

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date:	January 15, 2019	<input checked="" type="checkbox"/> Consent	<input type="checkbox"/> Regular
		<input type="checkbox"/> Ordinance	<input type="checkbox"/> Public Hearing
Department:	Facilities Development & Operations		

I. EXECUTIVE BRIEF

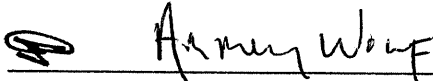

Motion and Title: Staff recommends motion to approve: Amendment No. 1 with Cedars Electro-Mechanical, Inc. (R2018-1776) to extend the term from January 13, 2019 through January 12, 2020 for the annual contract for heating, ventilation and air conditioning (HVAC) services on a continuing contract basis.

Summary: Amendment No. 1 extends the term of Cedars contract for HVAC services for one (1) year through January 12, 2020. The Board approved the annual contract on January 13, 2015, and the original contract provided for an initial term of one (1) year with four (4) renewal options each for a period of one (1) year. This is the last renewal for this contract. The work consists of HVAC services associated with repairs, improvements and renovations to County properties. Work is to be awarded as work orders on a lump-sum, competitively quoted basis among the pool of six (6) pre-qualified contractors. During the first four (4) years of these Contracts, the County awarded \$4,964,534 in work orders. The annual HVAC contract is for indefinite-quantity contracts with a maximum cumulative value of \$8,500,000 for the term. Current cumulative SBE participation for all work orders to-date and among all six (6) contractors is 72.46%. Cedars Electro-Mechanical, Inc. is a SBE, Palm Beach County business. Cedars has received a letter advising that the EBO Ordinance became effective on January 1, 2019 and all quotes/bids solicited after January 1, 2019 must comply with its requirements. This HVAC annual contract was scheduled for the Goal Setting Committee on January 2, 2019. **(Capital Improvements) Countywide (LDC)**

Background and Justification: The contracts were first opened for pre-qualification in 2015 and eight (8) contractors were originally pre-qualified to provide HVAC services associated with repairs, improvements and renovations to County properties and since approval, the number of participating contractors is now only five (5) contractors as three (3) of the original contractors were removed due to lack of participation. Cedars Electro-Mechanical, Inc. submitted a pre-qualification package that met the established criteria and now joins the list of five (5) previously prequalified contractors for this contract. Projects are bid among the pre-qualified participants and work is awarded as work orders on a lump-sum competitively quoted basis among the pool of pre-qualified HVAC contractors.

Attachment:

Amendment No. 1

Recommended By:		12/21/18
	Department Director	Date
Approved By:		1/9/19
	County Administrator	Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2019	2020	2021	2022	2023
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____				
In-Kind Match (County	_____	_____	_____	_____	_____
NET FISCAL IMPACT	* =====	=====	=====	=====	=====
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget:	Yes	<u> x </u>	No	<u> </u>
Does this items include use of federal funds?	Yes	<u> </u>	No	<u> x </u>

Budget Account No: Fund _____ Dept _____ Unit _____ Object _____ Program _____


B. Recommended Sources of Funds/Summary of Fiscal Impact:

* Potential maximum fiscal impact is \$8,500,000. Work Orders requiring BCC approval will be brought to the Board and fiscal impact will be addressed at that time; otherwise, funding will come from previously approved BCC projects.

C. Departmental Fiscal Review:


III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:


 OFMB

Contract Development and Control
1/8/19 TW

B. Legal Sufficiency:

Legal Sufficiency:

Assistant County Attorney

C. Other Department Review:

Department Director

AMENDMENT NO. 1 TO ANNUAL CONTRACT

This Amendment No. 1 (“Amendment”) to the Annual Contract for HVAC is made and entered into on _____, by and between Palm Beach County (“County”), a political subdivision of the State of Florida and Cedars Electro-Mechanical, Inc., hereinafter referred to as “Contractor”.

WITNESSETH

WHEREAS, on November 20, 2018, the parties hereto entered into the Annual Contract (R2018-1776) (hereinafter the “Annual Contract”) under which the Contractor provides awarded work to the County for various projects as bid from time to time under the Annual Contract; and

WHEREAS, the County and the Contractor desire to amend certain contract conditions of the Annual Contract.

NOW THEREFORE, in consideration of the mutual covenants, promises and representations contained herein, the Parties agree as follows:

1. Contract Extension/Renewal. The parties hereby extend the term of the original contract through January 12, 2020.

2. Certification of No Material Changes. The Contractor by execution of this Amendment hereby certifies, represents, affirms and warrants that since it submitted its Qualification Application:

- a. there has been no material change in the management or ownership of the Contractor;
- b. there has been no material adverse change in the financial stability or financial resources of the Contractor;
- c. there has been no material change in the pending litigation or claims against the Contractor such that they would have a negative impact on the Contractor’s ability to perform under the Contract;
- d. the Contractor has not been debarred or suspended by any government entity or placed on a convicted vendor list maintained by the State of Florida or any other government entity; and
- e. the Contractor continues to maintain all licenses and certifications required to perform under the Contract.
- f. the Contractor certifies that it is still in compliance with the requirements pertaining to scrutinized companies under Florida Statutes Section 287.135.

3. Contract Terms Affirmed. Except as set forth below, the terms and conditions of the Annual Contract shall remain in full force and effect and are hereby ratified and affirmed by the parties hereto.

Annual Contract Modifications and Additions. The following provisions of the Annual Contract are modified as follows:

See **Attachments A and B** attached hereto and incorporated herein

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to the Annual Contract to be executed as of the day and year first above written.

ATTEST:

SHARON R. BOCK
CLERK & COMPTROLLER

PALM BEACH COUNTY, a political
subdivision of the State of Florida

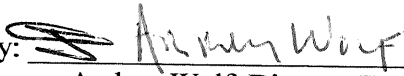
By: _____
Deputy Clerk

By: _____
Mack Bernard, Mayor

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

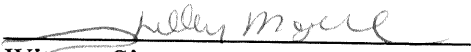
APPROVED AS TO TERMS AND
CONDITIONS

By: 
Assistant County Attorney

By: 
Audrey Wolf, Director FDO

Contractor: Cedars Electro-Mechanical, Inc.

By: 
Signature


Witness Signature

Name: Debra L. Chalhouh

Shelley Moge 11
Print Witness Name

(SEAL)
Title: president

ATTACHMENT "A"

The Provisions of this Attachment shall take precedence and control over any inconsistent or conflicting provisions in the Contract Documents.

1. New Section 3.7 of the Instructions to Bidders is added as follows:

3.7 Commercial Non-Discrimination. The Bidder represents and warrants that it will comply with the County's Commercial Nondiscrimination Policy as described in Resolution 2017-1770 as amended. As part of such compliance, the Bidder shall not discriminate on the basis of race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, gender identity or expression, disability, or genetic information in the solicitation, selection, hiring or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall the Bidder retaliate against any person for reporting instances of such discrimination. The Bidder shall provide equal opportunity for subcontractors, vendors and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the County's relevant marketplace in Palm Beach County. The Bidder understands and agrees that a material violation of this clause shall be considered a material breach of any resulting contract and may result in termination of the contract, disqualification or debarment of the Bidder from participating in County contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

The Bidder acknowledges and agrees that all subcontractor agreements shall include a commercial non-discrimination clause.

2. New Section 3.8 of the Instructions to Bidders is added as follows:

3.8 VSS Registration Required. A Bidder must register in the County's Vendor Self Service ("VSS") at <https://pbcvssp.co.palm-beach.fl.us/webapp/vssp/AltSelfService> in order to bid on County contracts. If Bidder intends to use subcontractors, Bidder must also ensure that all subcontractors are registered as vendors in VSS. All subcontractor agreements must include a contractual provision requiring that the subcontractor register in VSS. County will not finalize the award of a Work Order until a contractor has certified that the contractor and all of its subcontractors are registered in VSS.

3. Section 5.2.1 of the Instructions to Bidders in the Contract Documents is replaced with the following:

5.2.1 General. Bid Security is not required for Work Orders of less than \$200,000. The Public Construction Bond is waived for Work Orders less than \$200,000 where Bidder's cumulative open Work Orders do not exceed \$200,000. Any proposed Work Order which will cause a Bidder's cumulative open Work Orders to exceed \$200,000 shall require a Public Construction Bond. Any individual Work Order exceeding \$200,000 shall require a Public Construction Bond.

4. Section 5.3 of the Instructions to Bidders in the Contract Documents is replaced with the following:

5.3 Equal Business Opportunity Program.

5.3.1 Policy. It is the policy of the Board of County Commissioners of Palm Beach County, Florida, (the Board) that all segments of its business population, including, but not limited to, small, local, minority and women owned businesses, have an equitable opportunity to participate in the County's procurement process, prime contract and subcontract opportunities. To that end, the Board adopted an Equal Business Opportunity Ordinance which is codified in Sections 2-80.20 through 2-80.30 (as may be

amended) of the Palm Beach County Code, (EBO Ordinance) which sets forth the County's requirements for the EBO program, and which is incorporated in this solicitation. A bidder must comply with the requirements contained in this section for a bidder to be deemed responsive to the solicitation requirements. The provisions of the EBO Ordinance are applicable to this solicitation, and shall have precedence over the provisions of this solicitation in the event of a conflict.

5.3.2 Affirmative Procurement Initiatives (APIs). The APIs approved for this solicitation, including any applicable SBE or M/WBE goals, are set out on Attachment B to the Invitation for Bid/Quote which attachment is incorporated herein by reference. Any bid that fails to comply with the API requirements stated in this solicitation after the period allowed for waiver requests has lapsed shall be deemed non-responsive.

5.3.3 API Waiver Requests/Good Faith Efforts. If Bidder is unable to comply with the API requirements as set forth in this solicitation, such Bidder shall submit a request for a waiver or partial waiver at least (7) days prior to the bid due date as stated in the solicitation. *If a bidder requests a waiver from an API from the Office of EBO at least 7 days prior to the bid due date, then the bid due date will be extended pending the outcome of a waiver request. Additionally, if the waiver is granted, the solicitation will be amended accordingly and the due date extended again.*

Such waiver request shall include specified documentation that demonstrates satisfactory Good Faith Efforts (as defined below) were undertaken by Bidder to comply with the requirements as described under the selected API. The Good Faith Effort waiver request, shall be reviewed by the Office of EBO within seven (7) days of receipt. The bid due date will be extended during this review period. If the Office of EBO determines that adequate Good Faith Efforts have been demonstrated by the Bidder to warrant a partial or total waiver of the API, then the solicitation shall be amended accordingly to reflect the partial or total waiver, and any bids received by the County in the interim shall be returned unopened. The amended solicitation shall then be advertised to all prospective Bidders and the bid due date extended. However, if the Office of EBO determines that the Bidder failed to submit documentation sufficient to demonstrate that Good Faith Efforts were undertaken by the Bidder to support its waiver or partial waiver request, the request for waiver or partial waiver shall be denied, and the solicitation shall remain unchanged. In the event of an adverse waiver or partial waiver request decision, the Bidder shall have the right to request reconsideration of the adverse decision by the Director of the EBO Office, and if still aggrieved, shall be subsequently entitled to the process for an appeal to a Special Master as referenced in Section 2.-80.28 (b) of the EBO Ordinance. The solicitation due date shall be extended pending the EBO Director reconsideration and Special Master appeal process if requested.

Good Faith Efforts means documentation of the Bidder's intent to comply with the applicable APIs, including, but not limited to, the following: (1) documentation as stated in the solicitation reflecting the Bidder's commitment to comply with SBE or M/WBE goals as established by the Office of EBO for a particular contract; or (2) documentation of efforts made toward achieving EBO program goals (e.g., solicitations of bids/proposals/qualification statements from all qualified SBE firms or M/WBE firms listed in the Office of EBO's directory of certified SBE or M/WBE firms; correspondence from qualified SBE or M/WBE firms documenting their unavailability to perform SBE or M/WBE contracts; documentation of efforts to subdivide work into smaller quantities for subcontracting purposes to enhance opportunities for SBE or M/WBE firms; documentation of a Prime Contractor's posting of a bond covering the work of SBE or M/WBE subcontractors; documentation of efforts to assist SBE or M/WBE firms with obtaining financing, bonding or insurance required by the Bidder; and documentation of consultations with trade associations and consultants that represent the interests of SBE and/or M/WBEs in order to identify qualified and available SBE or M/WBE subcontractors). Scoring of Good Faith

Efforts documentation and administrative determinations regarding the adequacy of such Good Faith Efforts is the responsibility of the Office of EBO.

5.3.4 Bid Submission Documentation. S/M/WBE bidders, bidding as prime contractors, are advised that they must complete Schedule 1 listing the Work to be performed by their own workforce as well as the Work to be performed by any subcontractor, including S/M/WBE subcontractors. Failure to include this information on Schedule 1 will result in the participation by the S/M/WBE prime bidders own workforce NOT being counted towards meeting the S/M/WBE goal. This requirement applies even if the S/M/WBE contractor intends to perform 100% of the Work with their own workforce.

All Bidders are required to submit with their bid the appropriate EBO schedules in order to be deemed responsive to this solicitation. EBO documentation to be submitted is as follows:

5.3.4.1 Schedule 1 - List of All Proposed Subcontractors, including S/M/WBE Participation. A completed Schedule 1 shall list the names of all subcontractors, including S/M/WBE subcontractors, intended to be used in performance of the contract, if awarded. This schedule shall also be used if an S/M/WBE prime bidder is utilizing any subcontractors.

5.3.4.2 Schedule(s) 2 - Letter(s) of Intent to Perform as a Subcontractor, including S/M/WBE Subcontractors. A Schedule 2 for each subcontractor, including each S/M/WBE subcontractor, listed on Schedule 1, shall be completed and executed by the proposed subcontractor. The type of Work to be performed by each subcontractor and the dollar value or percentage shall also be specified. Additional copies may be made as needed. A completed Schedule 2 is a binding agreement between the prime contractor and the subcontractor and should be treated as such.

Completed and submitted EBO forms are incorporated into and made a part of the Contract Documents.

5.3.5 S/M/WBE Certification. Only those firms certified by Palm Beach County at the time of bid opening shall be counted toward the established S/M/WBE goal. Upon receipt of a complete application, **IT TAKES UP TO NINETY (90) DAYS TO BECOME CERTIFIED AS AN S/M/WBE WITH PALM BEACH COUNTY.** It is the responsibility of the bidder to confirm the certification of any proposed S/M/WBE; therefore, it is recommended that bidders visit the on-line S/M/WBE Directory at www.pbcgov.org/osba to verify S/M/WBE certification.

5.3.6 Counting S/M/WBE Participation. Once a firm is determined to be an eligible S/M/WBE according to the Palm Beach County certification procedures, the Prime may count toward its S/M/WBE goals only that portion of the total dollar value of a contract performed by the S/M/WBE.

The Prime may count toward its S/M/WBE goal a portion of the total dollar value of a contract with a joint venture, eligible under the standards for certification, equal to the percentage of the ownership and control of the S/M/WBE partner in the joint venture.

The Prime may count toward its S/M/WBE goal the entire expenditures for materials and equipment purchased by an S/M/WBE subcontractor, provided that the S/M/WBE subcontractor has the responsibility for the installation of the purchased materials and equipment.

The Prime may count the entire expenditure to an S/M/WBE manufacturer (i.e., a supplier/distributor that produces goods from raw materials or substantially alters the goods before resale).

The Prime may count sixty percent (60%) of its expenditure to S/M/WBE suppliers/distributors that are not manufacturers.

The Prime may count toward its S/M/WBE goal second and third tiered S/M/WBE subcontractors, provided that the Prime submits a completed Schedule 2 form for each S/M/WBE subcontractor.

The Prime may only count towards its S/M/WBE goal the goods and services in which the SBE is certified.

A certified S/M/WBE Prime may count toward the established goal the goods and services in which it performs with its own work force. The Prime S/M/WBE shall submit a completed Schedule 1 and 2.

5.3.7 S/M/WBE Participation. Bidder represents and warrants that Bidder will meet the S/M/WBE participation percentages submitted in its bid/quote with the subcontractors contained on Schedules 1 and 2 and at the dollar values specified. Bidder agrees to provide any additional information requested by the County to substantiate participation.

5.3.8 Post Bid Waiver Request. After submission of a bid, if Bidder, through no fault of its own, is unable to meet the S/M/WBE participation specified in its bid, then Bidder must immediately seek substitute S/M/WBEs to fulfill the requirements and obtain the approval of the EBO Director. If, after reasonable Good Faith Efforts, the Bidder is unable to find an acceptable substitute S/M/WBE, a post-bid opening waiver may be requested. The request shall document the reasons for the Bidder's inability to meet the goal requirement. In the event the Bidder is found not to have performed Good Faith Efforts in its attempt to find a suitable substitute for the initial S/M/WBE proposed utilization, one (1) or more of the penalties and sanctions as set forth in Section 5.3.12 herein may be imposed by the EBO Office.

5.3.9 Responsibilities after Award of Work Order. The successful Bidder shall submit the following forms with each pay application:

5.3.9.1 Schedule 3 – Subcontractor Activity Form. This form shall be submitted by the prime contractor with each payment application when subcontractors, including S/M/WBE subcontractors, are utilized in the performance of the Work Order. This form shall contain the names of all subcontractors, including S/M/WBE subcontractors, specify the subcontracted dollar amount for each subcontractor approved change orders, revised subcontractor contract amount, including S/M/WBE contract amount, amount drawn this period, amount drawn to date, and payments to date issued to subcontractors. This form is intended to be utilized on all non-professional services contracts.

5.3.9.2 Schedule 4 – Subcontractor Payment Certification, including S/M/WBEs. A Schedule 4 for each subcontractor, including each S/M/WBE, shall be completed and signed by each subcontractor, including each S/M/WBE, after receipt of payment from the prime. The prime shall submit this Schedule 4 with each payment application submitted to the County to document payment issued to a subcontractor in the performance of the Work Order.

The successful bidder shall submit an Subcontractor Activity Form (Schedule 3) and Subcontractor Payment Certification Forms (Schedule 4) with each payment application. **Failure to provide these forms may result in a delay in processing payment or disapproval of the invoice until they are submitted.** The Subcontractor Activity Form (Schedule 3) is to be filled out by the Prime Contractor and the Subcontractor Payment Certification Form (Schedule 4) is to be executed by each subcontractor to verify receipt of payment.

Upon letter notification by the County that the payment tracking system is automated, the prime contractor is required to input all subcontractor payment information directly into the County's contract information system prior to submitting a payment application.

5.3.10 S/M/WBE Substitutions after Award of Work Order. After award of a Work Order, the successful bidder will only be permitted to replace a certified S/M/WBE subcontractor who is unwilling or unable to perform. Such substitution must be done with other certified S/M/WBEs in order to maintain the S/M/WBE percentages submitted with the bid. Requests for substitutions must be submitted to the Department issuing the bid and the EBO Office for approval. Any desired change in the S/M/WBE participation schedule shall be approved in advance by the Office of EBO and shall indicate the Prime Contractor's Good Faith Efforts to substitute another certified S/M/WBE Subcontractor (as appropriate) to perform the work. Any desired changes (including substitutions or termination and self-performance) must be approved in writing in advance by the Office of EBO. Upon receiving approval of substitution for the S/M/WBE subcontractor, the Prime must submit a completed and signed Schedule 2 by the proposed S/M/WBE subcontractor. Subcontractors shall specify the type of Work to be performed, the cost or percentage shall also be specified. In the event the Prime Contractor is found not to have performed Good Faith Efforts in its attempt to find a suitable substitute for the initial S/M/WBE proposed utilization, one (1) or more of the penalties and sanctions as set forth in Section 5.3.12 herein may be imposed by the EBO Office.

5.3.11 Change Orders and Modifications. If the County's issuance of an alternate or change order on a project results in changes in the scope of Work to be performed by a S/M/WBE subcontractor listed at bid opening, the Prime must submit a modified, completed and signed Schedule 2 that specifies the revised scope of Work to be performed by the S/M/WBE, along with the price and /or percentage.

5.3.12 EBO Program Compliance, Enforcement, Penalties. Under the EBO Ordinance, the Office of EBO is required to implement and monitor S/M/WBE utilization during the term of any contract resulting from this solicitation. It is the County's policy that S/M/WBEs shall have the maximum feasible opportunity to participate in the performance of County contracts. All Bidders are required to comply with the EBO Ordinance and shall be expected to comply with the APIs applicable to this solicitation, as well as the S/M/WBE utilization proposed by a Bidder in its Bid, which utilization plan forms a part of any resulting Work Order.

The EBO Office and the Department shall have the right to request and review Contractor's books and records to verify Contractor's compliance with the Contract, adherence to the EBO Program and its Bid. The EBO Office and the Department shall have the right to interview subcontractors and workers at the work site to determine Contract compliance. Contractor shall retain all books and records pertaining to this Contract, including, but not limited to, subcontractor payment records, for four (4) years after project completion date, or such longer time as may be required in other provisions of this Contract, and make such records available for inspection in Palm Beach County by the EBO Office and the County at any reasonable time during the four (4) years.

The Director of the Office of EBO or designee may require such reports, information, and documentation from Contractor as are reasonably necessary to determine compliance with the EBO Ordinance requirements. Contractor shall correct all noncompliance issues within 15 calendar days of a written notice of noncompliance by the contracting department or the EBO Office. If the Contractor does not resolve the non-compliance within 15 days of receipt of written notice of non-compliance, then the Director of the Office of EBO or designee may impose upon the non-complying party any or all of the following penalties:

- a. Suspension of contract;
- b. Withholding of funds;
- c. Termination of contract based upon a material breach of contract pertaining to EBO Program compliance;
- d. Suspension or Debarment of a respondent or bidder, contractor or other business entity from eligibility for providing goods or services to the County for a period not to exceed three (3) years; and
- e. Liquidated damages equal to the difference in dollar value of S/M/WBE participation as committed to in the contract, and the dollar value of S/M/WBE participation as actually achieved.

4. The first paragraph of General Condition Number 68.3 in the Contract Documents is amended to state the following:

68.3 If the pay estimate and support data are not approved, the Contractor is required to submit new, revised or missing information according to the Owner's instructions. Otherwise, the Contractor shall prepare and submit to Owner an invoice in accordance with the estimate as approved. Owner will pay Contractor, in accordance with Local Government Prompt Payment Act (FS 218.70). Owner shall provide Contractor with a written notice of disputed pay request within 10 days after receipt of such pay request which clearly states any and all deficiencies in Contractor's pay request that will prevent prompt processing and issuance of payment. To the extent there is an undisputed portion of the pay request that can be paid, the Owner shall proceed with prompt payment of that portion of the pay request. In the event any dispute with respect to any payment or pay request cannot be resolved between the Contractor and Owner's project staff, Contractor may, in accordance with the alternative dispute resolution requirements of Florida Statute section 218.72, et. seq., demand in writing a meeting with and review by the department director. In the absence of the department director, a deputy director may conduct the meeting and review. Such meeting and review shall occur within ten (10) business days of receipt by Owner of Contractor's written demand. The department director, or deputy director, shall issue a written decision on the dispute within ten (10) business days of such meeting. This decision shall be deemed the Owner's final decision for the purpose of the Local Government Prompt Payment Act. Contractor must remit undisputed payment due for labor, services, or materials furnished by subcontractors and suppliers hired by the Contractor, within 10 days after the contractor's receipt of payment from the County pursuant to Section 218.70, Florida Statutes. Contractor shall provide subcontractors and suppliers hired by Contractor with a written notice of disputed invoice within 5 business days after receipt of invoice which clearly states the reasons for the disputed invoice.

ATTACHMENT "B"
Affirmative Procurement Initiatives ("APIs")

The Provisions of this Attachment shall take precedence and control over any inconsistent or conflicting provisions in the Contract Documents.

Palm Beach County Code Section 2.80.27 sets out the Affirmative Procurement Initiatives ("APIs") approved for use. The Goal Setting Committee ("GSC") evaluates formal solicitations of \$100,000 or greater, at least fourteen (14) days prior to advertisement to determine which of the industry-specific APIs shall be applied to a contract(s) within a particular industry or applied to a type of contract. More than one API may be applicable. Also, See Countywide PPM CW-O-043.

The API(s) approved for this contract are selected below by ☒. The Goal Setting Committee applies race conscious API's based upon committee findings evaluating the following criteria: i) whether significant disparity exists in the utilization of available M/WBEs; ii) whether race/gender neutral remedies alone are likely to eliminate such disparities; iii) whether a particular API is least burdensome and narrowly tailored; iv) whether the API is appropriate.

☒ **SBE Sheltered Market for Small Construction Contracts**

When at least 4 SBEs are qualified under this contract, then Work Orders \$100,000 and below are eligible for competition among only certified SBEs. The GSC may reserve small prime construction contracts (single trade or multi-trade) valued at or below \$100,000 for sheltered market competition solely among SBEs where only certified SBEs are eligible to submit bids or quotes.

☐ **SBE Subcontracting Program**

A minimum mandatory goal of 20% SBE participation is established for this contract. The EBO Office shall reduce or waive this goal when there is inadequate availability of SBE prime and / or subcontractor firms. Respondents/bidders may request such waivers at least seven (7) days prior to bid opening based on submission of adequate Good Faith Efforts documentation. **In the absence of a waiver granted by the Office of EBO, a respondent/bidder who does not commit to satisfying the SBE subcontracting goal shall be considered non-Responsive.** See attached EBO waiver request forms.

☒ **SBE Price Preference For Single Trade Construction**

The work orders under this contract shall be awarded to the lowest, responsive, responsible bidder unless a certified SBE's bid is within ten percent (10%) of the lowest non-SBE bid, in which case the award shall be made to the certified SBE bidder. For construction contracts where there are no opportunities for subcontracting (i.e. single trade), the Goal Setting Committee may include a provision requiring awards of the contract to be made to the lowest responsive, responsible respondent or bidder unless a certified SBE's bid is within ten (10) percent of the lowest non-small business bid, in which case the award shall be made to the certified small business bidder submitting the lowest responsive, responsible bid at the price that it bid.

☐ **M/WBE Subcontracting Goals**

_____ % of this Contract shall be subcontracted to certified M/WBE firms owned by African Americans, Hispanic Americans, Asian Americans, Native Americans, or non-minority women. The EBO Office shall reduce or waive this goal when there is inadequate availability of M/WBE prime and / or subcontractor firms. Respondents/bidders may request such waivers at least seven (7) days prior to bid opening based on submission of adequate Good Faith Efforts documentation. **In the absence of a waiver granted by the Office of EBO, a respondent/bidder who does not commit to satisfying the M/WBE subcontracting goal shall be considered non-Responsive.**

☐ **M/WBE Segmented Subcontracting Goals**

_____ % of the M/WBE subcontracting goal shall be achieved through the utilization of certified M/WBEs owned by ☐ African American, ☐ Hispanic American, ☐ Asian American, ☐ Native American, and ☐ non-minority women persons (check applicable). M/WBE Segmented Subcontracting Goals are established on an individual County contract wherein an overall combined M/WBE goal is accompanied by subsets of one or more smaller goals that specifically target the participation of a particular segment of Minority Group Member segments or the WBE segment based upon that segment's relative availability. Such segmented goals shall specifically target the participation of a particular segment of business enterprises owned and controlled by women or certain Minority Group Members (e.g., African-Americans, Hispanic-Americans, Asian-Americans, or Native Americans) based upon relative availability, as well as the existence of consistently and significantly greater patterns of underutilization and disparity within an industry as compared to other gender and Minority Group Member categories of M/WBEs. (For example, if an overall M/WBE subcontracting goal is set at 38% on a given contract, the segmented subcontracting goal may require that at least 23% of that 38% shall be satisfied through the utilization of African American and Hispanic subcontractors.) The EBO Office shall reduce or waive this goal when there is inadequate availability of M/WBE prime and / or subcontractor firms. Respondents/bidders may request such waivers at least seven (7) days prior to bid opening based on submission of adequate Good Faith Efforts documentation. **In the absence of a waiver granted by the Office of EBO, a respondent/bidder who does not commit to satisfying the M/WBE segmented subcontracting goals shall be considered non-Responsive.**

☐ **M/WBE Joint Venture/Partnership/Teaming Incentive for Contracts greater than \$2.5 million**

_____ (Up to 20%) evaluation points out of 100 are reserved for qualifying M/WBE joint ventures. See, Exhibit "Z" for joint venture/partnership teaming incentive program requirements. Incentives are established to promote joint ventures, partnerships, or teaming arrangements between larger established firms and M/WBE firms, or between and among SBE and M/WBE firms. For RFPs, the incentive may be for up to twenty percent (20%) of one hundred evaluation points to be reserved for qualifying M/WBE joint ventures where the certified M/WBE joint venture partner owns 50% or greater, and performs 50% or greater of the work, of the overall joint venture. Proportionately fewer evaluation preference points would be awarded to the joint venture based upon lesser percentages of ownership by the M/WBE partner.

☐ **M/WBE Evaluation Preference for RFPs for Prime M/WBE firms**

_____ (Up to 15%) of the evaluation points are reserved as a preference for proposals submitted by certified M/WBE firms. Evaluation panels shall assign point preferences equal to up to 15% of the total points assigned for the evaluation, scoring and ranking of construction-related proposals submitted by those certified M/WBE firms.