



**REQUEST FOR PROPOSALS #20-10
ATHLETIC FIELD LIGHTING PROJECT**

Proposals due by: December 18, 2020
Time: 10:00 a.m.
300 Municipal Drive
Madeira Beach, FL 33708

Contact:
Jay Hatch, Recreation Director
Phone: 727-392-0665
Email: jhatch@madeirabeachfl.gov

REQUEST FOR PROPOSAL

Notice is hereby given that the City of Madeira Beach will be accepting sealed proposals for Athletic Field Lighting Retrofit for the Municipal Facilities listed below.

Sealed proposals clearly labeled Request for Proposal for Athletic Field Lighting will be received until 10:00 AM on December 18, 2020 at City of Madeira Beach City Hall.

The City of Madeira Beach reserves the right to reject or accept any proposal or to waive any irregularities in any proposal deemed to be in the best interest of the City of Madeira Beach.

INTRODUCTION

Vendors are required to submit written proposals that present the vendor's qualifications and understanding of the work to be performed. The vendor's proposal should be prepared simply and economically and should provide all the information it considers pertinent to its qualifications for the specifications listed herein.

The proposal must be submitted via mail or in person no later than 10:00 AM on December 18, directly to the City Hall at the following address:

City of Madeira Beach
Attn: Jay Hatch
Re: Request for Proposal for Athletic Field Lighting
300 Municipal Drive
Madeira Beach, FL 33708

NOTIFICATION: The City utilizes the following methods for notification and distribution of solicitation opportunities:

- City of Madeira Beach website www.madeirabeachfl.gov
- Demand Star

These are the only methods of notification and distribution authorized by the City.

PART A

ADDENDA: Any interpretations, corrections, or changes to this REQUEST FOR PROPOSAL will be made by addenda. Sole issuing authority shall be vested in the Public Works Department. Addenda will be posted and available through the City notification methods shown above.

SUBMISSION: Sealed Proposals and all copies must be received on or before the Due Date and Time (local time) at the City Hall Lobby reception desk located at 300 Municipal Dr., Madeira Beach, Florida, 33708. Proposals must be presented in a sealed container unless otherwise indicated. All Proposals must be clearly marked "RFP #20-10 – ATHLETIC FIELD LIGHTING". The number of this REQUEST FOR PROPOSAL must appear on all correspondence, or inquiries, pertaining to this proposal. The Proposer's name, return address, the proposal number, proposal title, Due Date and Time must be noted on the outside of the sealed container.

Included in the sealed container shall be:

- One (1) unbound original clearly identifying Proposer and marked "ORIGINAL".
- Two (2) bound copies clearly identifying Proposer and marked "COPY"
- One (1) USB Electronic copy

LATE PROPOSALS: Hard copy Proposals received at the City of Madeira Beach City Hall after the Due Date and Time shall be considered non-responsive. It is the sole responsibility of Proposer to ensure its Proposal is received by the City by the Due Date and Time. The City is not responsible for the lateness due to weather conditions, delivery service, or any other reasons.

PROPOSAL OPENINGS: All Proposals submitted before the Due Date and Time shall be publicly opened by the Recreation Director (or designee) at the Recreation Center, located at 200 Rex Place, Madeira beach, FL.

SCHEDULE: A summary schedule of the major activities associated with this solicitation is presented below. The City, at its sole discretion, may modify this schedule as the City deems appropriate.

Activity	Date
Request for Proposals (RFP) release date	November 12, 2020
Mandatory Site Tour	November 30, 2020
Deadline for Delivery of Questions	December 8, 2020
Answers posted by	December 10, 2020
RFP submittal date, no later than 10:00 a.m.	December 18, 2020
RFP packet opening, at 10:00 a.m.	December 18, 2020

MEETING LOCATIONS:

- City Hall - located at 300 Municipal Dr. Madeira Beach, FL 33708
- Recreation Center – located at 200 Rex Place, Madeira Beach, FL 33708
- **POINT OF CONTACT:** For information concerning procedures for responding to this Request for Proposal, contact the Recreation Director via email at jhatch@madeirabeachfl.gov. Such contact shall be for clarification purposes only.

QUESTIONS: Each Proposer must examine this proposal, which incorporates all its addenda, instructions, special conditions, and attachments to determine if the requirements are clearly stated. All questions concerning this proposal, such as discrepancies, omissions and exceptions to any term or condition of the REQUEST FOR PROPOSAL documents, including the Sample Agreement, should be submitted in writing. Questions of a material nature must be received prior to the Deadline for Delivery of Questions specified in the schedule.

Failure of the Proposer to examine all pertinent documents shall not entitle the Proposer to any relief from the conditions imposed in the Agreement.

SPECIAL TERMS AND CONDITIONS

Addenda, Changes, and Interpretations

Requests for clarification, modification, interpretation, or changes must be received prior to the Deadline for Delivery of Questions. Requests received after the Deadline may not be addressed.

Additionally, all questions received, and responses given will be provided via an addendum to this REQUEST FOR PROPOSAL and uploaded to the City Website and DemandStar. All addenda are a part of the REQUEST FOR PROPOSAL solicitation documents and each Proposer will be bound by such addenda. It is the responsibility of each Proposer to read and comprehend all addenda issued. Failure of any Proposer to acknowledge an issued addendum in its Response will not relieve the Proposer from any obligation contained therein.

Selection of Proposal

Prior to contract award, any Proposer may be required to show that the company has the necessary facilities, equipment, ability, and financial resources to perform the work specified in a satisfactory manner and within the time specified. In addition, the company must have experience in work of the same or similar nature, and can provide references, which will satisfy the City. The City may conduct such investigations as the City deems necessary to establish the responsibility, qualifications, and financial ability of proposal, suppliers and individuals, or entities to perform the Work in accordance with the Contract Documents. In evaluating whether a Proposer is responsible, the City will consider the qualifications of the Proposer and may consider the qualifications and experience suppliers proposed for those portions of the Work for which the identified suppliers must be submitted as provided in the Proposal Documents. The City will also consider whether the Proposer is of doubtful financial ability or fails to meet any other pertinent standard or criteria established by the City. City, at its sole discretion, may select the Proposer that it believes is appropriately qualified, responsible, and responsive.

Lobbying

Lobbying is prohibited in all City of Madeira Beach competitive selection processes and contract awards including but not limited to, requests for qualifications, proposals, or proposals the award of purchasing contracts of any type. The purpose of this prohibition is to protect the integrity of the procurement process by shielding it from undue influences prior to the contract award, a proposal protest being resolved, or the competitive selection process being otherwise concluded. The prospective Proposer may contact the City's main office as specified on page 1 of this Request for Proposal, to address situations such as clarifications relating to the procurement process or Proposer protest.

Lobbying of evaluation committee members, city government employees, or elected officials regarding Request for Proposals, request for qualifications, invitations to proposal, purchasing contracts, or proposal protests, by the Proposer/protestor any member of the Proposer's/protestor's staff, any agent or representative of the Proposer/protestor, or any person employed by any legal entity affiliated with or representing a Proposer/protestor, is strictly prohibited from the date of the advertisement, or on a date otherwise established by the Board of Commissioners, until either an award is final, any protest is finally resolved, or the competitive selection process is otherwise concluded. Any lobbying activities in violation of this section or on behalf of a Proposer/protestor will result in the disqualification or rejection of the City of Madeira Beach RFP 20-10 ATHLETIC FIELD LIGHTING Proposal, quotation, statement of qualification, Proposal or contract, and may lead to debarment of the Proposer or Proposer/protestor. For purposes of this provision, lobbying means influencing or attempting to influence action or nonaction,

and/or attempting to obtain the goodwill of persons specified in this section involved in the selection, ranking, or contract award in connection with any Request for Proposal, request for quotation, requests for qualification, Proposal or purchasing contract through direct or indirect oral or written communication. The final award of a purchasing contract will be the effective date of the purchasing contract.

Any evaluation committee member, city government employee or elected official who has been lobbied must immediately report the lobbying activity to the City Manager.

Local Vendor Preference

It is the intent of the City to establish an optional preference for local firms when facts and circumstances warrant that the City may grant such preference. It is not the intent of the City to prohibit, exclude, or discourage persons, firms, businesses, or corporations that are non-local from providing goods and services to the City as part of the procurement process. All potential respondents and City staff are advised that the City encourages award of contracts to local providers when possible to foster the economic growth of the local community.

Binding Offer

A submitted proposal made pursuant to the Request for Proposals will be considered a binding offer to perform the required services, assuming the terms of an agreement between the parties is satisfactorily negotiated. Each Proposal must be signed by a Person who is legally authorized to bind the Proposer to the Proposal. The submission of a proposal will be taken as a prima facie evidence that the proposer has fully familiarized itself with the contents of this Request for Proposals. Proposals will be in force for a period of one hundred and eighty (180) days from the date of the public proposal opening.

The City's Acceptance or Rejection of Proposals

- Reject any and all Proposals that fail to satisfy the requirements and specifications in this REQUEST FOR PROPOSAL
- Accept the Proposal, which is the lowest responsible, responsive proposer. ▪ Waive minor irregularities in any Proposal
- Issue addenda or otherwise revise the requirements in this REQUEST FOR PROPOSAL
- Reject all Proposals, with or without cause
- Issue requests for new Proposals
- The City concludes that collusion existed among two or more Proposers
- Cancel this Request for Proposal

Proposer's Costs

The City shall not be liable for any costs incurred by Proposers in responding to this RFP.

Anti-Collusion

Proposer certifies that its Proposal is made without prior understanding, agreement, or connection with any other corporation, firm or person submitting a Proposal for the same materials, services, supplies, or equipment and is in all respects fair and without collusion or fraud. Any such violation may result in Agreement cancellation, return of materials or discontinuation of services and the possible removal of Proposer from participation in future City solicitations for a specified period. The City reserves the right to

disqualify a Proposer during any phase of the competitive solicitation process and terminate for cause any resulting contract upon evidence of collusion with intent to defraud on the part of the Proposer.

Notification of Public Entity Crimes

Pursuant to Section 287.133, Florida Statutes, you are hereby notified that a person or affiliate who has been placed on the convicted providers 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 provider, 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 providers list.

Specifications

The specifications contained in the Scope of Services may include items that are considered minimum, mandatory, or required. If any Proposer is unable to meet or exceed these items and feels that the specifications are overly restrictive, the Proposer must notify the Purchasing Department prior to the Deadline for Delivery of Written Questions. If no such notification is received prior to the Deadline for Delivery of Written Questions, the City will consider the specifications to be acceptable to all Proposers.

Proposal Firm for Acceptance

Proposer warrants that by virtue of submitting a Proposal, the Proposal and the prices quoted in the Proposal will be firm for acceptance by the City for a period of one hundred fifty days from the Due Date and Time.

Communications

Only written communications from Proposer, which are signed by a person authorized to bind the Proposer will be recognized by the City as duly authorized expressions on behalf of Proposer.

PART B

SCOPE OF SERVICES

Overview

The City of Madeira Beach is soliciting proposals from qualified firms capable of removing existing field lighting, providing, delivering, installing, and warranting a retrofit LED lighting solution for the athletics fields own/operated by the City of Madeira Beach.

Project Scope: The City of Madeira Beach desires to upgrade its current athletics field lighting with a LED lighting solution. The project scope shall include the following:

- A) Sight preparation
 - a. Removal of existing HID fixtures, disposal, and recycling of old ballasts/lamps as applicable
 - b. Removal of existing light control system and components which will no longer be needed for field lighting capabilities.
- B) Locations to be lighted:
 - a. Baseball/Softball Field 1
 - b. Baseball/Softball Field 2
 - c. Baseball/Softball Field 3
 - d. Soccer Field Overlay (Attached to Field 3)
 - e. Two (2) Tennis Courts
 - f. One (1) Basketball Court
- C) The primary goals of this lighting project are:
 - a. Control lighting factors: The LED technology must minimize spill light to adjoining properties and reduce glare to the players, spectators, and neighbors. The LED design must provide better glare control than the currently utilized HID system.
 - b. Life Cycle Cost: To reduce operational costs, the lighting system shall be energy efficient and cost effective to operate. Energy consumption shall be consistent over the life span of the system. Maintenance costs shall be eliminated for the duration of the warranty.
 - c. Control and Monitoring: In order to ensure optimal operational flexibility and to reduce usage/labor costs, the control system for the lighting shall be wireless. The preferred control system will allow for on, off, and multilevel dimming to reduce energy consumption. The control system shall have an on site control as well as be accessibly via Wifi connectivity.
- D) Lighting Performance
 - a. Fields/Courts shall be lit to an average target illumination level and uniformity per the chart below. Lighting calculations shall be developed, and field measurements taken on the grid spacing with minimum number of grip points specified.
 - b.

Area of Lighting	Average Target Illumination Levels	Max. to Min. Uniformity Ratio	Grid Points	Grid Spacing
Softball Infield	50fc	2.0:1	25	20'x20'
Softball Outfield	30fc	2.5:1	50	20'x20'
Soccer Field	30fc	2.5:1	75	30'x30'
Tennis Courts	30fc	2.5:1	15	20'x20'
Basketball Courts	30fc	2.5:1	30	20'x20'

E) Mounting Heights & Locations:

# of Poles	Pole Designation	Pole Height
14	Softball & Soccer	70'
8	Basketball & Tennis	30'

F) Environmental Light Control

- a. Light Control Luminaires: All luminaires shall be designed to minimize glare and spill light, the method of which shall be determined by the proposer.
- b. Spill Control: To minimize impact on the neighboring properties, maximum horizontal spill shall not exceed 0.5fc 150' from the edge of the lighted locations. Spill scans must be submitted with results for all luminaires at once.
- c. Photometric Report: A photometric report which shows aiming points of each luminaire shall be provided by the proposer.

G) Sports Lighting System Design and Construction

- a. Lighting system must be certified for wet locations.
- b. All exposed components shall be constructed of corrosion resistant material and/or coated to help prevent corrosion.
- c. Wiring shall be enclosed within cross-arms, pole, or electrical component enclosures. No external wiring permitted.
- d. Lighting system shall consist of the following:
 - i. Replacement of existing crossarms.
 - ii. Proper mounting of all LED devices and supporting electrical equipment above grade according to local and Florida Building Code.
 - iii. Surge protection. Specs to be provided by proposer.
 - iv. All luminaires, visors, cross-arm, and other assemblies shall withstand 150 mph winds.
 - v. Manufacturer shall verify the proper grounding of each pole.
- e. All system components shall be UL listed for the appropriate application.

H) Control System

- a. Control and monitoring system shall provide instant on/off capabilities and meeting the following specifications:
 - i. Onsite and/or remote access
 - ii. Wireless Control for multiple users with various system permission levels
 - iii. System notification during loss of communication to any light fixture
 - iv. Ability to schedule recurring events at fixed times and/or dates
 - v. Firmware/software upgrade capable
 - vi. Preprogrammed assignments for fields/courts and maintenance lighting
 - b. Additional optional/preferred specifications:
 - i. Light dimming
 - ii. Individual fixture control
 - c. Control enclosure specifically designed to with stand the elements. Ability to lock for security purposes. Shall be protected from memory loss during power outages weather internally or via programming application.
- I) Field Quality Control
- a. Illumination Measurements
 - i. Upon completion of the project, in the presence of the proposer's representative, manufacturer's representative, owner's representative and project engineer, illumination measurements shall be taken and verified. Illumination measurements shall be conducted in accordance with the latest IESNA Light Standards.
 - ii. Correcting non-conformance: If, in the opinion of the owner or his/her appointed representative, the actual performance levels of the system are not in conformance with the requirements of the specifications and submitted information, the contractor and/or manufacturer shall be require to make adjustments to meet specifications to satisfy the owner.
- J) Warranty and Guarantee
- a. 10-Year Warranty: Manufacturer shall supply a signed warranty covering the entire system for 10 years. Warranty shall guarantee specified light levels. Warranty does not cover damage due to weather conditions, acts of God, accidents, misuse, misapplication, abuse, negligence, or unauthorized repairs or alterations.
 - b. Individual luminaire outages shall be repaired when the usage of any field is materially impacted.
 - c. Manufacture shall maintain specifically funded financial reserves to assure fulfillment of the warranty for the full term.
- K) Delivery Timing
- a. Delivery and timing shall be coordinated by the proposer and the City of Madeira Beach.

Part C

PROPOSAL RESPONSE REQUIREMENTS

The information each proposer provides will be used to determine the most qualified proposer and those with the perceived ability to perform the scope of services as stated in the Request for Proposals, which may best meet the overall needs of the City. An evaluation of responding firms will be conducted for the purposes of clarification of both the firm's ability and prospective benefit to the City. For more information refer to Section D: Evaluation of Proposals.

Information to be Submitted

The information identified in this section must be contained within your proposal. The contents of each proposal must be separated and arranged with tabs and must be organized in the same order and following the same format as listed below, identifying the response to each specific item.

Section 1: MINIMUM QUALIFICATIONS

Each Proposer shall submit information and documentation requested that confirms it meets the following qualification requirement(s):

- a. Proposer's representative must attend the mandatory pre-submittal meeting
- b. Proposer must have been in business for a minimum of three (3) years. All Proposers must be qualified and licensed under the laws, rules, and regulations of the State of Florida to perform the work required by these contract documents. **Documentation is required.**
- c. Proposers must provide a written statement of assurance of proposer's ability to meet the insurance and performance requirements set out in this RFP if selected for award.
- d. Proposers must certify they maintain a drug-free workplace program compliant with the standards set forth in Florida Statutes § 440.102. **Documentation is required. Form C**

Section 2: EXECUTIVE SUMMARY

An executive summary must be provided that includes a statement of interest in completion of the project for the City of Madeira Beach pursuant to the RFP. Proposer should introduce its company, highlighting its background and achievements earned while providing services that are subject of this RFP. Provide a statement of the proposer's understanding of the services and responsibilities required and a narrative description of the proposed approach to ensure that the project is completed in a manner that upholds or exceeds the City's high standards and levels of customer satisfaction.

Provide a statement of organization which includes the following information:

- Legal name, including DBA (if any), for the contract
- State of organization of incorporation
- Ownership structure of the proposer

- Contact information for corporate headquarter to include address, phone number and email address
- Contact information for local office to include address, phone number and email address
- Years in business
- List of officers, owners, and/or partners to include name, address, and phone number.

Executive summary should not exceed five (5) pages total.

Section 3: BUSINESS ETHICS

Disclose and circumstances where the conduct of the proposer, or any officer, partner, major shareholder (greater than five percent (5%) interest, or other related party is currently being investigated by any governmental, administrative, or law enforcement entity or agency. Also disclose any adverse decision against the proposer or such related parties (including, but not limited to judgments entered by any court, whether state or federal), or settlement with any such legal or administrative body in the past five years.

If proposer or any related parties have other business interests or relations that may cause, or appear to cause, a conflict of interest in its business with the City the details of such conflicts must be stated here. If no conflicts exist that fact should also be stated here.

Proposer must disclose whether it has been convicted of a public entity crime in its history and provide relevant dates and details concerning the conviction.

Section 4: EXPERIENCE AND PAST PERFORMANCE

Provide a summary of the proposer's experience completing municipal lighting projects similar in complexity and scope to those detailed in the RFP. Include the total number of years in business.

Include, at a minimum, the following information for current or previous clients:

- Name of Government entity/large scale client
- Address
- Dates of Project
- Services provided
- Project Value
- Contact information including email address and phone number

The City reserves the right to discuss past performance with the companies and/or contacts provided and will give consideration to the feedback received.

Section 5: REFERENCES

Please provide three (3) client references. For each reference include contact name, title, address, current telephone number and email address. Also include a brief description of the lighting project completed, the dates of construction, and the total dollar value of the project.

Section 6: KEY PERSONNEL AND PRIMARY CONTACT

Provide the name, address and telephone number of all key personnel currently employed by the proposer who will have a key role in providing services. Describe each person's respective area of expertise.

Identify one (1) person currently employed by the proposer who will serve as the primary contact for the successful proposer and identify his or her alternate. The primary contact is the proposer's representative who will be the primary contact for the Authority and who will possess the authority to make decisions on behalf of the proposer.

Section 7: REQUIRED FORMS

Proposer must submit attached forms:

- Bid Pricing for Athletic Field Lighting
- Form A: Acknowledgement of Addenda
- Form B: Public Entity Crimes
- Form C: Drug-Free Workplace

PART D: EVALUATION OF PROPOSALS

Proposal Evaluation

The City's Staff Evaluation Committee will meet to review the proposals at one or more publicly noticed meetings, as it deems necessary. The Staff Evaluation Committee's selection will be based on its review and evaluation of the proposals received. Evaluation will be out of 100 points:

- 40% on Cost for Project Services
- 20% Product Support Capabilities including monitoring/control systems
- 20% Life Cycle Costs
- 10% Experience/Other installations
- 10% Warranty

At the conclusion of its evaluations, the Staff Evaluation Committee will establish at a public meeting, by consensus, a recommendation to the Board of Commissioners.

Responsive Proposals shall include all the information required below.

- 1) Cost of Project Services (40 Points)
 - a. The maximum guaranteed price for providing and delivering athletic field lighting services. Costs should be based on information contained within this RFP and attached specifications.
- 2) Product Support Capabilities including monitoring/control systems (20 Points)
 - a. Submit project support plan, outlining how your organization will provide long term support for the city.
- 3) Life Cycle Costs (20 Points)
 - a. Submit documentation providing estimated 25 year Life-Cycle Operating Costs based on the specifications within this RFP.
- 4) Experience/Other Installations (10 Points)
 - a. Describe your firm's history and principal office locations(s). Identify the firm's success with installation of field lighting systems in Florida with similar specification requirements. Identify other projects which are similar to this project in terms of size and complexity.
- 5) Warranty (10 points)
 - a. Provide warranty standard initial warranty information as well as options for future warranty extensions.

Ranking of Proposals

The Staff Evaluation Committee will determine from the proposals and subsequent investigation as necessary, the proposer(s) whose proposal best meets the City's requirements.

PART E: NEGOTIATION OF THE AGREEMENT

General

The successful proposer's proposal will serve as the basis for negotiating an agreement. Upon submission, all proposals become the property of the City which will have the right to use any or all ideas

presented in any proposal submitted in response to this Request for Proposals, whether the proposal is accepted or not.

Negotiation

The Staff Evaluation Committee will make recommendations to the Board of Commissioners of those proposers it determines are best qualified to perform services, if any. Upon approval of the recommendations, the successful proposer(s) may be invited to enter negotiations. These negotiations are generally relative to the scope of services to be performed and the associated costs.

Award

Award of any resulting agreement is subject to the approval of the Board of Commissioners.

Bid Price for Athletic Field Lighting

Pursuant to all the contract specifications enumerated and described in this solicitation, we agree to furnish to the City of Madeira Beach the complete build-out of the downstairs office suite, per the signed and sealed plans at the price(s) stated in **Bid Pricing**.

Bid Pricing

Note: The City requires a 5% contingency amount, in addition to the contract amount, for any incidentals.

GRAND TOTAL OF BID (labor, materials and 5% contingency) \$_____

PAYMENT TERMS:

Payment will be made only after completion and acceptance of the Work. Pursuant to Florida Statutes § 218.735, Contractor's invoices must be submitted to the City's project manager for review and processing. This official will stamp each invoice as received, and, if deemed complete, accepted and not disputed, shall thereafter be paid within 25 business days after receipt. If an invoice fails to meet the contract requirements by, among other things, failing to provide the date(s) of service, the materials used, and other details sufficient to verify the work and its related costs, the City will reject the invoice within 20 days after it is received. Any such rejection will be in writing and will specify the deficiencies and what information or changes are required to make the invoice proper. Payment of corrected, accepted invoices will be within 10 business days from the invoiced City's receipt of same unless City Commission approval is required. Any portion of an invoice covering Work or materials which are disputed by the invoiced City in terms of quality, quantity, workmanship or defective installation shall be disputed by the City in accordance with Florida Statutes § 218.76(2). However, any portion of an invoice covering Work or materials which are not disputed will be paid within the time periods set forth herein.

Complete payment for the Work will not be made until: all conduit, junction boxes, and other required equipment or materials are installed; Work is completed; the Work sites are restored to "as good or better" conditions; and, the Work has been inspected and accepted by the City's construction permit inspector and/or the Engineer.

A 5% retainage, of the awarded bid amount, will be withheld.

Form A- Acknowledgement of Addenda

The Proposer hereby acknowledges the receipt of the following addenda, which were issued by the City and incorporated into and made part of this RFP. It is the sole responsibility of the Proposer to ensure that all addenda have been received and receipt of each has been acknowledged. Failure to submit acknowledgement of each addendum issued may result in the Proposer being deemed non-responsive.

Addenda Number	Addenda Date

Signature of Proposer’s Agent Title

Printed Name Date

Form B - Public Entity Crimes

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 providers 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 provider, 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 providers list.

Acknowledged by

Firm Name

Signature	Date
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Printed Name and Title

Form C- Drug – Free Workplace

Proposers must certified that they maintain a drug-free workplace program compliant with the standards set forth in Florida Statutes § 440.102 As the person authorized to sign this statement, I certify that this firm complies fully with the following requirements:

- 1) This firm publishes 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) This firm informs 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) This firm gives 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), this firm notifies 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) This firm imposes a sanction on or requires 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) This firm will continue to make a good faith effort to maintain a drug-free workplace through implementation of this section.

Acknowledged by

Firm Name

Signature

Date

Printed Name and Title

RESPONSE CHECKLIST

A responsive Proposer means a Proposer that has submitted a Proposal that conforms in all material respects to the requirements in the RFP. The City will determine whether each Proposer correctly submitted all of the necessary forms and documents. The purpose of this checklist is to assist Proposers in completing their Proposals and ensuring that all required forms and information is submitted. Do not include checklist with your Proposal submittal.

Included	Tab	Item	Description
	A	Letter/Checklist	Listing of all information being submitted must be included on the table of contents. List the name of the proposers local representative and his/her phone number.
	B	Documentation within Part C	Minimum qualifications, executive summary, ethics disclosure, experience and past performance, references, personnel and primary contact. Forms: Acknowledgement of addenda, public entity crimes, and drug-free workplace.
	C	On Field Lighting Design	Lighting design drawings(s) showing: <ul style="list-style-type: none"> a. Field Name, date, file number, and other pertinent data b. Outline of field(s)/surface(s) being lighted. Illuminance levels at grid spacing specified c. Pole height, number of fixtures per pole, as well as luminaire information including wattage, lumens, and optics. d. Height of meter above field surface e. Summary table showing the number and spacing of grid points; average, minimum and maximum illuminance levels in foot candles. Number of luminaires, total kilowatts, average tilt factor, light loss factor.
	D	Off Field Lighting Design	Lighting design drawings showing spill light levels in foot candles. Must be down showing all luminaires on same drawing.
	E	Photometric Report	Provide photometric report for a typical luminaire used showing candela calculations as defined by the most up to date IESNA standards. Photometric data shall be certified by laboratory or independent testing facility with over 5 years' experience.
	F	Life Cycle Cost Calculation	Document life cycle cost calculations per the specifications defined in this RFP. Identify energy costs for operation, maintenance for the system including lamp replacement and group relamping. All costs should be based on 25 years.
	G	Luminaire Aiming Summary	Document showing each luminaire's aiming angle and the poles on which the luminaires are mounted.
	H	Control and Monitoring	Proposer shall provide written definition and schematics for automated control system to include monitoring. They will also provide examples of system reporting and access for numbers for contact to operate the system.

	I	Electrical Distribution Plans	Electrical distribution plan including changes to service panels and wiring, signed by a licensed Electrical Engineer in the state of Florida.
	J	Performance Guarantee	Provide performance guarantee including a written commitment to undertake all corrections required to meet the performance requirements noted in these specifications at no expense to the owner. Light levels must be guaranteed per specification for 10 years.
	K	Warranty	Provide written warranty information including all terms and conditions.
	L	References	Proposer to provide a list of references of similar products completed within the past three years.
	M	Product Information	Complete set of product brochures for all components, including a complete parts list and UL listings.
	N	Bid Price Form	Bid Price Form for Athletic Field Lighting
	O	Performance and Payment Bond	Return bond, completed and signed.
	P	Contract	Return draft contract, completed and signed.

Attachment A: Performance and Payment Bond

- Return bond, Signed

Attachment B: Contract

- Return draft contract, Signed

ATTACHMENT "A"

**PERFORMANCE AND PAYMENT BOND
PUBLIC CONSTRUCTION BOND**

Bond No. _____

By this bond, we _____, as Principal, whose principal address and phone number are _____, and _____, as Surety, whose principal address and phone number are _____, are bound to The City of Madeira Beach, herein called Owner, whose principal address and phone number are 200 Municipal Drive, Madeira Beach, FL 33708, 727-392-0665, in the sum of \$_____, for payment of which we ourselves, our heirs, personal representatives, successors, and assigns jointly and severally.

THE CONDITION OF THIS BOND is that is Principal:

- 1) 1.Performs the contract dated _____, 20____, between Principal and Owner, which contract was awarded pursuant to RFP _____, for construction of athletic field light, the contract being made a part of this bond by reference, at the times and in the manner prescribed in the contract; and
- 2) Promptly makes payments to all claimants, as defined in Florida Statutes § 255.05(1), supplying Principal with labor, materials, or supplies, used directly or indirectly by Principal in the prosecution of the work provided for in the contract; and
- 3) Pays Owner all loss, damages, expenses, costs, and attorney’s fees, including appellate proceedings that Owner sustains because of a default by Principal under this contact; and
- 4) Performs the guarantee of all work and materials furnished under the contract for the time specified in the contract, then this bond is void; otherwise it remains in full force.

The project to be performed under the contract is the retrofit of athletic field lighting at the City of Madeira Beach Athletic Fields (ROC Park), 200 Rex Place, Madeira Beach, FL 33708.

Any action instituted by a claimant under this bond for payment must be in accordance with the notice and time limitation provisions in Florida Statutes § 255.05(2).

Any changes in or under the contract documents and compliance or non-compliance with any formalities connected with the contract or the changes does not affect Surety’s obligation under this bond.

DATED ON _____, 20_____.

_____ (Name of Principal)

_____ (Name of Surety)

ATTACHMENT "A"

By: _____
As Attorney in Fact for Surety

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____ by _____ (name and title of corporate officer) of _____ (name of corporation), a _____ (state or place of incorporation) corporation, on behalf of the corporation. He/she is personally known to me or has produced _____ (type of identification) as identification.

Notary signature _____

Print or stamp name of Notary _____

Notary number:

My Commission Expires:

Pursuant to Florida Statutes § 255.05(1)(b), the Principal/contractor shall provide to the Owner/ public entity a certified copy of the recorded bond, and the Owner/public entity may not make a payment to the contractor until the contractor has complied with this paragraph.

ATTACHMENT "B"

- S.1 **DEFINITIONS:** Uses of the following terms are interchangeable as referenced: "vendor, contractor, supplier, proposer, company, parties, persons", "purchase order, PO, contract, agreement", "city, Madeira Beach, agency, requestor, parties", "bid, proposal, response, quote".
- S.2 **INDEPENDENT CONTRACTOR:** It is expressly understood that the relationship of Contractor to the City will be that of an independent contractor. Contractor and all persons employed by Contractor, either directly or indirectly, are Contractor's employees, not City employees. Accordingly, Contractor and Contractor's employees are not entitled to any benefits provided to City employees including, but not limited to, health benefits, enrollment in a retirement system, paid time off or other rights afforded City employees. Contractor employees will not be regarded as City employees or agents for any purpose, including the payment of unemployment or workers' compensation. If any Contractor employees or subcontractors assert a claim for wages or other employment benefits against the City, Contractor will defend, indemnify and hold harmless the City from all such claims.
- S.3 **SUBCONTRACTING:** Contractor may not subcontract work under this Agreement without the express written permission of the City. If Contractor has received authorization to subcontract work, it is agreed that all subcontractors performing work under the Agreement must comply with its provisions. Further, all agreements between Contractor and its subcontractors must provide that the terms and conditions of this Agreement be incorporated therein.
- S.4 **ASSIGNMENT:** This Agreement may not be assigned either in whole or in part without first receiving the City's written consent. Any attempted assignment, either in whole or in part, without such consent will be null and void and in such event the City will have the right at its option to terminate the Agreement. No granting of consent to any assignment will relieve Contractor from any of its obligations and liabilities under the Agreement.
- S.5 **SUCCESSORS AND ASSIGNS, BINDING EFFECT:** This Agreement will be binding upon and inure to the benefit of the parties and their respective permitted successors and assigns.
- S.6 **NO THIRD-PARTY BENEFICIARIES:** This Agreement is intended for the exclusive benefit of the parties. Nothing set forth in this Agreement is intended to create, or will create, any benefits, rights, or responsibilities in any third parties.
- S.7 **NON- EXCLUSIVITY:** The City, in its sole discretion, reserves the right to request the materials or services set forth herein from other sources when deemed necessary and appropriate. No exclusive rights are encompassed through this Agreement.
- S.8 **AMENDMENTS:** There will be no oral changes to this Agreement. This Agreement can only be modified in a writing signed by both parties. No charge for extra work or material will be allowed unless approved in writing, in advance, by the City and Contractor.
- S.9 **TIME OF THE ESSENCE:** Time is of the essence to the performance of the parties' obligations under this Agreement.
- S.10 **COMPLIANCE WITH APPLICABLE LAWS:**
- a. **General.** Contractor must procure all permits and licenses and pay all charges and fees necessary and incidental to the lawful conduct of business. Contractor must stay fully informed of existing and future federal, state, and local laws, ordinances, and regulations that in any manner affect the fulfillment of this Agreement and must comply with the same at its own expense. Contractor bears full responsibility for training, safety, and providing necessary equipment for all Contractor personnel to achieve throughout the term of the Agreement. Upon request, Contractor will

demonstrate to the City's satisfaction any programs, procedures, and other activities used to ensure compliance.

- b. **Drug-Free Workplace.** Contractor is hereby advised that the City has adopted a policy establishing a drug-free workplace for itself and those doing business with the City to ensure the safety and health of all persons working on City contracts and projects. Contractor will require a drug-free workplace for all Contractor personnel working under this Agreement. Specifically, all Contractor personnel who are working under this Agreement must be notified in writing by Contractor that they are prohibited from the manufacture, distribution, dispensation, possession, or unlawful use of a controlled substance in the workplace. Contractor agrees to prohibit the use of intoxicating substances by all Contractor personnel and will ensure that Contractor personnel do not use or possess illegal drugs while in the course of performing their duties.
- c. **Federal and State Immigration Laws.** Contractor agrees to comply with the Immigration Reform and Control Act of 1986 (IRCA) in performance under this Agreement and to permit the City and its agents to inspect applicable personnel records to verify such compliance as permitted by law. Contractor will ensure and keep appropriate records to demonstrate that all Contractor personnel have a legal right to live and work in the United States.
 - (i) As applicable to Contractor, under this provision, Contractor hereby warrants to the City that Contractor and each of its subcontractors will comply with, and are contractually obligated to comply with, all federal immigration laws and regulations that relate to their employees (hereinafter "Contractor Immigration Warranty").
 - (ii) A breach of the Contractor Immigration Warranty will constitute as a material breach of this Agreement and will subject Contractor to penalties up to and including termination of this Agreement at the sole discretion of the City.
 - (iii) The City retains the legal right to inspect the papers of all Contractor personnel who provide services under this Agreement to ensure that Contractor or its subcontractors are complying with the Contractor Immigration Warranty. Contractor agrees to assist the City in regard to any such inspections.
 - (iv) The City may, at its sole discretion, conduct random verification of the employment records of Contractor and any subcontractor to ensure compliance with the Contractor Immigration Warranty. Contractor agrees to assist the City in regard to any random verification performed.
 - (v) Neither Contractor nor any subcontractor will be deemed to have materially breached the Contractor Immigration Warranty if Contractor or subcontractor establishes that it has complied with the employment verification provisions prescribed by Sections 274A and 274B of the Federal Immigration and Nationality Act.

Immigration Compliance; E-Verify. Contractor acknowledges that it is responsible for complying with the provisions of the Immigration Reform and Control Act of 1986, U.S.C. § 1324, et seq., and regulations relating thereto. Failure to comply with the above statutory provisions shall be considered a material breach and shall be grounds for immediate termination of this Agreement. The Contractor's employment of unauthorized aliens is a violation of § 274(e) of the Federal Immigration and Employment Act. The Contractor shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired during the term of this Agreement, and shall require the same verification procedure of any Subcontractors authorized by the Owner. Pursuant to Florida

Statutes § 448.095(2), beginning January 1st 2021, Contractor shall register with and use the E-Verify system to verify the work authorization status of all newly hired employees. Contractor's contract with the Town cannot be renewed unless, at the time of renewal, Contractor certifies in writing to the Town that it has registered with and uses the E-Verify system. If Contractor enters into a contract with a subcontractor, the subcontractor must provide the contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien and Contractor shall maintain a copy of such affidavit for the duration of the contract. If Contractor develops a good faith belief that any subcontractor with which it is contracting has knowingly violated Florida Statutes § 448.09(1) (making it unlawful for any person knowingly to employ, hire, recruit, or refer, either for herself or himself or on behalf of another, for private or public employment within the state, an alien who is not duly authorized to work by the immigration laws or the Attorney General of the United States) Contractor shall terminate the contract with the subcontractor. If the Town develops a good faith belief that Contractor has knowingly violated Florida Statutes § 448.09(1) (making it unlawful for any person knowingly to employ, hire, recruit, or refer, either for herself or himself or on behalf of another, for private or public employment within the state, an alien who is not duly authorized to work by the immigration laws or the Attorney General of the United States) Town shall terminate this contract. Pursuant to Florida Statutes § 448.095(2)(c)(3), termination under the above-circumstances is not a breach of contract and may not be considered as such

- d. **Nondiscrimination.** Contractor represents and warrants that it does not discriminate against any employee or applicant for employment or person to whom it provides services because of race, color, religion, sex, national origin, or disability, and represents and warrants that it complies with all applicable federal, state, and local laws and executive orders regarding employment. Contractor and Contractor's personnel will comply with applicable provisions of Title VII of the U.S. Civil Rights Act of 1964, as amended, Section 504 of the Federal Rehabilitation Act, the Americans with Disabilities Act (42 U.S.C. § 12101 et seq.), and applicable rules in performance under this Agreement.

- S.11 **SALES/USE TAX, OTHER TAXES:** Contractor is responsible for the payment of all taxes including federal, state, and local taxes related to or arising out of Contractor's services under this Agreement, including by way of illustration but not limitation, federal and state income tax, Social Security tax, unemployment insurance taxes, and any other taxes or business license fees as required. If any taxing authority should deem Contractor or Contractor employees an employee of the City, or should otherwise claim the City is liable for the payment of taxes that are Contractor's responsibility under this Agreement, Contractor will indemnify the City for any tax liability, interest, and penalties imposed upon the City.

The City is exempt from paying state and local sales/use taxes and certain federal excise taxes and will furnish an exemption certificate upon request.

- S.12 **AMOUNTS DUE THE CITY:** Contractor must be current and remain current in all obligations due to the City during the performance of services under the Agreement. Payments to Contractor may be offset by any delinquent amounts due the City or fees and charges owed to the City.
- S.13 **OPENNESS OF PROCUREMENT PROCESS:** Written competitive proposals, replies, oral presentations, meetings where vendors answer questions, other submissions, correspondence, and all records made thereof, as well as negotiations or meetings where negotiation strategies are discussed, conducted pursuant to this Invitation to Bid (ITB), shall be handled in compliance with Chapters 119 and 286, Florida Statutes.

Proposals or replies received by the City pursuant to this ITB are exempt from public disclosure until such time that the City provides notice of an intended decision or until 30 days after opening the proposals, whichever is earlier. If the City rejects all proposals or replies pursuant to this ITB and provides notice of its intent to reissue the ITB, then the rejected proposals or replies remain exempt from public disclosure until such time that the City provides notice of an intended decision concerning the reissued ITB or until the City withdraws the reissued ITB. A proposal or reply shall not be exempt from public disclosure longer than 12 months after the initial City notice rejecting all proposals or replies.

Oral presentations, meetings where vendors answer questions, or meetings convened by City staff to discuss negotiation strategies, if any, shall be closed to the public (and other proposers) in compliance with Chapter 286 Florida Statutes. A complete recording shall be made of such closed meeting. The recording of, and any records presented at, the exempt meeting shall be available to the public when the City provides notice of an intended decision or until 30 days after opening proposals or final replies, whichever occurs first. If the City rejects all proposals or replies pursuant to this ITB and provides notice of its intent to reissue the ITB, then the recording and any records presented at the exempt meeting remain exempt from public disclosure until such time that the City provides notice of an intended decision concerning the reissued ITB or until the City withdraws the reissued ITB. A recording and any records presented at an exempt meeting shall not be exempt from public disclosure longer than 12 months after the initial City notice rejecting all proposals or replies.

In addition to all other contract requirements as provided by law, the contractor executing this agreement agrees to comply with public records law.

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, Clara VanBlargan, phone: 727-391-9951 300 Municipal Dr, Madeira Beach, FL 33708. Cvanblargan@madeirabeachfl.gov

The contractor's agreement to comply with public records law applies specifically to:

- a) Keep and maintain public records required by the City of Madeira Beach (hereinafter "public agency") to perform the service being provided by the contractor hereunder.
- 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 for in Chapter 119, Florida Statutes, as may be amended from time to time, or as otherwise provided by law.
- c) Ensure that the 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.
- d) 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.

- e) 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.
- f) The contractor hereby acknowledges and agrees that if the 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.
- g) A contractor who fails to provide the public records to the public agency within a reasonable time may be subject to penalties under Section 119.10, Florida Statutes.
- h) 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:
 1. The court determines that the contractor unlawfully refused to comply with the public records request within a reasonable time; and
 2. At least eight (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.
- i) A notice complies with subparagraph (h)2. 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 8 business days after the notice is sent is not liable for the reasonable costs of enforcement.

- S.14 **AUDITS AND RECORDS:** Contractor must preserve the records related to this Agreement for five (5) years after completion of the Agreement. The City or its authorized agent reserves the right to inspect any records related to the performance of work specified herein. In addition, the City may inspect any and all payroll, billing or other relevant records kept by Contractor in relation to the Agreement. Contractor will permit such inspections and audits during normal business hours and upon reasonable notice by the City. The audit of records may occur at Contractor's place of business or at City offices, as determined by the City.
- S.15 **BACKGROUND CHECK:** The City may conduct criminal, driver history, and all other requested background checks of Contractor personnel who would perform services under the Agreement or who will have access to the City's information, data, or facilities in accordance with the City's current background check policies. Any officer, employee, or agent that fails the background check must be replaced immediately for any reasonable cause not prohibited by law.
- S.16 **SECURITY CLEARANCE AND REMOVAL OF CONTRACTOR PERSONNEL:** The City will have final authority, based on security reasons: (i) to determine when security clearance of Contractor personnel is required; (ii) to determine the nature of the security clearance, up to and including fingerprinting Contractor personnel; and (iii) to determine

whether or not any individual or entity may provide services under this Agreement. If the City objects to any Contractor personnel for any reasonable cause not prohibited by law, then Contractor will, upon notice from the City, remove any such individual from performance of services under this Agreement.

S.17 DEFAULT:

- a. A party will be in default if that party: (i) is or becomes insolvent or is a party to any voluntary bankruptcy or receivership proceeding, makes an assignment for a creditor, or there is any similar action that affects Contractor's capability to perform under the Agreement; (ii) is the subject of a petition for involuntary bankruptcy not removed within sixty (60) calendar days; (iii) conducts business in an unethical manner or in an illegal manner; or (iv) fails to carry out any term, promise, or condition of the Agreement.
- b. Contractor will be in default of this Agreement if Contractor is debarred from participating in City procurements and solicitations in accordance with the City's Purchasing Policy and Procedures.
- c. **Notice and Opportunity to Cure.** In the event a party is in default then the other party may, at its option and at any time, provide written notice to the defaulting party of the default. The defaulting party will have thirty (30) days from receipt of the notice to cure the default; the thirty (30) day cure period may be extended by mutual agreement of the parties, but no cure period may exceed ninety (90) days. A default notice will be deemed to be sufficient if it is reasonably calculated to provide notice of the nature and extent of such default. Failure of the non-defaulting party to provide notice of the default does not waive any rights under the Agreement.
- d. **Anticipatory Repudiation.** Whenever the City in good faith has reason to question Contractor's intent or ability to perform, the City may demand that Contractor give a written assurance of its intent and ability to perform. In the event that the demand is made and no written assurance is given within five (5) calendar days, the City may treat this failure as an anticipatory repudiation of the Agreement.

S.18 REMEDIES. The remedies set forth in this Agreement are not exclusive. Election of one remedy will not preclude the use of other remedies. In the event of default:

- a. The non-defaulting party may terminate the Agreement, and the termination will be effective immediately or at such other date as specified by the terminating party.
- b. The City may purchase the services required under the Agreement from the open market, complete required work itself, or have it completed at the expense of Contractor. If the cost of obtaining substitute services exceeds the contract price, the City may recover the excess cost by: (i) requiring immediate reimbursement to the City; (ii) deduction from an unpaid balance due to Contractor; (iii) collection against the proposal and/or performance security, if any; (iv) collection against liquidated damages (if applicable); or (v) a combination of the aforementioned remedies or other remedies as provided by law. Costs includes any and all, fees, and expenses incurred in obtaining substitute services and expended in obtaining reimbursement, including, but not limited to, administrative expenses, attorneys' fees, and costs.
- c. The non-defaulting party will have all other rights granted under this Agreement and all rights at law or in equity that may be available to it.
- d. Neither party will be liable for incidental, special, or consequential damages.

S.19 CONTINUATION DURING DISPUTES: Contractor agrees that during any dispute between the parties, Contractor will continue to perform its obligations until the dispute is settled, instructed to cease performance by the City, enjoined or prohibited by judicial action, or otherwise required or obligated to cease performance by other provisions in this

Agreement.

- S.20 **TERMINATION FOR CONVENIENCE:** The City reserves the right to terminate this Agreement in part or in whole upon thirty (30) calendar days' written notice.
- S.21 **TERMINATION FOR CONFLICT OF INTEREST FLORIDA STATUTES SECTION 112:** Pursuant to F.S. Section 112, the City may cancel this Agreement after its execution, without penalty or further obligation, if any person significantly involved in initiating, securing, drafting, or creating the Agreement for the City becomes an employee or agent of Contractor.
- S.22 **TERMINATION FOR NON-APPROPRIATION AND MODIFICATION FOR BUDGETARY CONSTRAINT:** The City is a governmental agency which relies upon the appropriation of funds by its governing body to satisfy its obligations. If the City reasonably determines that it does not have funds to meet its obligations under this Agreement, the City will have the right to terminate the Agreement without penalty on the last day of the fiscal period for which funds were legally available. In the event of such termination, the City agrees to provide written notice of its intent to terminate thirty (30) calendar days prior to the stated termination date.
- S.23 **PAYMENT TO CONTRACTOR UPON TERMINATION:** Upon termination of this Agreement, Contractor will be entitled only to payment for those services performed up to the date of termination, and any authorized expenses already incurred up to such date of termination. The City will make final payment within thirty (30) calendar days after the City has both completed its appraisal of the materials and services provided and received Contractor's properly prepared final invoice.
- S.24 **NON-WAIVER OF RIGHTS:** There will be no waiver of any provision of this agreement unless approved in writing and signed by the waiving party. Failure or delay to exercise any rights or remedies provided herein or by law or in equity, or the acceptance of, or payment for, any services hereunder, will not release the other party of any of the warranties or other obligations of the Agreement and will not be deemed a waiver of any such rights or remedies.
- S.25 **INDEMNIFICATION / PRESERVATION OF IMMUNITY:** Each party hereby agrees to fully indemnify and hold harmless the other, its officers, employees, and agents from and against any and all claims, losses, costs, expenses, actions and causes of action, including reasonable attorney's fees at all levels, arising out or by reason of any damage or injury to persons or property suffered or claimed to have been suffered, by any intentional or negligent act or omission of the indemnifying party, its directors, officers, employees, or agents in the carrying out of the terms and conditions of this Agreement. The Party claiming right to indemnification ("Claimant") will give the indemnifying Party ("Indemnitor") prompt notice of any such claim and the Indemnitor will undertake the defense thereof by representatives of its own choosing. In the event Indemnitor, within a reasonable time after notice of claim, fails to defend, the Claimant shall have the right to undertake the defense, compromise or settlement of such claim on behalf of and for the account and risk of the Indemnitor, subject to the right of the Indemnitor to assume such defense at any time prior to settlement, compromise or final determination thereof. Notwithstanding the foregoing, in the event either Party reasonably believes that counsel defending any such action has unacceptable conflicts of interest or otherwise lacks the skill to

adequately protect such Party's interest, such Party reserves the right to defend itself with its own counsel or retained counsel at the Indemnitor's expense, unless the Claimant is found negligent or otherwise responsible for the occasion of the litigation. Nothing herein shall be interpreted as a waiver by the Town of its rights, including the procedural requirements and limited waiver of immunity, as set forth in Florida Statutes § 768.28, or any other statute, and the Town expressly reserves these rights to the full extent allowed by law.

- S.26 **WARRANTY:** Contractor warrants that the services and materials will conform to the requirements of the Agreement. Additionally, Contractor warrants that all services will be performed in a good, workman-like and professional manner. The City's acceptance of service or materials provided by Contractor will not relieve Contractor from its obligations under this warranty. If any materials or services are of a substandard or unsatisfactory manner as determined by the City, Contractor, at no additional charge to the City, will provide materials or redo such services until in accordance with this Agreement and to the City's reasonable satisfaction.
Unless otherwise agreed, Contractor warrants that materials will be new, unused, of most current manufacture and not discontinued, will be free of defects in materials and workmanship, will be provided in accordance with manufacturer's standard warranty for at least one (1) year unless otherwise specified, and will perform in accordance with manufacturer's published specifications.
- S.27 **THE CITY'S RIGHT TO RECOVER AGAINST THIRD PARTIES:** Contractor will do nothing to prejudice the City's right to recover against third parties for any loss, destruction, or damage to City property, and will at the City's request and expense, furnish to the City reasonable assistance and cooperation, including assistance in the prosecution or defense of suit and the execution of instruments of assignment in favor of the City in obtaining recovery.
- S.28 **NO GUARANTEE OF WORK:** Contractor acknowledges and agrees that it is not entitled to deliver any specific amount of materials or services or any materials or services at all under this Agreement and acknowledges and agrees that the materials or services will be requested by the City on an as needed basis at the sole discretion of the City. Any document referencing quantities or performance frequencies represent the City's best estimate of current requirements, but will not bind the City to purchase, accept, or pay for materials or services which exceed its actual needs.
- S.29 **OWNERSHIP:** All deliverables, services, and information provided by Contractor or the City pursuant to this Agreement (whether electronically or manually generated) including without limitation, reports, test plans, and survey results, graphics, and technical tables, originally prepared in the performance of this Agreement, are the property of the City and will not be used or released by Contractor or any other person except with prior written permission by the City.
- S.30 **USE OF NAME:** Contractor will not use the name of the City of Madeira Beach in any advertising or publicity without obtaining the prior written consent of the City.
- S.31 **PROHIBITED ACTS:** Pursuant to Florida Constitution Article II Section 8, a current or former public officer or employee within the last two (2) years shall not represent another organization before the City on any matter for which the officer or employee was directly concerned and personally participated in during their service or employment or over which they had a substantial or material administrative discretion.
- S.32 **RISK OF LOSS:** Contractor agrees to bear all risks of loss, injury, or destruction of goods or equipment incidental to providing these services and such loss, injury, or destruction will not release Contractor from any obligation hereunder.
- S.33 **SAFEGUARDING CITY PROPERTY:** Contractor will be responsible for any damage to

City real property or damage or loss of City personal property when such property is the responsibility of or in the custody of Contractor or its employees.

- S.34 **WARRANTY OF RIGHTS:** Contractor warrants it has title to, or the right to allow the City to use, the materials and services being provided and that the City may use same without suit, trouble or hindrance from Contractor or third parties.
- S.35 **PROPRIETARY RIGHTS INDEMNIFICATION:** Without limiting the foregoing, Contractor will without limitation, at its expense defend the City against all claims asserted by any person that anything provided by Contractor infringes a patent, copyright, trade secret or other intellectual property right and must, without limitation, pay the costs, damages and attorneys' fees awarded against the City in any such action, or pay any settlement of such action or claim. Each party agrees to notify the other promptly of any matters to which this provision may apply and to cooperate with each other in connection with such defense or settlement. If a preliminary or final judgment is obtained against the City's use or operation of the items provided by Contractor hereunder or any part thereof by reason of any alleged infringement, Contractor will, at its expense and without limitation, either: (a) modify the item so that it becomes non-infringing; (b) procure for the City the right to continue to use the item; (c) substitute for the infringing item other item(s) having at least equivalent capability; or (d) refund to the City an amount equal to the price paid, less reasonable usage, from the time of installation acceptance through cessation of use, which amount will be calculated on a useful life not less than five (5) years, plus any additional costs the City may incur to acquire substitute supplies or services.
- S.36 **CONTRACT ADMINISTRATION:** The contract will be administered by the Building Department and/or an authorized representative from the using department. All questions regarding the contract will be referred to the administrator for resolution. Supplements may be written to the contract for the addition or deletion of services. Payment will be negotiated and determined by the contract administrator(s).
- S.37 **FORCE MAJEURE:** Failure by either party to perform its duties and obligations will be excused by unforeseeable circumstances beyond its reasonable control, including acts of nature, acts of the public enemy, riots, fire, explosion, legislation, and governmental regulation. The party whose performance is so affected will within five (5) calendar days of the unforeseeable circumstance notify the other party of all pertinent facts and identify the force majeure event. The party whose performance is so affected must also take all reasonable steps, promptly and diligently, to prevent such causes if it is feasible to do so, or to minimize or eliminate the effect thereof. The delivery or performance date will be extended for a period equal to the time lost by reason of delay, plus such additional time as may be reasonably necessary to overcome the effect of the delay, provided however, under no circumstances will delays caused by a force majeure extend beyond one hundred-twenty (120) calendar days from the scheduled delivery or completion date of a task unless agreed upon by the parties.
- S.38 **FUEL CHARGES AND PRICE INCREASES:** No fuel surcharges will be accepted. No price increases will be accepted without proper request by Contractor and response by the City of Madeira Beach.
- S.39 **NOTICES:** All notices to be given pursuant to this Agreement must be delivered to the parties at their respective addresses. Notices may be (i) personally delivered; (ii) sent via certified or registered mail, postage prepaid; (iii) sent via overnight courier; or (iv) sent via facsimile. If provided by personal delivery, receipt will be deemed effective upon delivery. If sent via certified or registered mail, receipt will be deemed effective three (3) calendar days after being deposited in the United States mail. If sent via overnight courier or facsimile, receipt will be deemed effective two (2) calendar days after the sending thereof.
- S.40 **GOVERNING LAW, VENUE:** This Agreement is governed by the laws of the State of Florida. The exclusive venue selected for any proceeding or suit in law or equity arising from or incident to this Agreement will be Pinellas County, Florida.

- S.41 **INTEGRATION CLAUSE:** This Agreement, including all attachments and exhibits hereto, supersede all prior oral or written agreements, if any, between the parties and constitutes the entire agreement between the parties with respect to the work to be performed.
- S.42 **PROVISIONS REQUIRED BY LAW:** Any provision required by law to be in this Agreement is a part of this Agreement as if fully stated in it.
- S.43 **SEVERABILITY:** If any provision of this Agreement is declared void or unenforceable, such provision will be severed from this Agreement, which will otherwise remain in full force and effect. The parties will negotiate diligently in good faith for such amendment(s) of this Agreement as may be necessary to achieve the original intent of this Agreement, notwithstanding such invalidity or unenforceability.
- S.44 **SURVIVING PROVISIONS:** Notwithstanding any completion, termination, or other expiration of this Agreement, all provisions which, by the terms of reasonable interpretation thereof, set forth rights and obligations that extend beyond completion, termination, or other expiration of this Agreement, will survive and remain in full force and effect. Except as specifically provided in this Agreement, completion, termination, or other expiration of this Agreement will not release any party from any liability or obligation arising prior to the date of termination.
- S.45 **PUBLIC ENTITY CRIMES STATEMENT:** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid 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 a bid on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, sub-contractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.
- S.46 **CERTIFICATES AND PERMITS:** Contractor shall secure at Contractor's own expense all necessary certificates, licenses and permits from municipal or other public authorities required in connection with the work contemplated by this Agreement or any part of this Agreement, and shall give all notices required by law, ordinance or regulation. Contractor shall pay all fees and charges incident to the due and lawful prosecution of the work contemplated by this Agreement, and any extra work performed by Contractor.
- S.47 **ATTORNEY FEES:** In any action brought between the Parties to enforce or construe the terms of this Agreement, each Party shall bear its own attorneys' fees and costs, including any incurred on appeal, regardless of the resolution of the case or appeal(s).
- S.48 **NO THIRD-PARTY BENEFICIARY:** This Agreement is for the benefit of the Parties and their respective successors and permitted assigns, and it is not the intent of the Parties to enter this Agreement for any other person's or entity's benefit.
- S.49 **CONTRACTOR SAFETY:** Contractor shall comply with the OSHA, Florida Department of Commerce Safety Regulations, and any local safety regulations. Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work, including 29 CFR 1910 and Florida Statutes Chapter 442 (Occupational Safety and Health). Contractor shall take all necessary precautions for the safety of, and provide the necessary protection to prevent damage, injury or loss to:
- (1) All employees on the Work and other persons and organizations who may be affected thereby;
 - (2) All the Work and materials and equipment to be incorporated therein, whether in storage on or off the Work locations; and
 - (3) Other property at Work locations or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities and underground facilities not designated for removal, relocation or replacement in the course of construction.

Contractor shall comply with all applicable laws and regulations of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss, and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall provide and maintain all passageways, guard fences, lights and other facilities for the protection required by public authority or local conditions. Contractor shall provide reasonable maintenance of traffic for the public and preservation of the City's business, taking into full consideration all local conditions. Contractor's duties and responsibilities for safety and protection with regard to the Work shall continue until such time as all the Work is completed. While the City has the right of access to the Work site and to inspect the Work, the City does not undertake any role in overseeing compliance with the Contractor's duties concerning safety stated herein and as may be required by law and professional industry standards.

CONTRACT

This **CONTRACT** made and entered into this ____ day of _____, 20____ by and between the City of Madeira Beach, Florida, a municipal corporation, hereinafter designated as the "City", and _____, of the City of _____, County of _____, and State of _____, hereinafter designated as the Contractor".

WITNESSETH:

That the parties to this Contract each in consideration of the undertakings, promises, and agreements on the part of the other herein contained, do hereby undertake, promise, and agree as follows:

The Contractor, and its successors, assigns, executors, or administrators, in consideration of the sums of money as herein after set forth to be paid by the City and to the Contractor, shall and will at **their** own cost and expense perform all labor, furnish all materials, tools, and equipment for the following:

PROJECT NAME: ATHELTIC FIELD LIGHTING PROJECT

PROJECT # RFP No. _____

in the amount of \$ _____

In accordance with the PROPOSAL submitted by the CONTRACTOR and technical supplemental specifications and such other special provisions and drawings, if any, as submitted by the City, together with any advertisement, instructions to bidders, general conditions, proposal and performance & payment bond, which may be hereto attached, and any drawings if any, which may be herein referred to, are hereby made a part of this contract, **including Exhibit A – CONTRACTOR BID RESPONSE and Exhibit B – REQUEST FOR PROPOSALS**, and all of said work to be performed and completed by the Contractor and its successors and assigns shall be fully completed in a good and workmanlike manner to the satisfaction of the City.

If the Contractor should fail to comply with any of the terms, conditions, provisions, or stipulations as contained herein within the time specified for completion of the work to be performed by the Contractor, then the City, may at its option, avail itself of any or all remedies provided on its behalf and shall have the right to proceed to complete such work as Contractor is obligated to perform in accordance with the provisions as contained herein.

THE CONTRACTOR AND ITS SUCCESSORS AND ASSIGNS DOES HEREBY AGREE TO ASSUME THE DEFENSE OF ANY LEGAL ACTION WHICH MAY BE BROUGHT AGAINST THE CITY AS A RESULT OF THE CONTRACTOR'S ACTIVITIES ARISING OUT OF THIS CONTRACT AND FURTHERMORE, IN CONSIDERATION OF THE TERMS, STIPULATIONS, AND CONDITIONS AS CONTAINED HEREIN, AGREES TO HOLD THE CITY FREE AND HARMLESS FROM ANY AND ALL CLAIMS FOR DAMAGES, COSTS OF SUITS, JUDGMENTS, OR DECREES RESULTING FROM ANY CLAIMS MADE UNDER THIS CONTRACT AGAINST THE CITY, OR THE CONTRACTOR, OR THE CONTRACTOR'S SUB-CONTRACTORS, AGENTS, SERVANTS, OR EMPLOYEES RESULTING FROM ACTIVITIES BY THE AFOREMENTIONED CONTRACTOR, SUBCONTRACTORS, AGENTS, SERVANTS, OR EMPLOYEES.

CONTRACT

In addition to the foregoing provisions, the Contractor agrees to conform to the following requirements:

In connection with the performance of work under this contract, the Contractor agrees not to discriminate against any employee or applicant for employment because of race, sex, religion, color, or national origin. The aforesaid provision shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; lay off or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post hereafter in conspicuous places, available for employees or applicants for employment, notices to be provided by the contracting officer setting forth the provisions of the non-discrimination clause.

The Contractor further agrees to insert the foregoing provisions in all contracts hereunder, including contracts or agreements with labor unions and/or worker's representatives, except sub-contractors for standard commercial supplies or raw materials.

It is further mutually agreed between the City and the Contractor that if, any time after the execution of this contract and the surety bond which is attached hereto for the faithful performance of the terms and conditions as contained herein by the Contractor, that the City shall at any time deem the surety or sureties upon such performance bond to be unsatisfactory or if, for any reason, the said bond ceases to be adequate in amount to cover the performance of the work the Contractor shall, at Contractors own expense, within ten (10) days after receipt of written notice from the City to do so, furnish an additional bond or bonds in such term and amounts and with such surety or sureties as shall be satisfactory to the City. If such an event occurs, no further payment shall be made to the Contractor under the terms and provisions of this contract until such new or additional security bond guaranteeing the faithful performance of the work under the terms hereof shall be completed and furnished to the City in a form satisfactory to it.

CONTRACT

The successful bidder/contractor will be required to comply with Section 119.0701, Florida Statutes (2019), specifically to:

- (a) Keep and maintain public records that ordinarily and necessarily would be required by the City of Madeira Beach in order to perform the service;
- (b) Provide the public with access to public records on the same terms and conditions that the City of Madeira Beach would provide the records and 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; and
- (d) Meet all requirements for retaining public records and transfer, at no cost, to the City of Madeira Beach 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 public agency in a format that is compatible with the information technology systems of the City of Madeira Beach.