

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: December 6, 2022 **Consent** **Regular**
 Workshop **Public Hearing**

Department: Facilities Development & Operations

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to receive and file: termination for convenience of the annual heating ventilation and air conditioning (HVAC) contract with Commercial Cooling Concepts, Inc. (Contractor) (R2020-1230).

Summary: On March 10, 2020, the Board of County Commissioners (Board) approved the annual HVAC contract with the Contractor to provide HVAC services related to system and component installations, upgrades, replacements, modifications and repairs to County properties. On September 30, 2022, the Purchasing Director sent Contractor a letter that terminated its existing contracts and suspended it from doing any new business with the County for a period of two (2) years in accordance with Section 2-56(b)(1) of the County's Purchasing Code. This suspension prohibits the Contractor from bidding on, or being awarded work, under any new or preexisting County contract during the term of the suspension. Accordingly, on October 5, 2022, the Director of Facilities Development and Operations (FDO) executed a termination for convenience of the annual HVAC contract (R2020-1230) in accordance with General Condition 26. This contract termination is being submitted to the Board as a receive and file item. **(Capital Improvements Division) Countywide (MWJ)**

Background and Justification: On March 10, 2020, the Board approved the annual HVAC contract with the Contractor to provide HVAC services related to system and component installations, upgrades, replacements, modifications and repairs to County properties. The Contractor also had contracts with the County through the Purchasing Department (Air Conditioner Chiller Preventative Maintenance and Boiler & Storage Tanks Maintenance and Repair contract). On September 30, 2022, the Purchasing Director terminated its contracts with Contractor in accordance with sections 2-56(b)(1), 2-56(b)(2) and 2-56(b)(5) of the Palm Beach County Purchasing Code for falsely representing on invoices to the County the price of materials purchased, and for failure to submit the supporting documentation required from manufactures/suppliers related to actual expenses incurred.

Attachment:
Termination for Convenience

Recommended by:  11/17/22
Department Director Date

Approved by:  11/28/22
County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2023	2024	2025	2026	2027
Capital Expenditures	* _____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT *	_____	_____	_____	_____	_____
# ADDITIONAL FTE	_____	_____	_____	_____	_____
POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes _____ No _____
 Does this item include the use of federal funds? Yes _____ No _____

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

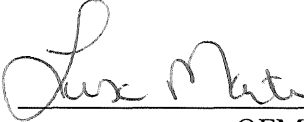
B. Recommended Sources of Funds/Summary of Fiscal Impact:

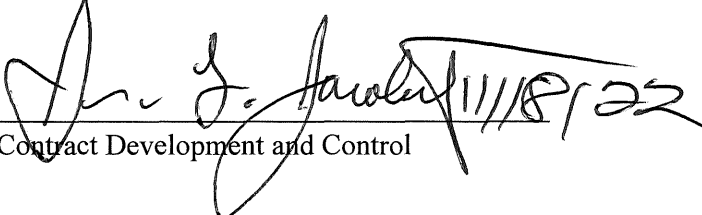
* There is no fiscal impact associated with this item.

C. Departmental Fiscal Review: 


III. REVIEW COMMENTS:

A. OFMB Fiscal and/or Contract Development and Control Comments:

 11/14/2022
 OFMB 9A11/8 ESW 11-8-22

 11/18/22
 Contract Development and Control

B. Legal Sufficiency:

 11/21/22
 Assistant County Attorney

C. Other Department Review:

 Department Director

This summary is not to be used as a basis for payment.



Via Certified Mail –
Return Receipt Requested

Facilities Development &
Operations Department

2633 Vista Parkway
West Palm Beach, FL 33411

Telephone - (561) 233-0200
www.pbcgov.com/fdo

■
Palm Beach County
Board of County
Commissioners

Robert S. Weinroth, Mayor

Gregg K. Weiss, Vice Mayor

Maria G. Marino

Dave M. Kerner

Maria Sachs

Melissa McKinlay

Mack Bernard

County Administrator

Verdenia C. Baker

"An Equal Opportunity
Affirmative Action Employer"

October 5, 2022

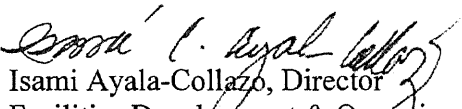
Mr. Joseph Butkiewicz, President
Commercial Cooling Concepts, Inc.
7374 Central Industrial Drive, Suite B
Riviera Beach, FL 33404

**Re: TERMINATION FOR CONVENIENCE - Annual Contract:
HVAC between Commercial Cooling Concepts, Inc. ("Contractor")
and Palm Beach County ("County") dated March 10, 2020 (R2020-
0230) (the "Annual Contract")**

Dear Sir:

On September 30, 2022, the Purchasing Director of the County sent Contractor a letter (copy attached) suspending Contractor under Section 2-56(b)(1) of the County's Purchasing Code from doing any new business with the County. This suspension prohibits Contractor from bidding on or being awarded a new County contract during the term of the suspension. As such, Contractor is prohibited from submitting a bid or being awarded any Work Orders under the Annual Contract for the next two years. Accordingly, effective ten (10) days from the Contractor's receipt of this letter, the County terminates for convenience the Annual Contract under General Condition 26.

Sincerely,


Isami Ayala-Collazo, Director
Facilities Development & Operations

Attachment (1)

cc: Fernando Del Dago, Director, Capital Improvements Division
Michael Jones, Chief Assistant County Attorney
Brenda Znachko, Director, Business Operations, FDO
Gigi Jones, Contract Manager, Capital Improvements Division
Karyn Sykes, Fiscal Director, FDO



Purchasing Department

50 South Military Trail, Suite 110

West Palm Beach, FL 33415-3199

(561) 616-6800

FAX: (561) 242-6744

www.pbcgov.com/purchasing



**Palm Beach County
Board of County
Commissioners**

Robert S. Weinroth, Mayor

Gregg K. Weiss, Vice Mayor

Maria G. Marino

Dave Kerner

Maria Sachs

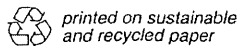
Melissa McKinlay

Mack Bernard

County Administrator

Verdenia C. Baker

"An Equal Opportunity
Affirmative Action Employer"



September 30, 2022

SENT VIA FEDEX

Vendor Code: VC-119250

Phone: (561) 863-2221

Email: commercialcoolin@bellsouth.net

**Commercial Cooling Concepts, Inc.
Joseph Butkiewicz
7374 Central Industrial Drive, Suite B
Riviera Beach, FL 33404**

**RE: TERM CONTRACT #20010B AND 555554
A/C CHILLER PREVENTATIVE MAINTENANCE OF; AND BOILER & STORAGE
TANKS, MAINTENANCE AND REPAIR OF**

Dear Mr. Butkiewicz:

Effective immediately, the above referenced contracts are terminated, and in accordance Section 2-56(b)(1), (b)(2) and (b)(5) of the Palm Beach County Code, Commercial Cooling Concepts, Inc. ("Commercial Cooling") is hereby suspended from doing any new business with Palm Beach County ("County") for a period of two (2) years. Specifically, this suspension prohibits Commercial Cooling from bidding on or being awarded a new County contract; and, also prohibits Commercial Cooling from being a subcontractor to a prime contractor who is bidding on or who has been awarded any new County contract. In addition, this suspension encompasses any other company in which you are a principal.

Commercial Cooling Concepts, Inc. has been suspended due to:

1. Your not providing contractually required original manufacturer/supplier cost documentation with your invoices to the County in violation of County contract as was determined by the Palm Beach County Office of the Inspector General Investigative Report #2018-0007; and
2. Your submitting invoices to the County that falsely represented the price of materials purchased for the County in violation of your contractual requirement to charge the County the original manufacturer/supplier actual materials cost.

The suspension of your company shall remain in force unless the suspended vendor initiates protest proceedings as noted in Section 2-55 and 2-56 of the Purchasing Code. Your firm may request a hearing with a Special Master. In order to facilitate this request, your firm's written response is due no later than ten (10) days from the date of this letter, Monday, October 10, 2022, accompanied with a \$1,500 payment payable to Palm Beach County.

Thank you for your time and attention to this matter. Should you have any additional questions/comments, please contact me.

Sincerely,

Melody Thelwell
Director

- c: Samara J. Cooper, Assistant Director
Kristen A. Monnett, Purchasing Manager
Sandy Shea, Buyer
Myra Figueroa, Buyer Assistant
Countywide
File

Sec. 2-56. - Suspension and debarment.

- (a) *Authority.* The Director of Purchasing may suspend or debar for cause the right of a vendor, contractor or subcontractor to be included in the renewal of an existing contract or any solicitation process; and any bid, proposal, submittal, or quote received from that vendor, contractor or subcontractor shall be rejected. The Board shall have the power to waive or lift such suspension or debarment.
- (b) *Suspension and debarment.* A vendor, contractor or subcontractor may be suspended for a period not to exceed two (2) years as determined by the Director of Purchasing, or may be permanently debarred. However, any suspension imposed pursuant to the provisions of subsections (b)(3) and (4) below shall be in effect during the pendency of the applicable proceeding, regardless of duration. A suspended or debarred vendor or contractor shall not bid or propose as a subcontractor during their suspension or debarment; and, a suspended or debarred subcontractor shall not bid or propose as a vendor or contractor during their suspension or debarment. A suspension or debarment may be based upon the following:
- (1) Failure to fully comply with the conditions, specifications or terms of a contract with the County, including but not limited to the unilateral withdraw of a bid, quote, submittal, or proposal that has been received from the recommended awardee.
 - (2) Any misrepresentation in connection with a solicitation or any misrepresentation of fact upon which the County has based a decision, including but not limited to a misrepresentation by a vendor, contractor or subcontractor on a small business application, or a local preference affidavit.
 - (3) Charged or convicted with the commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract. If charges are dismissed or the vendor, contractor or subcontractor is found not guilty, the suspension or debarment shall be lifted automatically upon written notification and proof of final court disposition. However, nothing herein shall preclude the Director of Purchasing from imposing an additional suspension or debarment following said dismissal or finding of not guilty where the Director of Purchasing determines that the additional suspension or

debarment is otherwise supported by the Purchasing Code. In such case, the suspended or debarred vendor, contractor, or subcontractor may avail themselves of the protest procedure set forth in subsection (d) below.

- (4) Charged or convicted for embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a County government contractor. If charges are dismissed or the vendor, contractor or subcontractor is found not guilty, the suspension or debarment shall be lifted automatically upon written notification and proof of final court disposition. However, nothing herein shall preclude the Director of Purchasing from imposing an additional suspension or debarment following said dismissal or finding of not guilty where the Director of Purchasing determines that the additional suspension or debarment is otherwise supported by the Purchasing Code. In such case, the suspended or debarred vendor, contractor, or subcontractor may avail themselves of the protest procedure set forth in subsection (d) below.
 - (5) Any other cause the Director of Purchasing determines to be so serious and compelling as to materially and adversely affect the responsibility of a vendor, contractor or subcontractor, including but not limited to suspension by another governmental entity for substantial cause.
 - (6) Violation of the ethical standards set forth in local, state or federal law.
 - (7) Violation of a County Ordinance.
- (c) *Decision.* Upon a determination to suspend or debar a vendor, contractor or subcontractor, the Director of Purchasing shall notify the vendor, contractor or subcontractor in writing of the suspension or debarment along with the reasons for the action taken.
- (d) *Finality of Decision.* The suspension or debarment shall be final and conclusive unless the suspended or debarred vendor, contractor or subcontractor initiates protest proceedings. Protests shall be initiated under the procedures provided in Section 2-55 hereinabove except that:
- (1) The preliminary review by the Director of Purchasing as set forth in Section 2-55(c)(3) hereinabove will be waived.
 - (2) The suspension or debarment shall be in effect pending result of the protest.

- (3) The allowable time for protesting the suspension or debarment shall be ten (10) calendar days after the date of notification of said suspension or debarment.
- (4) The Board, upon recommendation of the Director of Purchasing, may accept or reject the recommendation of the Special Master.

(Ord. No. 2015-004, § 7, 1-13-15)