

UTILITIES COMMISSION
CITY OF NEW SMYRNA BEACH
RFP#16-20
EMERGENCY STANDBY CATERING SERVICES

The Utilities Commission, City of New Smyrna Beach, Florida (**COMMISSION**) is seeking proposals from qualified vendors for:

EMERGENCY STANDBY CATERING SERVICES

Notice is hereby given that sealed proposals will be received at 200 Canal Street, New Smyrna Beach, FL 32168, until **April 7, 2020 at 2:30PM** at which time they will be publicly opened in the 3rd floor DeBerry Room.

Submit Maureen Lynch, CPPB
Proposals To: Materials Manager
Utilities Commission,
City of New Smyrna Beach
(386) 424.3046 Voice
(386) 424.2748 Fax
MLYNCH@UCNSB.ORG

Mailing 200 Canal Street
Address: New Smyrna Beach, FL
32168

Walk In 200 Canal Street
Delivery: New Smyrna Beach, FL
32168

Proposers must indicate on the sealed envelope the following:

- A. RFP Number**
- B. Hour and Date of Opening**
- C. Name of Proposer**

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PROPOSAL SCHEDULE

- DISTRIBUTION OF THE REQUEST FOR PROPOSAL: **3/3/2020**

- DEADLINE FOR FINAL QUESTIONS BY 2:30 P.M.: **3/17/2020**
 - E-MAIL TO MLYNCH@UCNSB.ORG

- ADDENDUM PUBLISHED BY 5:00 P.M.: **3/24/2020**

- PROPOSAL RETURN DEADLINE BY 2:30 P.M.: **4/7/2020**
 - LOCATION: **RECEPTION
UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FL.
200 CANAL STREET
NEW SMYRNA BEACH FL, 32168**

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GENERAL TERMS AND CONDITIONS

1. **INSTRUCTIONS TO PROPOSERS:** To insure consideration of your proposal, please follow these instructions. Proposals not in compliance with conditions specified herein are subject to rejection.
2. **SEALED PROPOSALS: AN ORIGINAL PROPOSAL AND 3 COPIES plus a USB Flash Drive** must be in the Finance Department by the date and time specified
 - a. Name and address of Proposer
 - b. RFP number
 - c. Date and time of RFP Opening
3. **COMMISSION:** The term **COMMISSION** used herein refers to the Utilities Commission, City of New Smyrna Beach, Florida, or its duly authorized representative.
4. **PROPOSER:** The term **PROPOSER** used herein refers to the dealer/manufacturer/vendor or business organization submitting a proposal to the **COMMISSION** in response to this solicitation.
5. **COLLUSION:** The **PROPOSER** hereby attests that the prices in this offer have been arrived at independently without consultation, communication or agreement with any competitor for the purpose of restricting competition.
6. **PRICE WARRANTY:** The **PROPOSER** warrants that the prices of the items set forth herein do not exceed the prices charged by the **PROPOSER** under a contract with the State of Florida.
7. **QUESTIONS REGARDING PROPOSAL:** **COMMISSION** has made every effort to provide prospective vendors with the information needed to appropriately respond to this RFP. **COMMISSION** realizes that some clarification, interpretation, or additional information may be required.

Questions regarding any portion of this RFP shall be directed, in writing, to:
Utilities Commission, City of New Smyrna Beach
Maureen Lynch, CPPB
Materials Manager
mlynch@ucnsb.org
or
200 Canal Street
New Smyrna Beach, FL
32168
All such requests must be received no later than 2:30 PM, Eastern Standard Time, **03/17/2020**. Responses to all requests for more information will be included in any

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addenda and will be made available to all **PROPOSERS** on **03/24/2020** by **5:00PM**.

Requests for additional information received after the **03/17/2020** deadline will not receive a response. Responses will **not** be made orally.

Any additional information pertaining to this RFP or to the services being sought hereunder obtained in a manner other than as described in the preceding paragraph should be regarded as unofficial. **COMMISSION** will not be bound in any way by information so obtained, or by a **PROPOSER**'s reliance thereon.

8. **COMMUNICATIONS**: Any communication between any potential vendor, service provider, bidder, lobbyist or consultant and any U.C. Commission Member, staff member or consultant of the U.C. regarding this procurement is strictly prohibited from the date on which the solicitation advertisement appears on the U.C.'s website, DemandStar, or newspaper through the date of contract award. Also, from the date of the filing of any notice of protest of award through resolution for the parties involved in the protest or contract award, whichever is longer.
The only exceptions to this are communications with the U.C.'s Material Manager or the U.C.'s designated point of contact.
Any violation shall constitute grounds for immediate and permanent disqualification of the offending firm and possible debarment or suspension. At the U.C.'s General Manager/CEO and Director of Finance (CFO)'s sole discretion, it may also serve as grounds for the voiding of any Contract with the violator and/or to temporarily or permanently debarring the violator from future work with the U.C.
This process will safeguard the integrity of the U.C.'s procurement and protest process and also provide an ethical, equitable and transparent procurement process.
9. **NON DISCLOSURE**: The Utilities Commission understands the vendors concerns regarding confidential and/or proprietary information for both participating parties. In response UCNSB is incorporating the following verbiage into **RFP 11-20 RETIREMENT ADVISOR SERVICES FOR THE UTILITIES COMMISSION CITY OF NEW SMYRNA BEACH**
Upon receipt by UCNSB, responses to solicitations become public records subject to the provisions of Florida's state policy on public records, Section 119 Florida Statutes. If you believe that any portion of your response is exempt you should clearly identify the specific documents for which confidentiality is claimed and provide specific legal authority of the asserted exemption.
10. **INVOICES**: All invoices resulting from the award of this bid will be paid within 30 days of receipt of invoice or receipt of goods or acceptance of work performed.
11. **BID FORM**: A Bid Form is provided, and a completed original and one duplicate copy shall be returned in a **sealed envelope properly marked with Bid number and acknowledgment**

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of receipt of addenda where applicable. It is incumbent upon each PROPOSER to ensure that they have received all addenda before submitting their PROPOSALS.

12. **PREPARATION OF PROPOSAL:** All information shall be entered in ink, typewritten or produced by computer. It is your responsibility to make certain that unit prices and extended prices are correct. The COMMISSION will not be responsible for errors or omissions made by proposer in determining proposal price (s). The proposal must contain a manual signature of an authorized representative of the agency proposing. In order to insure uniformity, proposals must be submitted on this Proposal Form and the attached pages.
13. **OBLIGATION OF PROPOSER:** By submitting a proposal, the Proposer covenants and agrees that they have satisfied themselves from their own investigation of the conditions to be met, that they fully understand their obligation and that they will not make any claim for, or have right to cancellation or relief from the contract because of any misunderstanding or lack of information.
14. **AMENDED OR WITHDRAWN PROPOSALS:** Proposals may be amended or withdrawn only by written notice prior to the PROPOSAL opening. Amendments will only be accepted in the form of a new PROPOSAL package. The proposer must pick up the original RFP package and submit an amended sealed proposal prior to the RFP's closing date and time. Amendments or withdrawals received after the RFP opening will not be effective, and the original RFP submitted will be considered.
15. **PUBLIC ENTITY CRIMES:** UNDER SECTION 287.133(2)(a), FLORIDA STATUTES, 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 bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for Category two for a period of 36 months from the date of being placed on the convicted vendor list.
16. **CONSIDERATION OF PROPOSALS:** The COMMISSION reserves the right to award the contract to the Proposer(s) that the COMMISSION deems to offer the best overall proposal. The COMMISSION is therefore not bound to accept a proposal on the basis of lowest price. In addition, the COMMISSION at its sole discretion, reserves the right to cancel this Proposal, to reject any and all proposals, to waive any and all informalities and/or irregularities, to re-advertise with either the identical or revised specifications, or not award a contract at all if it is deemed to be in the best interest of the COMMISSION to do so. The COMMISSION also reserves the right to make multiple or split awards if it is deemed to be in the COMMISSION'S best interest. The COMMISSION shall not be responsible for any cost or expense incurred by the Proposer in preparing or submitting a proposal or any cost prior to the execution of a contract agreement.

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17. **TIE PROPOSAL:** In the event of a tie proposal where quality and service are equal; a preference is given to vendors submitting, with the proposal, a certification of a drug free work place in accordance with Section 287.087 Florida Statutes. Where tie proposals are between proposers, one of which is located in Volusia County and the other proposer is not, the recommended award shall be to the local proposer. Past Performance-Consideration will be given to a vendor based on previous history and performance on similar Utilities Commission projects or requirements. Delivery availability or completion period. Capacity to perform in terms of service availability, facilities, personnel or financial availability. Closeness to delivery point. If **all** conditions are equal, a flip of a coin, with two witnesses present, shall be the deciding factor.
18. **SUBMITTING PROPOSALS:** Proposals shall be **addressed and mailed or delivered as specified on page one (1) to 200 Canal St. New Smyrna Beach, Florida 32168.**
19. **NO PROPOSAL:** In the event a Request for Proposal is returned as a no bid, "**NO PROPOSAL**" shall be properly marked on the outside of the envelope with the RFP number.
20. **REJECTED PROPOSAL:** The **COMMISSION** reserves the right to reject proposals containing any additional OR EXCLUDED terms or conditions not specifically requested in the original conditions and specifications.
21. **AWARDS:** Awards shall be made as required for the best interest of the **COMMISSION**. The right is reserved to make award(s) by individual items, group of items, all or none, or any combination thereof, with one or more suppliers.
22. **CHANGES:** **COMMISSION** may, at any time, direct in writing additions, deletions or changes to all or any part of the work. If any such changes cause an increase or decrease in the cost of or in the time required to perform such work, Contractor shall submit detail information substantiating such claims and an equitable adjustment shall be made to the price or time of performance
23. **CONFLICT OF INTEREST OF OFFICERS OR EMPLOYEES OF THE CONTRACTING ENTITY/LOCAL JURISDICTION, MEMBERS OF THE LOCAL GOVERNING BODY, OR OTHER ELECTED OFFICIALS:** No member or employee of the contracting entity/local jurisdiction or its designees or agents; no member of the governing body; and no other public official of the **COMMISSION** who exercises any function or responsibility with respect to this contract, during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed. Further, the Contractor shall cause to be incorporated in all subcontracts, the language set forth in this paragraph prohibiting conflict of interest.

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24. **EMPLOYEE CONFLICT OF INTEREST:** It shall be unethical for any **COMMISSION** employee to participate directly or indirectly in a procurement contract when the **COMMISSION** employee knows that:

(1) The **COMMISSION** employee or any member of the **COMMISSION** employee's immediate family has a financial interest in the procurement contract; or

(2) Any other person, business, or organization with whom the **COMMISSION** employee or any member of a **COMMISSION** employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement contract.

A **COMMISSION** employee or any member of a **COMMISSION** employee's immediate family who holds a financial interest in a disclosed blind trust shall not be deemed to have a conflict of interest with regard to matters pertaining to that financial interest.

25. **GRATUITIES AND KICKBACKS:**

(1) Gratuities. It shall be unethical for any person to offer, give, or agree to give any **COMMISSION** employee or former **COMMISSION** employee, or for any **COMMISSION** employee or former **COMMISSION** employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity **COMMISSION** in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefore.

(2) Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier sub-contractor or any person associated therewith, as an inducement for the award of a subcontract or order.

(3) Contract Clause. The prohibition against gratuities and kickbacks prescribed in this Section shall be conspicuously set forth in every contract and solicitation therefore.

26. **Indemnification for Tort Actions/Limitation of Liability-** The provisions of Florida Statute 768.28 applicable to the Utilities Commission, City of New Smyrna Beach apply in full to this contract. Any legal actions to recover monetary damages in tort for injury or loss of property, personal injury, or death caused by the negligent or wrongful act or omission of any employee of the Utilities Commission acting within the scope of his/her office or employment are subject to the limitations specified in this statute.

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No officer, employee or agent of the Utilities Commission acting within the scope of his/her employment or function shall be held personally liable in tort or named as a defendant in any action for injury or damage suffered as a result of any act, event or failure to act.

The Utilities Commission shall not be liable in tort for the acts or omissions of an officer, employee or agent committed while acting outside the course and scope of his/her employment. This exclusion includes actions committed in bad faith or with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

To the fullest extent permitted by law, the vendor shall defend, indemnify, and hold harmless the Utilities Commission, its officials, agents, and employees from and against any and all claims, suits, judgments, demands, liabilities, damages, cost and expenses (including attorney's fees) of any kind or nature whatsoever arising directly or indirectly out of or caused in whole or in part by any act or omission of the vendor or its subcontractors (if any), anyone directly or indirectly employed by them, or anyone for whose acts any of them may be liable; excepting those acts or omissions arising out of the sole negligence of the Utilities Commission .

Provided, however, if the contract between the Utilities Commission and the Contractor is deemed by a court of competent jurisdiction to be a construction contract for purposes of Section 725.06, Florida Statutes, any obligation of the Contractor to defend, indemnify or hold harmless the Utilities Commission, shall be limited to an obligation to indemnify or hold harmless the Utilities Commission, its officers and employees from liability damages, losses, and costs, including but not limited to reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentionally wrongful conduct of the contractor and persons employed or utilized by the Contractor in the performance of the contract.

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CERTIFICATION OF DRUG-FREE WORKPLACE FORM

IDENTICAL TIE BIDS - Preference shall be given to businesses with drug-free workplace programs. Whenever two or more bids which are equal with respect to price, quality, and service are received by the State or by any political subdivision for the procurement of commodities or contractual services, a bid received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. Established procedures for processing tie bids will be followed if none of the tied vendors have a drug-free workplace program. In order to have a drug-free workplace program, a business shall:

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
4. In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction 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. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

VENDOR SIGNATURE

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**PUBLIC ENTITY CRIMES FORM
SWORN STATEMENT UNDER SECTION 287.133(3) (1) FLORIDA STATUTES**

THIS FORM MUST BE SIGNED IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICER AUTHORIZED TO ADMINISTER OATHS.

This sworn statement is submitted Bid, Bid or Contract for **EMERGENCY STANDBY CATERING SERVICES FOR THE UTILITIES COMMISSION CITY OF NEW SMYRNA BEACH**

This sworn statement is submitted

by _____

[name of entity submitting sworn statement] whose business address is:

_____ and (if applicable) its
Federal Employer Identification Number (FEIN) is _____.

If entity has no FEIN, include the Social Security Number of the individual signing this sworn statement: _____.

My name is _____ and my relationship to the entity named above is _____.

I understand that a “public entity crime” as defined in Paragraph 287.133 (1) (g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state, or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

I understand that “convicted” or “conviction” as defined in Paragraph 287.133 (91) (b), Florida Statutes means a finding of guilt or a conviction of a public entity crime, with or without adjudication of guilt, in any federal or state trial court or recording, relating to charges brought by federal or state trial court or recording, relating to charges brought by federal or state trial court or recording, relating to charges brought by indictment or information after July 1, 1989, as a result of just verdict, non-jury trial, or entry of a plea of guilty or nolo contendere.

I understand the “affiliate” as defined in Paragraph 287.133(1)(a), Florida Statutes, means: (1) A Predecessor or Successor of a person convicted of public crime; or (2) An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term “affiliate” includes those officers, directors, executives, partners, shareholder, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm’s length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of public crime in Florida during the preceding 36 months shall be considered an affiliate.

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Public Entity Crimes Statement

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I understand that a "person" as defined in Paragraph 287.133(1) (e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provisions of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members and agents who are active in management of an entity.

Based on information and belief, that statement which I have marked below is true in relation to the entity submitting this sworn statement. [Please indicate which statement applies]

_____ Neither the entity submitting this sworn statement, or one more of the officers, directors, executives, partners, shareholders, employees, members or agents who are active in the management of the entity, nor any affiliate or the entity, has been charged with and convicted of public entity subsequent to July 1, 1989, AND [Please indicate which additional statement applies.]

_____ There has been a proceeding concerning the conviction before a hearing officer of the State of Florida, Division of Administrative Hearings. The final order entered by the hearing officer did not place the person or affiliate on the convicted vendor list. [Please attach a copy of the final order.]

_____ The person or affiliate was placed on the convicted vendor list. There has been a subsequent proceeding before a hearing officer of the State of Florida, Division of Administrative Hearings. The final order entered by the hearing officer determined that it was in the public interest to remove the person or affiliate from the convicted vendor list. [Please attach a copy of the final order.]

_____ The person or affiliate has not been placed on the convicted vendor list. [Please describe any action taken by or pending with the Department of General Services.]

Date

Signature

STATE OF: _____ COUNTY OF: _____

PERSONALLY APPEARED BEFORE ME, the undersigned authority, _____
[name of individual signing] who after first sworn by me affixed his/her signature in the space provided above on this _____ day of _____, 20_____.

My commission expires:

Personally known to me, or
Produced Identification:

Notary Public

Print, Type or Notary Stamp

Type of I.D.

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NON-COLLUSION AFFIDAVIT OF PRIME BIDDER FORM

State of _____

County of _____

_____, being first duly sworn, deposes and says that:

He/she is _____ of _____, **PROPOSER** that has submitted the attached **PROPOSAL**;

He/she is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;

Neither the said **PROPOSER** nor any of its officers, partners, owners, agent representatives, employees, or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly, sought by agreement or collusion or communication or conference with any other **PROPOSER**, firm or person, to fix the price or prices in the attached Bid or of any other **PROPOSER**, or to fix any overhead, profit or cost element of the Bid price or the Bid price of any other **PROPOSER**, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the **COMMISSION**.

The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the **PROPOSER** or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

Signed

Title

Subscribed and sworn to before me this _____ day of _____, 20__.

Title

My Commission Expires: _____

Request for Taxpayer Identification Number and Certification

**Give Form to the
requester. Do not
send to the IRS.**

▶ Go to www.irs.gov/FormW9 for instructions and the latest information.

Print or type.
See Specific Instructions on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
2 Business name/disregarded entity name, if different from above	
3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes.	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):
<input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate	Exempt payee code (if any) _____
<input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____ Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.	Exemption from FATCA reporting code (if any) _____ <small>(Applies to accounts maintained outside the U.S.)</small>
<input type="checkbox"/> Other (see instructions) ▶ _____	
5 Address (number, street, and apt. or suite no.) See Instructions.	Requester's name and address (optional)
6 City, state, and ZIP code	
7 List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Social security number					
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; border: 1px solid black; height: 20px;"></td> <td style="width: 5%; text-align: center;">-</td> <td style="width: 25%; border: 1px solid black; height: 20px;"></td> <td style="width: 5%; text-align: center;">-</td> <td style="width: 40%; border: 1px solid black; height: 20px;"></td> </tr> </table>		-		-	
	-		-		
OR					
Employer identification number					
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; border: 1px solid black; height: 20px;"></td> <td style="width: 5%; text-align: center;">-</td> <td style="width: 70%; border: 1px solid black; height: 20px;"></td> </tr> </table>		-			
	-				

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here	Signature of U.S. person ▶	Date ▶
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.

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VENDOR APPLICATION

In addition to General conditions, your **PROPOSAL** may be disqualified if the following vendor information is not returned with your **PROPOSAL**.

Vendor is:

- () Corporation
- () Partnership
- () Sole Proprietorship
- () Other _____ (Explain)

Federal Employer Identification
Number or Social Security Number: _____

Do you collect Florida State Sales Tax? () Yes () No

Firm Name: _____

Mailing Address: _____

Telephone No. _____ Fax No. _____

Email Address: _____ Web Address: _____

Commodity or Service Supply: _____

If vendor is quoting, as a manufacturer's representative and the purchase order should be addressed to the manufacturer in care of the vendor, so indicate.

If remittance address is different from the mailing address so indicate below.

Firm Name: _____

Mailing Address: _____

Submitted by: _____

Name & Title Printed: _____

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QUESTIONNAIRE

Additional space may be required. Please answer questions in the order presented. All questions must be answered, or PROPOSER may be disqualified.

1. Has your company ever been denied insurance or had insurance canceled?
2. Is your company bondable? Has your company ever been denied bond?
If yes, explain.
3. Can your insurance company produce a certificate of insurance stating your limits and naming COMMISSION as an Additional Insured?
4. Has your company been a defendant in any lawsuits?
5. Is your company a subsidiary or otherwise legally affiliated with any other company?
6. Is your company rated by Dunn & Bradstreet or any other rating agency?
If yes, what is the name of the agency and rating?
7. Is your company in any stage of bankruptcy, including initial filing?
8. Has your company been disbarred by the Federal Government or any State Government?
9. How many employees does your company have?

Staff Employees: Full Time _____ Part Time _____

Contract Employees: Full Time _____ Part Time _____

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REQUIRED DISCLOSURE

At its sole discretion, the **COMMISSION** may reject any proposer the **COMMISSION** finds to lack, or whose present or former executive employees, officers, directors, stockholders, partners or owners are found by the **COMMISSION** to lack honesty, integrity, or moral responsibility. The discretion of the **COMMISSION** may be exercised based on the **COMMISSION'S** own investigation, public records, or any other reliable sources of information. By submitting a proposal, **PROPOSER** recognizes and accepts that the **COMMISSION** may reject the proposal based upon the exercise of its sole discretion and proposer waives any claim it might have for damages or other relief resulting from the rejection of its proposal based on these grounds.

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BID SCOPE OF WORK

1. PURPOSE OF BID

Utilities Commission, City of New Smyrna Beach (UCNSB) is accepting bids from qualified vendors to provide emergency standby food catering services, including food truck vendors, for an emergency event or a disaster, natural or man-made, or an UCNSB declared emergency. Services shall include, but not limited to, breakfast, lunch, dinner, beverages and ice for approximately one hundred and eighty *(180) employees and incoming emergency work crews during storm restoration. Providing meals to these individuals is necessary in order for them to carry out their duties to the public effectively. UCNSB may award multiple contracts under this RFP. UCNSB reserves the right in its sole discretion to request services from any or all of the vendors selected to provide services under this RFP. Further UCNSB makes no representations that it will have a specific requirement(s) level for services from any or all of the vendors.*

2. SCOPE OF WORK

2.1 Event Preparation and Response

- A. Emergency events or disasters include, but are not limited to: storms, hurricanes, tornadoes, flooding, wild fires, homeland security activity, major police activity, terrorist attacks, or some other major natural or man-made disaster.
- B. Depending on the nature of the emergency event or disaster, and in accordance with UCNSB's emergency operation plan for such events, UCNSB will provide at least thirty-six (36) hours advance notice to contractor. UCNSB's Procurement Manager or designee will alert contractor to begin preparations for delivering catering services, as needed.
 - Procurement Manager or Designee shall notify Contractor to initiate mobilization at least 12 hours prior to the required arrival date and time.
- C. If in the event that UCNSB cancels a request for catering prior to activation, there shall be no monetary compensation paid to Contractor.
 - If UCNSB cancels services after activation, UCNSB may be responsible for mobilization and de-mobilization charges.
- D. At that time, UCNSB Procurement Manager or designee will verbally inform the contractor the nature of the emergency, the site/location of set-up, the type of food or meals required, the estimated quantity of food required, the serving times, the name and contact information for UCNSB's liaison, and any other relevant information.

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- E. Bidders must understand that, depending on the nature of the disaster or emergency event, normal food suppliers or fuel providers in the area may be closed or nonoperational. Bidders must make their own arrangements for refueling and restocking, to allow for the continued and uninterrupted service of the needs of UCNSB when mobilized.
- F. Bidder shall provide all staffing and staff accommodations, supervision, kitchen equipment, refrigeration, material and other supplies to accomplish the full scope of work defined herein.
 - Some exceptions may be made at the discretion of UCNSB.

2.2 UCNSB's Responsibilities

- A. Appoint an UCNSB liaison/point of contact for the contractor.
- B. UCNSB's Food Service Coordinator (FSC) shall work with contractor to provide space, utility services and other needs identified by contractor.
- C. Provide a purchase order number, as soon as possible, to cover the estimated costs for the services.
- D. Provide instruction on how lunches will be distributed.
 - Delivered to crews.
 - Picked-up.
- E. Provide an estimated daily count for all meals required.
 - Coordination shall be done at least 12 hours prior to the next day of operation.
- F. All refuse and waste material shall be disposed of by UCNSB.
- G. Notify the contractor promptly of any cancellation or changes, and work with the contractor in good faith to ensure that excess meals are not unnecessarily prepared, to reduce waste, storage and unnecessary costs.

2.3 Contractor's Responsibilities

- A. Contractor must be able to mobilize, stage and provide the required services within twelve (12) hours of notice to activate by UCNSB.
- B. Contractor shall appoint one (1) of its employees as the liaison and key contact for the duration of the event to coordinate with UCNSB's FSC.
- C. Provide emergency contact phone number(s) that will allow twenty-four (24) hours, seven (7) days per week contact for services.
- D. The contractor shall be required to stage equipment at a pre-determined location.
- E. Contractor is solely responsible for ensuring proper and necessary set-up, relocation, maintenance, protection and/or removal of such equipment including periodic and final clean-up of the staging site(s) upon request of UCNSB. Use of UCNSB facilities will be at no charge to the contractor. However, if any damages occur at any staging area(s) directly resulting from such staging activities of the provider, the Contractor will be responsible for the repair of such damage to its pre-damaged condition.

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- F. Contractor is responsible for all of their personnel while on UCNSB property.
- G. Contractor shall provide adequate number of employees to operate site.
- H. Contractor shall provide staff to manage and supervise the preparation of all meals.
- I. Contractor shall comply with all applicable state and county health and safety codes related to food preparation.
- J. All areas that the contractor operates shall be cleaned and sanitized on a regular basis per standard operating procedures.
- K. Contractor shall provide staff to supervise the daily cleaning and sanitation of the assigned area(s) and oversee maintenance of kitchen equipment.
- L. All employees of the contractor shall be instructed on proper hygiene and appropriate dress while catering/serving the UCNSB.
- M. Contractor is responsible for all sub-contractors, if used.
- N. All food and food products shall be stored and served at the recommended temperatures and at suitable location(s).
- O. Provide recyclable materials, if available (paper products preferable over Styrofoam).
- P. Provide meals to feed approximately 180 personnel per meal each day of operation.
 - *These numbers may increase or decrease based on event.*
- Q. Contractor shall be responsible for all ingredient purchases, food stock, drinks, receipts, storage, issue, handling, processing, packaging, preparation, staging, and clean-up before and after each meal.
- R. Leftovers shall be properly packaged and become the property of UCNSB.
 - Designated UCNSB facilities storage area shall be determined by UCNSB's FSC.

3. MEAL REQUIREMENTS

In an emergency event or disaster setting, UCNSB employees and emergency work crews will be making preparations to work and pre-staging at certain locations. They may also be working outside under extremely difficult and stressful conditions that can also be potentially hazardous. This work will require stamina and the expenditure of a great deal of energy during the course of recovery operations. The weather will play a significant role (hot and humid conditions) and will necessitate adequate hydration and proper nutrition to ensure relief of employee and worker's stress and maintenance of their overall well-being.

- The Bidder shall provide a sample menu that includes foods that are nutritionally sound.
- Food must be of high quality and high energy (high Carbs and protein diets).
- Each meal must be properly prepared and should include the USDA recommended servings of protein, grains, fruits and vegetables.
- Consideration should be given to providing a variety of foods to ensure a choice for special dietary needs, including but not limited to: vegetarian, gluten free, religious preference; when pre-identified by UCNSB's FSC.
- At a minimum, a hot food selection to be provided for breakfast and dinner.
- Lunch may be a cold meal.
- Be able to provide food items that are pre-packaged such as granola bars, candy bars,

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chips, etc.

- Meals should be buffet-style served by the vendor for breakfast and dinner.
 - Lunch maybe buffet-style served by the vendor, boxed, or both for approximately (180) individuals per day, per meal, unless otherwise instructed by UCNSB's FSC.
 - UCNSB's FSC shall inform contractor when boxed/bagged meals (for lunch or dinner) shall be needed and the amount to be prepared.

4. SERVING TIMES

Contractor shall provide three (3) designated times a day throughout a 24-hour period which shall include breakfast, lunch, dinner. This service shall continue to provide three (3) meals per day, per employee/worker, seven days a week, per the hours of operation until such disaster is deemed conclusive by UCNSB. These times may change or vary depending on the nature of the disaster or emergency event.

- Breakfast: 6:00 AM – 8:00 AM
- Lunch: 11:00 AM – 1:00 PM
- Dinner: 7:00 PM – 9:00 PM

There shall also be a 24-hour snack bag consisting of prepackaged individually wrapped snacks that can be picked up at any time by employees/workers.

5. FOOD AND BEVERAGE

1. Sample menu items:

- Breakfast:
 - Various breakfast meats, eggs, sausage gravy and biscuits
 - Carbohydrates: hot oatmeal, grits, pancakes, French toast, waffles, potatoes, hash browns, home fries
 - Toast, bagel, biscuits, Danish, etc.
 - Fresh whole fruit
 - Milk Box
 - Fresh orange juice
 - Bottled water
 - Coffee from all day coffee station- see 5.1 bulk beverages
- Power Lunch:
 - Sub with deli meats, tuna, chicken salad, vegetarian, meat ball, hot dogs, hamburgers
 - Pasta salad, coleslaw
 - Mixed vegetables, corn, baked beans, etc.
 - Fresh whole fruit
 - Bottled water
 - Bottled Power Drink like Gatorade, diet Gatorade, PowerAde, Vitamin water, etc.
 - Snack bag (choice of 4 items from snacks available)
 - Additional beverages from coffee/ice tea all day station

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- Dinner:
 - Various meats, chicken, pork, beef, shrimp
 - Sub with deli meats, tuna, chicken salad, vegetarian, meat ball, hot dogs, hamburgers
 - Carbohydrates, pasta, potatoes, beans, rice, macaroni and cheese, etc.
 - Mixed vegetables, corn, baked beans, etc.
 - Side salad, coleslaw, pasta salad
 - Dinner rolls, cornbread, biscuits, etc.
 - Fresh whole fruit
 - Dessert, assorted cakes, cookies, brownies
 - Bottled water
 - Assorted canned soda
 - Additional beverages from all day station-see 5.1 bulk beverages
 - 24-hour Snack bag to include:
 - 4 items from snacks available-see 5.2 additional beverages and snacks
2. All provided meals should include but are not limited to:
- Condiments relevant to the meal provided:
 - Individual mustard, ketchup, mayo, jelly, syrup, cream cheese packets
 - Butter pats
 - Salt and pepper
 - Salad dressing(s)
 - Serving items such as disposable (recyclable materials preferred):
 - Paper plates, large and small
 - Napkins
 - Plastic knives, forks and spoons
 - Hand sanitizers, wipes, etc.
 - Beverage cups, lids, stirrers
 - Straws
 - Boxes or paper bags for meals
 - Storage container for leftovers
 - Selection of beverages:
 - Coffee and tea (decaf and regular) – all day station-see 5.1 bulk beverages
 - Milk
 - Iced tea (sweet and unsweetened)
 - Assorted sodas
 - Power Drinks like Gatorade, diet Gatorade, PowerAde, Vitamin water, etc.
 - Bottled water

 - Sugar and substitute sweetener packets
 - Dry coffee creamer, shaker or packets
 - Bags of ice
 - Other meal related items, not mentioned.

5.1 Bulk beverages

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UCNSB requests the following items be provided with an all-day beverage station including accompaniments.

- The containers (plastic or metal that hold a minimum of 30 servings) must hold appropriate temperature.
 - These items shall be in addition to any beverages provided with the meals.
 - Bidder shall specify a cost per bulk container.
 - Please do not propose a price per individual serving.
- Hot Coffee station
- Ice tea station (sweet and unsweetened)
- Additional 100 Bottles of water, per day placed in iced tubs for use during the day

5.2 Additional beverages and snacks – bulk pricing

UCNSB requests to have on hand additional cases of:

- Bottled Power drinks like Gatorade, diet Gatorade, PowerAde, Vitamin water
- Bottled water
- Assorted canned soda
- Bagged ice
- 24-hour snack bags to include items such as:
 - Assorted individually packaged:
 - Snack-bag chips, cheese and crackers, peanut butter and crackers, cheese sticks, peanuts or assorted nuts
 - Candy bars, snack-bag cookies, snack cakes, brownies, granola bars, cereal bars
 - Applesauce, pudding and/or gelatin, mixed fruit cups

6. PRICE PER MEAL

Bidder shall propose a total cost, per meal, per person, per adult portion. UCNSB will not pay any surcharges or additional fees such as additional travel or fuel fluctuation fees above the price per meal established in the contract. Price per meal shall include the actual labor costs and total cost of doing business, including but not limited to, the following charges:

- Overhead
- Profit
- Travel distance and time
- Service charges and surcharges

- Gratuities
- Delivery
- Potable water
- Lodging
- Fuel costs (propane, gas, diesel, electric, etc.)
- Generators
- Food products and transportation, including beverages, condiments,

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ice, accompaniments

- All necessary catering and miscellaneous equipment
- Refrigeration or warming equipment
- Food preparation and serving
- Serving items (plates, cups, eating and serving utensils, napkins, etc.)
- Tools, carts, trolleys, etc.
- Insurance charges
- Fringe benefits
- Any other fee, charge, or cost related to providing the service (PLEASE NAME ALL OTHERS NECESSARY TO PROVIDE THE SERVICES)

7. MOBILIZATION

Bidders shall provide a price of one time delivery and set-up and one-time breakdown.

8. LOCATION

Services shall be performed at 1151 Field Street Site located within UCNSB's service territory, unless otherwise determined based on unavailability of pre-determined site or severity of emergency event. Bidder will address in its response the mobilization and staging abilities for delivering meals to multiple locations. Possible additional locations located within UCNSB's service territory:

200 Canal Street

2640 Paige Avenue

207 Williamson Blvd.

413 Smith Street

9. QUALIFICATIONS

All bidders must provide business certification and Food Handlers Certification for performing this type of service. Bidders shall provide copies of current health inspection records. All employees of bidder that are involved with food preparation shall provide food handler's certificate(s).

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PROPOSER NAME: _____

**PROPOSAL SUBMITTAL REQUIREMENTS AND EVALUATION FACTORS
Page 1 of 3**

Proposals shall include all of the information as listed below, and any additional information that the **PROPOSER** deems pertinent to the understanding and evaluating of the proposal. Proposals shall be organized for evaluation in tabbed sections. Submittals must be clear, concise, typed on letter size paper and individually bound. Submittals should contain no more than (30), double sided, single spaced pages, at least #10 fonts. Longer submittals may be discarded. The **PROPOSER** should not withhold any information from the written response in anticipation of presenting the information orally or in a demonstration, since oral presentations or demonstrations may not be solicited. Failure to supply all of the information requested shall result in the proposal being excluded from consideration. The **COMMISSION** reserves the right to request information or clarification from **PROPOSERS** following the bid opening if omissions are deemed curable.

COMMISSION WILL CONSIDER THE FOLLOWING WEIGHTED FACTORS IN THE EVALUATION OF THE PROPOSALS RECEIVED.

EVALUATION FACTOR # 1:

**APPROACH
MAXIMUM POINTS OF 25**

Describe how the company will service UCNSB as a customer to ensure that services are provided effectively and efficiently to multiple locations. This section should convey the company's understanding of the project.

EVALUATION FACTOR # 2:

**REFERENCES
MAXIMUM POINTS 25**

The Contractor shall provide at least three references, within the past five years of clients for whom similar services have been performed that are comparable in quality and scope to that specified in this RFP. The references shall include names, addresses, and telephone numbers of the clients for whom prior work was performed and include an explanation of the services provided.

Provide a listing of other current contracts held for this service. UCNSB will use this to consider your availability in the event of an actual emergency.

EVALUATION FACTOR # 3:

**PRICING
MAXIMUM POINTS 20**

Proposal should include pricing for the following:

- Per person for hot breakfast (List what this provides/attach a sample menu)
- Per person for hot and boxed lunch(List what this provides/attach a sample menu)
- Per person for hot dinner (List what this provides/attach a sample menu)
- One delivery and set up and one time breakdown.
- Bulk Beverages (Section 5.1)
- Bulk Beverages and Snacks (Section 5.2)

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EVALUATION FACTOR # 4:

**QUALIFICATIONS
MAXIMUM POINTS 25**

Provide a brief history and description of your firm's business organization and experience as it relates to the requirements within this Request for Proposal. Include the locations of offices and the specific expertise and services that distinguish your firm.

Provide all appropriate federal, state and local licenses for services provided including a valid Health Department Certificate and State of Florida Food License.

EVALUATION FACTOR #5

**FORMS
MAXIMUM POINTS 5**

Forms must be complete and attached within the proposal

- Certification of Drug-Free Workplace
- Public Entity Crimes
- Non-collusion Affidavit
- Request for Taxpayer Identification Number and Certification W-9 Form
- Vendor Application
- Questionnaire
- Required Disclosure
- Addenda Acknowledgement

For EMERGENCY STANDBY CATERING, the total **MAXIMUM POINTS** for evaluation by Committee is **100**.

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PROPOSAL FORM

PROPOSERS NAME: _____

The undersigned hereby declares that the following list states any and all variations from, and exceptions to, the requirements of the scope of work.

These Prices are valid for orders placed within **180** days from date of award.

Submitted By:

Company _____

Name and Title _____ Signature _____

Telephone No. _____ e-mail _____

The Term of this Agreement shall be for one (1) year. This agreement allows for the option to renew, for three (3) additional one (1) year periods upon mutual agreement.

The COMMISSION reserves the right to award the contract to the PROPOSER(s) that the COMMISSION deems to offer the best overall bid. The COMMISSION is therefore not bound to accept a bid on the basis of lowest price. In addition, the COMMISSION at its sole discretion, reserves the right to cancel this Bid, to reject any and all bids, to waive any and all informalities and/or irregularities, to re-advertise with either the identical or revised specifications, or not award a contract at all if it is deemed to be in the best interest of the COMMISSION to do so. The COMMISSION also reserves the right to make multiple or split awards if it is deemed to be in the COMMISSION'S best interest. The COMMISSION shall not be responsible for any cost or expense incurred by the PROPOSER in preparing or submitting a bid or any cost prior to the execution of a contract agreement.

As representative for the PROPOSER, I have read and understand this statement.

Name and Title _____ Signature _____

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AGREEMENT FOR CATERING SERVICES
SAMPLE

THIS AGREEMENT FOR CONTINUING PROFESSIONAL SERVICES ("AGREEMENT") is made and entered into this _____ day of _____, 20__, by and between the UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FLORIDA, (hereafter "**COMMISSION**"), located at 200 Canal Street, New Smyrna Beach, Florida 32168, and _____, (hereafter "**SERVICE PROVIDER**"), located at _____.

RECITALS

1. The **COMMISSION** was created by special act of the Florida Legislature as a political subdivision of the State of Florida with certain powers, authorities, and duties related to the provision of water, wastewater, reclaimed water, and electric utility services, including the authority to enter into contracts .

▪

2. The **COMMISSION** wishes to obtain _____ services.

▪

3. The **SERVICE PROVIDER** is willing to provide such services.

ACCORDINGLY, for and in consideration of the Recitals hereof, the mutual undertakings and agreements herein contained and assumed, and other good and valuable consideration the receipt and sufficiency of which are acknowledged by the Parties, the Parties hereby covenant and agree as follows:

SECTION 1. RECITALS. The above Recitals are true and correct and form a material part of this Agreement.

SECTION 2. TERM. This Agreement is to become effective upon execution by both parties. The initial term shall be for **ONE**(1) year(s). Additionally, the parties agree that this Agreement may be renewed beyond the initial term, up to **Three** (3) additional one year periods upon mutual agreement in writing. Either party may elect to terminate the Agreement by giving written notice prior to **THIRTY DAYS (30).**

SECTION 3. DESCRIPTION OF SERVICES. **SERVICE PROVIDER** agrees to perform **Directional Bore** services as specified in Exhibit "A" attached to and incorporated into this Agreement.

SECTION 4. CHANGES IN THE SCOPE OF WORK.

4.1 COMMISSION may make changes in the services at any time by giving written notice to **SERVICE PROVIDER**. If such changes increase, decrease or eliminate any amount of work, **COMMISSION** and **SERVICE PROVIDER** will negotiate any change in total cost or schedule modifications. If **COMMISSION** approves, **COMMISSION** shall amend the Scope of Services to reflect the modifications; and **SERVICE PROVIDER** shall be compensated for said services in accordance with the terms of Section 5 herein. All

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change orders shall be in writing and executed by both **COMMISSION'S** designated representative and the **SERVICE PROVIDER**.

4.2 All of **COMMISSION's** said Scope of Services and amendments thereto shall be performed in strict accordance with the terms of this Agreement insofar as they are applicable.

SECTION 5. SCHEDULE AND PERIOD OF PERFORMANCE.

5.1 SERVICE PROVIDER shall perform its services in conformance with the agreed upon schedule. **SERVICE PROVIDER** shall complete all of said services in a timely manner and will keep **COMMISSION** apprised of the status of work on a monthly basis. Should **SERVICE PROVIDER** fall behind the agreed-upon schedule, it shall employ such resources so as to comply with the agreed-upon schedule.

5.2 No extension for completion of services shall be granted to **SERVICE PROVIDER** without **COMMISSION's** prior written consent, except as provided in Sections 4.1 and 22.1 herein.

SECTION 6. COMPENSATION FOR SERVICES. **COMMISSION** agrees to compensate **SERVICE PROVIDER** for services properly performed at the _____ rates of

SECTION 7. PAYMENT; INVOICES.

7.1 Invoices for **SERVICE PROVIDER'S** services shall be submitted to the **COMMISSION** at monthly intervals for services rendered during the previous period. Each invoice shall delineate the period in which the services were rendered; shall include a summary of the progress to date as a percentage of the major phases of the work. Each invoice shall be certified as correct by a duly authorized representative of **SERVICE PROVIDER**. The bill[s] shall identify the services completed and the amount charged.

7.2 COMMISSION or its authorized representative shall have the right, at all reasonable times, at its own expense, to inspect and audit the books and records of **SERVICE PROVIDER** insofar as they pertain to the direct charges payable by **COMMISSION** under this Agreement and such audit is performed within three (3) years after the expiration of this Agreement. The composition of fixed rates will not be subject to audit.

7.3 All invoices shall be due and payable thirty (30) days from receipt thereof by **COMMISSION**, subject to **COMMISSION'S** right to contest, in good faith, all or any part of the charges set forth therein. Payment of invoices shall not be unreasonably withheld by **COMMISSION**, but the **COMMISSION** reserves the right to reject any statement which fails to adequately describe the services rendered by **SERVICE PROVIDER**. Upon written notice to **SERVICE PROVIDER**, payment may be withheld, in whole or in part, for **SERVICE PROVIDER'S** failure to comply with a term, condition or requirement of this Agreement. **SERVICE PROVIDER** will help effect resolution and transmit a revised invoice as necessary. Thereafter, the withheld amount(s) shall be paid upon **SERVICE**

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PROVIDER'S satisfactory demonstration of compliance to the **COMMISSION**. Amounts not questioned by **COMMISSION** shall be promptly paid to **SERVICE PROVIDER** in accordance with the above payment procedures.

SECTION 8. RIGHT TO INSPECTION. **COMMISSION** or its affiliates shall at all times have the right to review or observe the services performed by **SERVICE PROVIDER**. No inspection, review, or observation shall relieve **SERVICE PROVIDER** of its responsibility under this Agreement.

SECTION 9. COMMERCIAL WARRANTY. The **SERVICE PROVIDER** agrees that the supplies and services furnished under this award shall be covered by the most favorable commercial warranties the **SERVICE PROVIDER** gives any customers for comparable quantities of such supplies or services and that the rights and remedies provided herein are in addition to and do not limit any rights afforded to the **COMMISSION** by any other provision of this award.

SECTION 10. INSPECTION AND ACCEPTANCE. A duly authorized representative of **COMMISSION** will accomplish inspection and acceptance of the supplies/services purchased herein at the designated delivery point.

SECTION 10. SAFETY. To the extent the **COMMISSION'S** safety standards do not violate other County, State or Federal standards, **SERVICE PROVIDER** agrees to comply with **COMMISSION'S** safety standards while on the property of the **COMMISSION**. **SERVICE PROVIDER** shall have full responsibility and assume all liability for the safety and supervision of its employees while performing services provided hereunder.

SECTION 11. INSURANCE.

11.1 SERVICE PROVIDER shall maintain in force during the term of this Agreement, at its own expense, public liability insurance and other insurance coverage as set forth in Exhibit "B" which is hereby made a part of this Agreement.

11.2 SERVICE PROVIDER and **COMMISSION** waive all rights against each other and their respective directors, officers, partners, commissioners, officials, agents, subcontractors, **SERVICE PROVIDERS**, and employees for damages covered by any type of property insurance during and after the completion of the services. A similar provision shall be incorporated into all construction contractual arrangements entered into by **COMMISSION** and shall protect **COMMISSION** and **SERVICE PROVIDER** to the same extent. All project contractors shall be required to include **COMMISSION** and **SERVICE PROVIDER** as additional insureds on their general liability insurance policies.

SECTION 12. STANDARDS OF CONDUCT; COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS.

12.1 The **SERVICE PROVIDER** warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the **SERVICE**

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PROVIDER to solicit or secure this Agreement, and that he has not paid or agreed to pay any person, company, corporation, individual, or firm other than a bona fide employee working solely for the **SERVICE PROVIDER** any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award of this Agreement.

12.2 The **SERVICE PROVIDER** covenants that it or any of its employees presently has no interest and shall not acquire any interest, direct or indirect, financial or otherwise, that would conflict in any manner or degree with performance of services hereunder.

12.3 The **SERVICE PROVIDER** agrees that it and its employees shall be bound by the Standards of Conduct provided in Section 112.313, Florida Statutes, as it relates to services performed under this Agreement, which standards will by reference be made a part of this Agreement as though set forth in full. The **SERVICE PROVIDER** agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter with reference to the services performed.

12.4 The **SERVICE PROVIDER** shall comply with all federal, state, and local laws and ordinances applicable to the work or payment for work thereof, and shall not discriminate on the grounds of race, color, religion, sex, or national origin in the performance of work under this Agreement.

12.5 The **SERVICE PROVIDER** warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the **SERVICE PROVIDER** to solicit or secure this agreement and that he has not paid or agreed to pay any person, company, corporations, individual, or firm, other than a bona fide employee working solely for the **SERVICE PROVIDER** any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award or making of this agreement.

12.6 **SERVICE PROVIDER** is subject to the provisions of Section 287.133(2)(a), Florida Statutes, on Public Entity Crimes.

SECTION 13. SERVICE PROVIDER'S REPRESENTATIONS. On behalf of its employees, agents, servants and contractors, **SERVICE PROVIDER** represents and warrants to the **COMMISSION** each of the following:

13.1 **SERVICE PROVIDER** represents that the services provided hereunder shall conform to all requirements of this Agreement; shall be consistent with recognized and sound consulting practices and procedures; and shall conform to the professional standards of care, skill, and diligence appropriate to the nature of the services rendered.

13.2 **SERVICE PROVIDER** represents that the personnel furnishing such services shall be qualified and competent to perform the services assigned to them and that such guidance given by and the recommendations and performance of such personnel shall reflect their best personal knowledge and judgment.

13.3 **SERVICE PROVIDER** represents that if **SERVICE PROVIDER**, through its negligent acts, errors, or omissions, causes any injury to **COMMISSION** or causes any

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physical damage to, or destruction of, any of **COMMISSION's** property during the term of this Agreement, it shall be liable for said injuries and/or damages, including reasonable attorney fees and costs incurred as a result therefrom.

13.4 SERVICE PROVIDER represents that none of **SERVICE PROVIDER's** principals or the immediate family of **SERVICE PROVIDER's** principals has a compensation arrangement of any kind with City. For purposes of this subsection, the term "immediate family" shall include a spouse, natural or adoptive parent, child or sibling, stepparent, stepchild, stepbrother or stepsister, father-in-law, mother-in-law, grandparent, grandchild or spouse of a grandparent or grandchild. For purposes of this subsection, compensation shall be defined as any type of remuneration directly or indirectly, overtly or covertly, paid in cash or in kind.

13.5 SERVICE PROVIDER represents that it is not undergoing any type of audit by a public or private, state or regulatory body or auditing entity.

13.6 SERVICE PROVIDER represents that it and its principals have not engaged in, and during the term of this Agreement agree not to engage in, any activities prohibited under the federal anti-kickback laws (42 U.S.C. 1320a-7, 1320a-7a, 1320a-7b), the regulations promulgated pursuant to such federal statutes, related state or local statutes or regulations, or rules of professional conduct.

13.7 Should **SERVICE PROVIDER** breach the representations set forth above, **COMMISSION** shall have such remedies as are set forth in this Agreement. To the extent an applicable remedy is not provided herein, both Parties shall have all such remedies as allowed under the laws of the State of Florida. Additionally, without limiting the generality of the foregoing, if prior to the expiration of two (2) years from the date **SERVICE PROVIDER** completes its services hereunder, **SERVICE PROVIDER'S** services are negligent or erroneous and **COMMISSION** notifies **SERVICE PROVIDER** in writing that a negligent error or omission has been discovered in **SERVICE PROVIDER'S** services, **SERVICE PROVIDER** shall correctly perform such negligent services at no additional cost to **COMMISSION** and within a reasonable time period.

SECTION 14. GUARANTEE AGAINST INFRINGEMENT. SERVICE PROVIDER guarantees that all services provided under this Agreement shall be free from claims of patent, copyright, and trademark infringement. **SERVICE PROVIDER** shall indemnify, hold harmless, and defend **COMMISSION**, its officers, directors, employees, agents, assigns, and servants from and against any and all liability, including expenses, legal or otherwise, for actual or alleged infringement of any patent, copyright, or trademark resulting from the use of any goods, services, or other item delivered under this Agreement.

SECTION 15. INDEMNIFICATION. **SERVICE PROVIDER** shall defend, indemnify, and hold harmless the **COMMISSION**, its officers, agents and employees, from and against any and all demands, claims, losses, suits, liabilities, causes of action, judgment or damages, arising out of, related to, or any way connected with **SERVICE PROVIDER'S** negligent performance or non-performance of any provision of this Agreement including, but not limited to, liabilities arising from Agreements between the **SERVICE PROVIDER** and third parties made pursuant to this Agreement. **SERVICE**

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PROVIDER shall reimburse the **COMMISSION** for all its expenses including reasonable attorneys' fees and costs incurred in and about the defense of any such claim or investigation and for any judgment or damages arising out of, related to, or in any way connected with **SERVICE PROVIDER'S** performance or non-performance of this Agreement. This section shall be interpreted and construed in a manner to comply with any applicable Florida Statutes, including without limitation Sections 725.06 and 725.08, Fla. Stat., if applicable. The provisions of this section shall survive termination of this Agreement. Ten dollars (\$10) of the payments made by the **COMMISSION** constitute separate, distinct, and independent consideration for the granting of this indemnification, the receipt and sufficiency of which is voluntary and knowingly acknowledged by the **SERVICE PROVIDER**.

SECTION 16. AUDIT; PUBLIC RECORDS RETENTION; DOCUMENTS; OWNERSHIP.

16.1 Upon **COMMISSION'S** or its designated Project Leader's request, at any time during the term of this Agreement or upon completion or termination of this Agreement, **SERVICE PROVIDER** shall provide **COMMISSION** or its designated Project Leader with a copy of all documents prepared by **SERVICE PROVIDER** under this Agreement. Documents shall be original and PDF versions.

16.2 The parties acknowledge that the **COMMISSION** is a part of the government of the City of New Smyrna Beach, Florida, and subject to the Florida Public Records Law. **SERVICE PROVIDER** has been advised the **COMMISSION** that all its activities are subject to the Public Records Law (Chapter 119, Florida Statutes) and the Sunshine Law (Section 286.011, Florida Statutes), and agrees to maintain all records necessary to comply with the requirement of such laws, and for the proper supervision of the services performed pursuant to this Agreement. **SERVICE PROVIDER** agrees to comply with all **COMMISSION** policies and procedures in observing the requirement of said laws. **SERVICE PROVIDER** shall allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, made or received by the **SERVICE PROVIDER** in conjunction with this **AGREEMENT**. Specifically, the **SERVICE PROVIDER** must:

(1) Keep and maintain public records that ordinarily and necessarily would be required by the **COMMISSION** in order to perform the services being performed by the **SERVICE PROVIDER**.

(2) Provide the public with access to public records on the same terms and conditions that the **COMMISSION** would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

(3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.

(4) Meet all requirements for retaining public records and transfer, at no cost, to the **COMMISSION** all public records in possession of the **SERVICE PROVIDER** upon termination of the **AGREEMENT** and destroy any duplicate public records that are exempt

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or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the **COMMISSION** in a format that is compatible with the information technology systems of the **COMMISSION**.

The **SERVICE PROVIDER** shall promptly provide the **COMMISSION** with a copy of any request to inspect or copy public records in possession of the **SERVICE PROVIDER** and shall promptly provide the **COMMISSION** a copy of the **SERVICE PROVIDER'S** response to each such request. Failure to grant such public access will be grounds for immediate termination of this **AGREEMENT** by the **COMMISSION**.

16.3 COMMISSION shall have the right to audit the books, records and accounts of **SERVICE PROVIDER** that are related to the performance of Services pursuant to this Agreement. **SERVICE PROVIDER** shall keep such books, records and accounts as may be necessary in order to record complete and correct entries related to this Agreement. **SERVICE PROVIDER** shall preserve and make available, at reasonable times for examination and audit by **COMMISSION**, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or if the Florida Public Records Act is not applicable for a minimum period of three (3) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by **COMMISSION** to be applicable to **SERVICE PROVIDER'S** records, **SERVICE PROVIDER** shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by **SERVICE PROVIDER**. Any incomplete or incorrect entry in such books, records and accounts shall be a basis for **COMMISSION** disallowance and/or recovery of any payment upon such entry. The **SERVICE PROVIDER** shall retain all records relating to this Agreement for five years after the **COMMISSION** makes final payment and all other pending matters are closed.

16.4 Any and all reports, photographs, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of **COMMISSION**. In the event of termination of this Agreement, any reports, photographs, surveys, and other data and documents prepared by **SERVICE PROVIDER**, whether finished or unfinished, shall become the property of **COMMISSION** and shall be delivered by **SERVICE PROVIDER** to the **COMMISSION** within seven (7) days of termination of this Agreement by either party. Any compensation due to **SERVICE PROVIDER** may be withheld until all documents are received as provided herein.

SECTION 17. ASSIGNMENT

17.1 SERVICE PROVIDER shall not assign or subcontract this Agreement or any rights or any monies due or to become due hereunder without the prior, written consent of **COMMISSION**. All requirements to be observed by the **SERVICE PROVIDER** shall be observed by all subcontractors.

17.2 If upon receiving written approval from **COMMISSION**, any part of this Agreement is subcontracted by **SERVICE PROVIDER**, **SERVICE PROVIDER** shall be

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fully responsible to **COMMISSION** for all acts and/or omissions performed by the subcontractor as if no subcontract had been made.

17.3 If **COMMISSION** determines that any subcontractor is not performing in accordance with this Agreement, **COMMISSION** shall so notify **SERVICE PROVIDER** who shall take immediate steps to cancel the subcontract, or correct the deficiency. **COMMISSION** shall also be given permission to communicate directly to the subcontractor, which communication shall not constitute interference with contractor/subcontractor relationship, provided that **COMMISSION** notifies **SERVICE PROVIDER** in writing of said communication.

17.4 If any part of this Agreement is subcontracted by **SERVICE PROVIDER** prior to commencement of any work by the subcontractor, **SERVICE PROVIDER** shall require the subcontractor to provide **COMMISSION** with insurance coverage as set forth by Section 11 and Exhibit "B".

SECTION 18. INDEPENDENT CONTRACTOR. The parties intend that an independent contractor relationship will be created by this Agreement. It is understood that **COMMISSION** does not agree to use **SERVICE PROVIDER** exclusively. It is further understood that **SERVICE PROVIDER** is free to contract for similar services to be performed for others while under contract with **COMMISSION**. The parties expressly acknowledge that **SERVICE PROVIDER** is an independent SERVICE PROVIDER, and nothing contained in this Agreement will be deemed or construed to create a partnership or joint venture between **COMMISSION** and **SERVICE PROVIDER** or any other relationship between the parties. Additionally, nothing in this Agreement is intended nor shall be construed to create an employer/employee relationship, or to allow **COMMISSION**, or its agents, representative, or employees, to exercise control or direction over the manner or method by which SERVICE PROVIDER performs any services which are the subject of this Agreement.

SECTION 19. AUTHORIZATION. **SERVICE PROVIDER** shall not, without authorization first being given by **COMMISSION**: a) Use or pledge money or credit of the **COMMISSION**, except in the usual and regular course of business and on account of or for the benefit of the **COMMISSION**; b) Release or discharge any debt due to **COMMISSION** without receiving the full amount thereof; c) Commit any act causing seizure or attachment of the **COMMISSION'S** property; or d) Cause **COMMISSION** to become a guarantor, surety, or endorser, or give any note which obligates the **COMMISSION**.

SECTION 20. TAXES. **SERVICE PROVIDER** shall assume full responsibility for payment of all federal, state, and local taxes or contributions imposed or required under unemployment insurance, Social Security, and income tax laws, with respect to **SERVICE PROVIDER'S** performance of this Agreement.

SECTION 21. DEFAULT. If, during the term of this Agreement, **SERVICE PROVIDER** shall be in default of any provision of this Agreement, **COMMISSION** may suspend its payment or performance hereunder until such delinquency or default has been corrected; provided, however, that no suspension shall be effective unless and until

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COMMISSION gives notice of the default to **SERVICE PROVIDER** with at least ten (10) days to cure such default.

SECTION 22. TERMINATION. Notwithstanding any other provision of this Agreement, **COMMISSION** may, upon fifteen (15) days written notice to **SERVICE PROVIDER**, terminate this Agreement if: (a) **SERVICE PROVIDER** is adjudged to be bankrupt; (b) **SERVICE PROVIDER** makes a general assignment for the benefit of its creditors; (c) **SERVICE PROVIDER** fails to comply with any of the conditions or provisions of this Agreement; or (d) **SERVICE PROVIDER** is experiencing a labor dispute which threatens to have a substantial, adverse impact upon performance of this Agreement, without prejudice to any other right or remedy **COMMISSION** may have under this Agreement; or (e) when deemed by the **COMMISSION** (in its sole discretion) is in the best interest of the **COMMISSION**. In the event of such termination, **COMMISSION** shall be liable only for the payment of all unpaid charges, determined in accordance with the provisions of this Agreement, for work properly performed prior to the effective date of termination.

SECTION 23. FORCE MAJEURE. Any delay or failure of either party in the performance of its required obligations hereunder shall be excused if and to the extent caused by acts of God; fire; flood; windstorm; explosion; riot; war; sabotage; strikes; extraordinary breakdown or damage to **COMMISSION**'s generating plants, their equipment, or facilities; court injunction or order; federal and/or state law or regulation; order by any regulatory agency; or cause or causes beyond the control of the party affected; provided that prompt notice of such delay is given by such party to the other and each of the parties hereunto shall be diligent in attempting to remove such cause or causes.

SECTION 24. NOTICE. Any notices required to be given by the terms of this Agreement shall be delivered by hand or mailed, postage prepaid, to:

For SERVICE PROVIDER:

For COMMISSION:

Utilities Commission, City of New Smyrna Beach, Florida
Attention: Procurement Manager
P.O. Box 100
New Smyrna Beach, FL 32170-0100
(386) 427-1361

SECTION 25. GOVERNING LAW. This Agreement is made and shall be interpreted, construed, governed, and enforced in accordance with the laws of the State of Florida.

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SECTION 26. SEVERABILITY. In the event any portion of part of this Agreement is deemed invalid, against public policy, void, or otherwise unenforceable by a court of competent jurisdiction, the parties shall negotiate an equitable adjustment in the affected provision of this Agreement. The validity and enforceability of the remaining parts thereof shall otherwise be fully enforceable.

SECTION 27. WAIVER AND ELECTION OF REMEDIES.

27.1 Waiver by **COMMISSION** of any term, condition, or provision of this Agreement shall not be considered a waiver of any term, condition, or provision in the future.

27.2 No waiver, consent, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of each party hereto.

27.3 Notwithstanding any other provision of this Agreement, the provisions of Sections 13, 14 and 15 shall survive the termination or expiration of this Agreement.

SECTION 28. THIRD PARTY RIGHTS. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than **COMMISSION** and **SERVICE PROVIDER**.

SECTION 29. LIMITATION OF LIABILITY. To the fullest extent permitted by law, **SERVICE PROVIDER'S** total liability for any and all claims, losses, damages and expenses resulting in any way from this Agreement shall not exceed the total compensation received by **SERVICE PROVIDER** under the applicable Scope of Services notwithstanding the fault, tort (including negligence), strict liability or other basis of legal liability of the **SERVICE PROVIDER** and shall extend to its officers, directors, employees, licensors, agents, subcontractors, vendors and related entities.

SECTION 30. CONSEQUENTIAL DAMAGES. Notwithstanding any provision in this Agreement to the contrary, and to the fullest extent permitted by law, **SERVICE PROVIDER** shall not be liable to **COMMISSION** for loss of profits, revenue, use, opportunity, and goodwill; cost of substitute facilities, goods, and services; cost of capital; and increased operating costs.

SECTION 31. ENTIRE AGREEMENT. This Agreement, including Exhibits "A" and "B" constitutes the entire agreement between **COMMISSION** and **SERVICE PROVIDER** with respect to the services specified and all previous representations relative thereto, either written or oral, are hereby annulled and superseded.

SECTION 32. JOINT PREPARATION. Preparation of this Agreement has been a joint effort of **COMMISSION** and **SERVICE PROVIDER** and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date first written above.

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COMMISSION:

SERVICE PROVIDER:

UTILITIES COMMISSION, CITY OF
NEW SMYRNA BEACH, FLORIDA

By: _____

By: _____

Director of Finance/CFO

Its: _____

ATTEST: _____

ATTEST: _____

By: _____

Its: _____

(CORPORATE SEAL)

Director of Department

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EXHIBIT "A": SERVICES TO BE PROVIDED INSERT SCOPE OF WORK HERE

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EXHIBIT "B": INSURANCE REQUIREMENTS

I. INSURANCE: Except as otherwise specified in this contract, the **SERVICE PROVIDER** and its subcontractors of any tier will be required at their own expense to maintain in effect at all times during the performance of the work insurance coverage with limits set forth below with insurers and under forms of policies satisfactory to the **COMMISSION**. It shall be the responsibility of the **SERVICE PROVIDER** and its subcontractors to maintain adequate insurance coverage and to assure that subcontractors are adequately insured at all times. Failure of the **SERVICE PROVIDER** and its subcontractors to maintain adequate coverage shall not relieve it of any contractual responsibility or obligation.

The **SERVICE PROVIDER** and its subcontractors shall furnish to the **COMMISSION** such Certificates of Insurance or endorsements required by the provisions set forth herein, which Certificates of Insurance shall name the **COMMISSION** as Additional Insured. All Certificates of Insurance must be provided by an acceptable insurance carrier to the **COMMISSION** and that the carrier should have no less rating than A - X by A.M. Best and Company. **COMMISSION** reserves the right to accept or decline carrier providing coverage.

II. CERTIFICATES OF INSURANCE: At the time of the execution of this contract and each subcontract, but in any event, prior to commencing work, the **SERVICE PROVIDER** and its subcontractors shall furnish the **COMMISSION** with Certificates of Insurance as evidence that the policies providing the required coverages and limits of insurance are in full force and effect. The Certificates shall provide that any company issuing an insurance policy for the work under this contract shall provide not less than thirty (30) days' advance notice to the **COMMISSION** in writing of cancellation, non-renewal, or material change in the policy of insurance. In addition, the **SERVICE PROVIDER** shall immediately provide written notice to the **COMMISSION** upon receipt of notice of cancellation of an insurance policy or a decision to terminate or alter any insurance policy. All Certificates of Insurance shall clearly state that all applicable requirements have been satisfied including certification that the Comprehensive General Liability policies are of the "occurrence form". Certificates of Insurance for **SERVICE PROVIDER** and subcontractor-furnished insurance and notices of any cancellations, terminations, or alterations of such policies shall be mailed to the **COMMISSION**'s office, ATTN: Materials Manager, at P.O. Box 100, New Smyrna Beach, Florida 32170-0100.

III. ADDITIONAL INSURED: All insurance coverages (except Workers' Compensation and Professional Liability) furnished under this contract shall include the **SERVICE PROVIDER**, the **COMMISSION** and its commissioners, officials, directors, officers, agents, and employees as Additional Insured's with respect to the activities of the **SERVICE PROVIDER** and its subcontractors.

These policies shall contain a "cross-liability" or "severability of interest" clause or endorsement. Notwithstanding any other provisions of these policies, the insurance afforded shall apply separately to each insured, named insured, or Additional Insured with respect to any claim, suit, or judgment made or brought by or for any other insured, named insured, or Additional Insured as though a separate policy had been issued to each,

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except the insurer's liability shall not be increased beyond the amount or amounts for which the insurer would have been liable had only one insured been named.

IV. WAIVER OF SUBROGATION: The **SERVICE PROVIDER** and its subcontractors shall require their insurance carrier, with respect to all insurance policies, to waive all rights of subrogation against the **COMMISSION**, its commissioners, officials, directors, officers, agents, and employees.

V. COMPREHENSIVE GENERAL LIABILITY: This insurance shall be an occurrence-type policy written in comprehensive form and shall protect the **SERVICE PROVIDER** and its subcontractors and the Additional Insured's against all claims arising from bodily injury, sickness, disease, or death of any person other than the **SERVICE PROVIDER's** employees or damage to property of the **COMMISSION** or others arising out of the act or omission of the **SERVICE PROVIDER** or its subcontractors or their agents, employees, or subcontractors. This policy shall include protection against claims insured by usual Personal Injury Liability coverage and an endorsement (Protective Liability) to insure the contractual liability assumed by the **SERVICE PROVIDER** and its subcontractors under the Section entitled "Indemnification," as well as Completed Operations, Products Liability, Contractual Liability, Broad Form Property Coverage, Premises/Operations, and Independent Contractors.

Combined Single Limit: \$1,000,000 per claim and annual aggregate of \$2,000,000.

VI. COMPREHENSIVE AUTOMOBILE LIABILITY: This insurance shall be written in the comprehensive form and shall protect the **SERVICE PROVIDER** and its subcontractors and the Additional Insured's against all claims for injuries to members of the public and damage to property of others arising from the use of motor vehicles and shall cover operation on and off the site of all motor vehicles licensed for highway use, whether they are owned, non-owned, or hired. The liability shall not be less than:

Combined Single Limit: \$1,000,000 per claim and annual aggregate of \$2,000,000.

VII. WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY: The insurance shall protect the **SERVICE PROVIDER** and its subcontractors against all claims under applicable state workers' compensation laws. The insured shall also be protected against claims for injury, disease, or death of employees which, for any reason, may not fall within the provisions of workers' compensation laws. This policy shall include an all-states endorsement. The liability limits shall not be less than:

Workers' Compensation: Statutory

Employers' Liability: \$100,000 each accident;
\$500,000 disease policy limit;
and
\$100,000 disease, each employee.

VIII. PROFESSIONAL LIABILITY: Professional Liability insurance shall be provided in an amount of \$100,00