 hours, the fee will not exceed one (1) weeks payment to the successful proposer for the employee. A negative cotinine test must be acquired prior to permanent employment at the City's expense.

**2-8. TIMESHEETS, INVOICING AND PAYMENT**

Timesheets: The proposer shall provide their employees with time sheets to record work hours. Time sheets will be submitted weekly to the employee's designated supervisor at the City for signature and approval. The City shall approve Proposer's employee time sheets, the City Supervisor must write their name as well as sign the timesheet. A copy of the approved time sheets shall be attached and submitted with Proposer's related invoice. The City will not be responsible for researching, correcting, or completing inaccurate invoices to otherwise render them acceptable.

Invoicing: A weekly invoice shall reflect the type of position, date worked, hourly paid to employee by the Proposer, hourly billable labor rate, hours worked, and City Supervisor. A copy of the approved time sheet signed by the City must accompany invoice.

Payment: Payment will be paid upon completion and acceptance of the work, net 45 days. Invoices will be checked to confirm compliance with timesheet. Payments may also be paid by the Visa Purchasing Card or Automated Clearing House (ACH) electronic network for financial transactions with authorization.

**2-9. BUSINESS OPERATIONS**

City Hours of Operation: The normal operations of the City are **7:00 AM and 5:30 PM; Monday through Friday**, the City will indicate the hours for any temporary personnel when requesting such services.

Observed Holidays: Proposer's employees furnished under this Contract will observe holidays as observed by the City. Proposer's employees will not work under this Contract on such holidays and no payment will be made by the City to Proposer for such holidays.

- |                              |                        |
|------------------------------|------------------------|
| New Year's Day               | Martin Luther King Day |
| Memorial Day                 | Independence Day       |
| Labor Day                    | Veteran's Day          |
| Thanksgiving Day & Day After | Christmas Day          |

## **PART 3 - INSTRUCTIONS FOR PREPARING SUBMISSIONS**

### **3-1. RULES FOR SUBMISSIONS**

The submission must name all persons or entities interested in the submission as principals. The proposal must declare that it is made without collusion with any other person or entity submitting a proposal pursuant to the RFP. The interested firm or individual must submit one (1) original, four (4) copies and **one (1) electronic copy (PDF format preferred) on a CD or flash drive** of their proposal. Please tab all support documents or attachments according to the order established in the following paragraph.

### **3-2. PROPOSAL FORMAT**

Proposers should prepare their proposals using the following format. Proposers shall label, tab and organize proposal submittal documents utilizing the following format as outlined below. All attachments as requested shall be inserted in the back of each corresponding section.

In preparing your proposal, proposer should assume that the City has no previous knowledge of their product or capabilities. Proposals should clearly describe the services, specifying where it meets, exceeds or does not comply with the general specifications.

Letter of Transmittal: The response format shall contain a letter of transmittal. The Letter of Transmittal will summarize in a brief and concise manner the Proposer's understanding of the scope of work and make a positive commitment to timely perform the work within budgetary requirements. An agent authorized to contractually bind Proposer must sign the Letter of Transmittal indicating the agent's title or authority. The transmittal letter shall not exceed two pages in length.

#### Tab 1 ~ Experience/Knowledge/Qualifications

Provide a statement indicating the respondent's interest in, knowledge of, and resources necessary to provide the services described in this RFP. Proposer must provide details of comparable experience within the past five years, specializing in employment/staffing services. Detail practical experience, including relevant dates. Firms shall provide a brief profile of their company, which should include their history, locations of their corporate and satellite offices and estimated response time for placement of service, location of their project team, corporate structure, ownership interest, and the length of company's existence. Describe how the firm shall provide competent able bodied personnel sufficient to effectively carry out its responsibilities under the Contract. The firm shall utilize only competent personnel who are qualified by experience, skill and education that must be 18 years or older.

The firm must assign a Supervisor and shall identify assigned personnel (to the City account) with a minimum of five (5) years' experience in similar work and provide details of the qualifications and technical experience, including job skills, license, and years with firm, to perform the work. Any change in Firm's assigned staff must have prior approval by the City. Proposers may submit such additional information as to their qualifications, experience and expertise as they may feel necessary to establish their level of proficiency in this area. The successful proposer will not be permitted to assign its contract with the City, or to subcontract any of the work requirements to be performed.

#### Tab 2 ~ Servicing Procedures

Describe, in detail, the proposed plan for providing the services identified in this RFP. Describe the communication procedures and coordination of services to be employed throughout the contract term and the plan to establish and maintain clear lines of communication with City staff. Provide details of availability of qualified personnel to perform services, replacement procedures, verification documents, and the handling of payroll processes.

Tab 3 ~ Compensation Schedule

Insert all requested pricing in the attached Price Proposal Form.

Tab 4 ~ Insurance

Provide a statement agreeing to obtain (prior to award) Insurance with coverages as detailed in the RFP. A certificate of insurance indicating that the firm has coverage in accordance with the requirements herein set forth may be furnished by the firm to the City along with their qualification data. A properly completed Accord Form is preferable. The City of Stuart must be named as an additional insured for all General Liability prior to entering into a contract. The Firm shall either cover any sub-contractors on its policy or require the sub-contractors and employee leasing firms to conform to all requirements for insurance contained herein.

Tab 5 ~ References

Provide a minimum of three (3) satisfactory references of similar accounts and size within the past three (3) years and provide details of the following: scope of work, location, dates of service, names, addresses and phone numbers of owners.

Tab 6 ~ Submittals / Forms

1. Business Tax Receipt, if applicable
2. Registration from the Division of Corporations for the State of Florida
3. Firms using employee leasing companies proof of license from regulating authority.
4. Drug Free Workplace Form
5. Conflict of Interest Form
6. Public Entity Crimes Form

Tab 7 ~ Optional Information

Provide any information pertinent to this project that will provide insight to the evaluators about the qualifications, fitness and abilities of the Respondent (please limit this information to two pages).

Tab 8 ~ Addenda (if applicable)

All addenda issued pursuant to this solicitation must be acknowledged and submitted as part of the proposal package.

## PART 4 - EVALUATION OF SUBMISSIONS

### **EVALUATION METHOD AND CRITERIA**

General: The City's selection committee will evaluate proposals and will select the proposers which meets the best interests of the City. The City shall be the sole judge of its own best interests, the proposals, and the resulting negotiated agreement. The City's decisions will be final. This criterion shall be utilized in the evaluation of the proposals. The City's evaluation criteria will include, but not be limited to, consideration of the following:

Criteria	Weight
Experience, knowledge and qualifications <ul style="list-style-type: none"> <li>• Expertise of human resources</li> <li>• Qualifications &amp; experience of the firm relevant to the Scope of Work</li> <li>• Availability of qualified personnel</li> <li>• Ability to meet set standards</li> <li>• Previous contracting experience with the City and other governmental agencies</li> </ul>	30%
Quality of Services <ul style="list-style-type: none"> <li>• The ability to satisfactorily convey, via the completeness and responsiveness of their Proposal, a depth of understanding of the Scope of Work and the firm's capacity to accomplish it successfully</li> <li>• High quality level of services to be provided to City</li> </ul>	30%
References	10%
Fee <ul style="list-style-type: none"> <li>• Percentage of Markup over hourly rate</li> <li>• Any other Costs</li> </ul>	30%

**Selection:** Proposals will be evaluated using the above criteria. The City will assign this task to a Selection Committee. The City of Stuart reserves the right to select the most qualified individuals/firms from review of the packages submitted or to interview the most qualified Respondents prior to requesting authorization to negotiate an agreement with the highest ranked respondents. Individuals/firms will be notified in writing if they are selected for interview. Notices for interviews will contain explicit instructions concerning location, date, time and length of interviews.

**Presentations:** The City may require oral and visual presentations. This shall be done at the City's sole discretion when it feels presentations are essential as part of the evaluation process and are in the best interests of the City. The City shall be the sole judge and final arbiter of its own best interests in this matter.

**Purchasing Card Program:** Preferred method of payment is by means of the City of Stuart Purchasing Card (VISA). The selected Proposer(s) can take advantage of this program and in consideration receive payment within several days, instead of the City's policy of Net 45 days. Proposers are requested to acknowledge acceptance of purchasing VISA card on the Proposal Price Form. If acknowledged, payment will be made to the awarded contract by the Visa Pcard at the negotiated contract price. City shall not pay any service charges or fees for Pcard transactions.

**Terms and Conditions:** Any actual or prospective Proposer who disputes the reasonableness, necessity or competitiveness of the terms and conditions of this request for proposals; selection or award recommendation shall file such dispute in writing with the City Manager, not later than close of business on the proposal opening date, as to the terms and conditions, and within ten (10) days of Commission action as to the selection or award recommendation. The City reserves the right to reject any or all proposals without recourse, to waive technicalities and informalities or to accept the proposal which in its sole judgment best serves the interest of the City.

## PART 5 – FORMS

### PRICE PROPOSAL FORM

Respondents are to make no changes to the table below and are to fill the table out completely. Proposer's costs for taxes on labor, insurance benefits, vacations, holidays, and all manner of other charges, levies or fees of every description are included as components of the markup rate.

Item #	Position Descriptions	% of Markup over the hourly rate
1	Groundskeeper	%
2	Laborer I	%
3	Laborer II	%
4	Custodian	%
5	Sanitation Worker	%
Preferred method of payment is by the City Purchasing Card (VISA).		
<b>DO YOU ACCEPT THE PURCHASING CARD (VISA)?</b> <span style="margin-left: 100px;">Yes <input type="checkbox"/></span> <span style="margin-left: 50px;">No <input type="checkbox"/></span>		

Company Name \_\_\_\_\_

The Respondent certifies that as a condition of submitting, firm will hold good his proposal prices for a minimum period of sixty (60) calendar days from the date proposals are opened.

The undersigned Respondent hereby certifies that the terms and conditions, including but not limited to, the statement of work have not been altered or modified in any manner. Any modification to this solicitation by the proposer will result in Proposer's response being found non-responsive and thereby disqualified.

I certify that this Proposal is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a Proposal for the same materials, supplies, or equipment, and is in all respects fair and made without collusion or fraud. I agree to abide by all conditions of this Proposal and certify that I am authorized to sign this Proposal for the Proposer.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
Name of Company

\_\_\_\_\_  
(Printed Title)

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Email Address



**REFERENCE FORM**

Provide three (3) satisfactory references within the past five (5) years of similar complexity, nature, and size of this project.

**#1 REFERENCE**

Company/Entity Name:		
Address		
City	, State	Zip Code
Contact Name:	Title:	
Phone No:	Fax:	Email:
Date of Service or Contract Period:		Location
Summary of Services Performed		Governmental or Private
Dollar Value of Contract \$		

**#2 REFERENCES**

Company/Entity Name:		
Address		
City	, State	Zip Code
Contact Name:	Title:	
Phone No:	Fax:	Email:
Date of Service or Contract Period:		Location
Summary of Services Performed		Governmental or Private
Dollar Value of Contract \$		

**#3 REFERENCES**

Company/Entity Name:		
Address		
City	, State	Zip Code
Contact Name:	Title:	
Phone No:	Fax:	Email:
Date of Service or Contract Period:		Location
Summary of Services Performed		Governmental or Private
Dollar Value of Contract \$		

Company Name \_\_\_\_\_

**DRUG-FREE WORK PLACE  
CERTIFICATION**

Whenever two (2) or more bids/proposals, which are equal with respect to price, quality, and service, are received by the City of Stuart for the procurement of commodities or contractual services, a bid/proposal received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. 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 controlled substances 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 bid a copy of the statement specified in number (1).
4. In the statement specified in number (1), notify the employees that as a condition for working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction on or plea of guilty or nolo contendere to any violation of Chapter 893, Florida Statutes or of any controlled substance law of the United States or any singular 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.

This Certification is submitted by \_\_\_\_\_  
(Individual's Name)

Of \_\_\_\_\_  
(Name of Company)

Who does hereby certify that said Company/Vendor has implemented a drug-free workplace program, which meets the requirements of Section 287.087, Florida Statutes, which are identified in numbers (1) through (6) above.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

## Public Entity Crimes Form

### NOTIFICATION OF PUBLIC ENTITY CRIMES LAW

Pursuant to Section 287.133, Florida Statutes, you are hereby notified that a person or affiliate who has been placed on the convicted contractors list following a conviction for a public entity crime may not submit a proposal on a contract to provide any goods or services to a public entity; may not submit a proposal on a contract with a public entity for the construction or repair of a public building or public work; may not submit proposals on leases or real property to a public entity; may not be awarded or perform work as a contractor, supplier, sub-Proposer, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017 [F.S.] for Category Two [\$35,000.00] for a period of thirty-six (36) months from the date of being placed on the convicted contractors list.

Acknowledged by:

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Company Name

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Signature

---

Name and title (Print or Type)

---

Date

## Conflict of Interest Disclosure Form

The award of this contract is subject to the provisions of Chapter 112, Florida Statutes. All Proposers must disclose within their proposal: the name of any officer, director, or agent who is also an employee of the City of Stuart.

Furthermore, all Proposers must disclose the name of any City employee who owns, directly or indirectly, an interest in the Proposer's firm or any of its branches.

The purpose of this disclosure form is to give the City the information needed to identify potential conflicts of interest for key personnel involved in the award of this contract.

The term "conflict of interest" refers to situations in which financial or other personal considerations may adversely affect, or have the appearance of adversely affecting, an employee's professional judgment in exercising any City duty or responsibility in administration, management, instruction, research, or other professional activities.

Please check one of the following statements and attach additional documentation if necessary:

\_\_\_\_\_ To the best of our knowledge, the undersigned firm has no potential conflict of interest due to any other Cities, Counties, contracts, or property interest for this proposal.

\_\_\_\_\_ The undersigned firm, by attachment to this form, submits information which may be a potential conflict of interest due to other Cities, Counties, contracts, or property interest for this proposal.

---

Company Name

---

Signature

---

Name and title (Print or Type)

---

Date

## **CONTRACT FOR SERVICES**

THIS CONTRACT, hereinafter "Contract," made and entered into the \_\_\_\_ day of January, 2019 by and between \_\_\_\_\_" referred to as "Contractor" and the City of Stuart, Florida, a municipal corporation, 121 SW Flagler Avenue, Stuart, Florida 34994, hereinafter referred to as "City", for and in consideration of the following terms, conditions and covenants.

### **I. PURPOSE OF CONTRACT**

City intends to enter into a contract with Contractor for provision of Temporary Personnel Services by the Contractor and the payment for those services by City as set forth below.

### **II. STATEMENT OF WORK**

The Contractor shall provide Temporary Personnel Services pursuant to this Contract as hereinafter provided. These services will include taxes on labor, insurance benefits, vacations, holidays, and all manner of other charges, levies or fees of every description are included as components of the Markup Rates as provided on the approved schedule.

#### **Section 1. Statement of Work**

Contractor shall provide temporary employee's qualified and able bodied personnel on an as needed basis for various City departments to perform the services as outlined in the job descriptions, including but not limited to job descriptions as described in Exhibit A (Contractor's response to RFP 2019-200 as accepted by the CITY) and Exhibit B (CITY's original Request For Proposals) incorporated herein.

### **III. CONTRACT PROVISIONS**

#### **Section 1. Term of Contract**

Upon award of this Contract, the effective date of this Contract shall be the date of execution of this Contract by both City and Contractor. Term of this contract shall be for an initial period of one (1) year with the option of four (4) additional one-year renewal periods, upon the mutual written agreement of the parties.

#### **Section 2. Compensation and Method of Payment**

##### **2.1 Fee Schedule**

CITY will compensate Contractor for Services in accordance with Contractor's pricing schedule formalized in "Exhibit A-Price Proposal Form" to this Contract. Contractor's pricing schedule may be updated annually prior to each optional renewal period with submission of justification for any increases in pricing and prior written approval by the appropriate City officials.

## **2.2 Invoices**

A weekly invoice shall reflect the type of position, date worked, hourly paid to employee by the Proposer, hourly billable labor rate, hours worked, and City Supervisor. A copy of the approved time sheet signed by the City must accompany invoice.

## **2.3 Payment**

Payment will be paid upon completion and acceptance of the work, net 45 days. Invoices will be checked to confirm compliance with timesheet. Payments may also be paid by the Visa Purchasing Card or Automated Clearing House (ACH) electronic network for financial transactions with authorization.

## **Section 3. Contractor Responsibility**

### **3.1 Independent Contractor**

The Contractor is an independent contractor and is not an employee or agent of the City. Nothing in this Agreement shall be interpreted to establish any relationship other than that of an independent contractor, between the City and the Contractor, its employees, agents, subcontractors, or assigns, during or after the performance of this Agreement.

### **3.2 Standards/Regulations**

Contractor's compliance with standards and regulations to include, but not be limited to: OSHA, required employee safety & health training, written safety and health programs, provision of required personal protective equipment (PPE), minimum wage requirements, and United States citizenship. Contractor services shall comply with all applicable federal, state and local requirements, including but not limited to, Federal regulations related to temporary employee leasing.

### **3.2 Responsibility for Work**

The Contractor must be qualified to perform the work as outlined in the job description provided herein. The City reserves the right to request immediate replacements for personnel in the event that any personnel assigned to the City is found to be unqualified for any specific assignment, the City has the right to return such employee at no cost to the City. The City shall be the sole judge of qualification and its decision shall be final.

The Contractor will be the legally responsible employer for the temporary personnel during the time they are assigned to work at the City. All employees of the proposer shall be considered to be, at all times, the sole employees of the proposer under its sole direction and not an employee or agent of the City. The Contractor shall supply competent and physically capable employees. The City may require the proposer to remove an employee it deems careless, incompetent, insubordinate or otherwise objectionable and whose continued employment on the City's property is not in the best interest of the City. Each employee shall have and wear proper identification. The employees utilized under this agreement will be provided with and shall follow all policies and procedures of the City.

The Contractor shall assign a Supervisor to the City account. Supervisor is responsible to keep the City informed of the contractor's activities, oversee all work performance, and coordination of services. If at any time the assigned supervisor is replaced during the term of this contract, the Contractor must provide all updated information and details as requested and must be approved by the City.

The Contractor shall make necessary payroll deduction and corresponding tax insurance payments; strictly comply with immigration and Naturalization Service reporting by processing the form I-9's as required by federal law; supply State unemployment insurance and workers compensation insurance for all temporary employees provided to the City pursuant to this Contract; and maintain a pool of temporary employees to provide customers' temporary employment staffing needs.

#### **Section 4. Contractor's Records**

##### **4.1 Claims**

As a condition precedent to Contractor filing any claim against City, Contractor shall make available to City all of Contractor's books and records (directly or indirectly related to the claim of Contractor's business) requested by City. Refusal to do so shall constitute a material breach of this contract and cause for dismissal of any litigation.

##### **4.2 Documentation**

Contractor shall electronically transmit all documentation to the Human Resources Department for prior approval for all temporary employee's at the Contractor's expense for Pre-employment drug screening, Authorization to work in the US, Statewide criminal check (minimal of 10 years), Nationwide criminal/Discover (check state criminal records and sexual predator databases for all states, and positions associated with children services requiring fingerprinting and criminal records search, and education verification.

#### **Section 5. Termination**

##### **5.1 Termination for Convenience**

Either party upon a thirty (30) day written notice to the other party may terminate this Contract. In the event of any termination, Contractor shall be paid for all services rendered to the date of termination including all authorized reimbursable expenses.

##### **5.2 Termination for Cause**

The performance of the Contract may be terminated by the City of Stuart in accordance with this clause, in whole or in part, in writing, whenever the City shall determine that the contractor has failed to meet performance requirement(s) of the Contract. If the successful bidder should be adjudged bankrupt, or if he should make a general assignment for the benefit of his creditors, or if a receiver should be appointed on account of his insolvency, or if he should fail to provide properly skilled personnel or proper service in the sole discretion of the City, then the City can, after giving the successful proposer seven (7) days written notice, and without prejudice to any other right or remedy, terminate this Contract.

##### **5.3 Default**

In the event that the Contractor cannot respond adequately to the needs of the City, the Contractor shall advise the City, as soon as possible, and further advise as to the length of said inability or replacement of personnel. If inability of placement of personnel in a timely manner is frequent, the City may then consider said inability to be a breach of this Contract and may undertake the necessary work through its own services or those of another Contractor. The City shall have the right to deduct the cost incurred in having to provide said services from the payments to be made to the Contractor under this Contract.

**Section 6. Temporary to Permanent Fees**

In the event that the City employs a temporary employee, temporary to permanent charge shall not be accessed if the temporary employee has worked for the City a minimum of 160 hours. In the event the City employs a temporary employee that has worked less than 160 hours, the fee will not exceed one (1) weeks payment to the Contractor for the employee. A negative cotinine test must be acquired prior to permanent employment at the City's expense.

**Section 7. Persons Bound by Contract**

**7.1 Parties to the Contract**

The persons bound by this Contract are the Contractor and the City and their respective partners, successors, heirs, executors, administrators, assigns and other legal representative.

**7.2 Assignment of Interest in Contract**

This Contract and any interest or services associated with this Contract may not be assigned, sublet or transferred to another by either party without the prior written consent of the other party. Contractor will not be permitted to subcontract any of the work requirements to be performed of the services hereunder.

**7.3 Other Entity Use**

The successful Contractor may be requested to convey its proposal prices, contract terms and conditions, to municipalities or other governmental agencies.

**7.4 Rights and Benefits**

Nothing herein shall be construed to give any rights or benefits arising from this Contract to anyone other than Contractor and the City.

**Section 8. Indemnification of City**

Contractor assumes the entire responsibility and liability for all damages or injury to all persons, and to all property, caused by the Contractor or Contractor's Affiliates and their officers, directors, employees, agents, consultants or sub-contractors, and Contractor shall to the fullest extent allowed by law, indemnify and hold harmless the CITY, and its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, omission, or intentional conduct of the Contractor and other persons employed or utilized by the Contractor in the performance of the contract or from and against any Claims in any way arising from or related to a failure to offer health coverage to Personnel which failure results in the assessment of a penalty against Employer.. Specific consideration for this indemnity is \$10.00, the receipt and sufficiency of which are hereby acknowledged by Contractor.

Contractor shall obtain, maintain and pay for general liability insurance coverage to insure the provisions of this paragraph.



**Section 9. Insurance.**

**9.1. Requirements**

Contractor shall procure and maintain insurance, in the amounts noted in Item 1.9 of the Request for Proposal. Such certificate must contain a provision for notification of the City 30 days in advance of any material change or cancellation. The City by and through its Risk Manager, reserves the right to review, modify, reject or accept any required policies of insurance, including limits coverages or endorsements, herein from time to time throughout the term of this contract. All insurance carriers must have an A.M. Best Rating of at least A:VII or better. When a self insured retention or deductible exceeds \$5,000, the City reserves the right, but not the obligation, to review and request a copy of contractor's most recent annual report or audited financial statement. All contractors, including any independent contractors and subcontractors utilized, must comply with the insurance requirements as set forth in the documents identified.

**9.2 Certificate of Insurance**

Certificates of all insurance required from the Contractor shall be attached to this agreement and shall be subject to the City's approval for adequacy.

**Section 10. Professional Standards**

All work performed by Contractor will be in accordance with the highest professional standards and in accordance with all applicable governmental regulations.

**Section 11. Non-Appropriation**

This Contract is deemed effective only to the extent of the annual appropriations available.

**Section 12. General Conditions**

**12.1 Venue in Martin County**

Jurisdiction and venue for any lawsuit to enforce the terms and obligations of this Contract shall lie exclusively in the County Court or the Circuit Court in and for Martin County, Florida.

**12.2 Laws of Florida**

The validity, interpretation, construction, and effect of this Contract shall be in accordance with and governed by the laws of the State of Florida.

**12.3 Attorney's Fees and Costs**

In the event the Contractor breaches or defaults in the performance of any of the terms, covenants and conditions of this Contract, the Contractor agrees to pay all damages and costs incurred by the CITY in the enforcement of this Contract, including reasonable attorney's fees, court costs and all expenses, even if not taxable as court costs, including, without limitation, all such fees, costs and expenses incident to appeals incurred in such action or proceeding.

## **12.4 Mediation as Condition Precedent to Litigation**

Prior to the initiation of any litigation by the parties concerning this Contract, and as a condition precedent to initiating any litigation, the parties agree to first seek resolution of the dispute through non-binding mediation. Mediation shall be initiated by any party by serving a written request for same on the other party. The parties shall, by mutual agreement, select a mediator within 15 days of the date of the request for mediation. If the parties cannot agree on the selection of a mediator then the CITY shall select the mediator who, if selected solely by the CITY, shall be a mediator certified by the Supreme Court of Florida. The mediator's fee shall be paid in equal shares by each party to the mediation.

## **12.5 Contract Amendment**

The City may require additional positions not specifically identified in the contract. The Contractor agrees to provide such services, and shall provide the City prices on such additional services based upon a formula or method which is the same or similar to that used in establishing the prices in this proposal. If the price(s) offered are not acceptable to the City, and the situation cannot be resolved to the satisfaction of the City, the City reserves the right to procure those services from other vendors or to cancel the contract. Furthermore, the City reserves the right to delete or revise items and services under this bid at any time during the contract period when and where deemed necessary. Deletions may be made at the sole discretion of the City at any time during the contract period. Items revised must be mutually agreed upon in writing by the Contractor.

No modification, amendment or alteration in the terms or conditions contained in this Contract shall be effective unless contained in a written documents executed with the same formality and of equal dignity herewith. This Contract constitutes the entire agreement between the parties, and no prior, or contemporaneous oral agreement shall be binding on either party. If either party fails to enforce a portion or any of this Contract, it shall not constitute a waiver of the same.

## **12.6 Contractual Authority**

**By signing this Contract the Contractor swears or affirms, under penalty of perjury, that this is a valid act of the Contractor,** and that no later claim shall be made by the CONTRACTOR that the Contract is invalid or an *ultra vires* act, by reason of a failure to have the proper authority to execute the Contract. In the event that a court of competent jurisdiction later determines that the Contract is or would be null and void for failure of the signatory to have proper or complete authority, this Contract shall nonetheless be deemed valid under the theory of "apparent authority," or in the sole alternative of the City, shall be deemed to be the act of the signatory, as an individual, who shall be fully responsible for its complete performance.

## **12.7 Sovereign Immunity**

Nothing contained herein shall be construed or interpreted as a waiver of the sovereign immunity liability limits established under chapter 768.20 Florida Statutes as amended.

**Section 13. Public Records**

**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 office of the City Clerk as the custodian of Public Records for the City of Stuart, and all the respective departments at 772-288-5306 or [cwhite@ci.stuart.fl.us](mailto:cwhite@ci.stuart.fl.us) , City of Stuart, City Clerk 121 SW Flagler Avenue, Stuart, Fl. 34994 per F.S. 119.12.**

Public Records Relating to Compliance, Request for Records; Noncompliance, & Civil Action with F.S. 119.0701 the Contractor shall:

Keep and maintain public records required by the public agency to perform the service.

Upon request from the public agency’s custodian of public records, provide the public agency 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 in this chapter or as otherwise provided by law.

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 contract term and following completion of the contract if the contractor does not transfer the records to the public agency.

Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency’s custodian of public records, in a format that is compatible with the information technology systems of the public agency.

A request to inspect or copy public records relating to a public agency’s contract for services must be made directly to the public agency. If the public agency does not possess the requested records, the public agency shall immediately notify the contractor of the request, and the contractor must provide the records to the public agency or allow the records to be inspected or copied within a reasonable time.

If a contractor does not comply with the public agency’s request for records, the public agency shall enforce the contract provisions in accordance with the contract.

A contractor who fails to provide the public records to the public agency within a reasonable time may be subject to penalties under F.S. 119.10.

If a civil action is filed against a contractor to compel production of public records relating to a public agency’s contract for services, the court shall assess and award against the contractor the reasonable costs of enforcement, including reasonable attorney fees, if:

- The court determines that the contractor unlawfully refused to comply with the public records request within a reasonable time; and
- At least 8 business days before filing the action, the plaintiff provided written notice of the public records request, including a statement that the contractor has not complied with the request, to the public agency and to the contractor.

A notice complies with subparagraph above, if it is sent to the public agency’s custodian of public records and to the contractor at the contractor’s address listed on its contract with the public agency or to

the contractor's registered agent. Such notices must be sent by common carrier delivery service or by registered, Global Express Guaranteed, or certified mail, with postage or shipping paid by the sender and with evidence of delivery, which may be in an electronic format.

A contractor who complies with a public records request within eight (8) business days after the notice is sent is not liable for the reasonable costs of enforcement.

#### **IV. EXHIBITS INCLUDED IN AGREEMENT**

**“Exhibit A”** - "Proposal as Submitted by Respondent and Accepted by City"

**“Exhibit B”** - “Original Request for Proposal as Issued by City, including all Addenda”