

RESOLUTION NO. 24-105

A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING AN AGREEMENT WITH THE HILLER COMPANIES, LLC FOR FIRE SUPPRESSION SYSTEM INSPECTION SERVICES IN THE ESTIMATED ANNUAL AMOUNT OF \$17,643.00.

BE IT RESOLVED that the appropriate officers of the City are authorized to execute and deliver on behalf of the City that certain Agreement with The Hiller Companies, LLC for fire suppression system inspection services for City facilities in the estimated annual amount of Seventeen Thousand Six Hundred Forty-Three Dollars and No Cents (\$17,643.00), in substantially the form **attached** as Exhibit A and presented to the Council today, with such changes, insertions, or omissions as may be approved by the City Manager and whose execution shall be conclusive evidence of such approval.

THIS RESOLUTION shall be effective immediately upon passage.

PASSED, APPROVED AND ADOPTED in regular session this 28th day of March 2024.

CITY OF PANAMA CITY BEACH

By: 
Mark Sheldon, Mayor

ATTEST:


Lynne Fasone, City Clerk

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FIRE SUPPRESSION SYSTEM INSPECTION SERVICES AGREEMENT

THIS FIRE SUPPRESSION SYSTEM INSPECTION SERVICES AGREEMENT is made and entered into this 1st day of April, 2024, by and between the CITY OF PANAMA CITY BEACH, FLORIDA, a municipal corporation (City) and The Miller Companies, LLC (Contractor).

PREMISES

1. SCOPE OF SERVICES

Contractor will provide fire suppression system inspection and testing services for all City facilities, as listed on the bid proposal and, as more particularly described in the Scope of Work of solicitation PCB24-24.

If the Contractor believes that any particular work/service is not within the scope of work/service of the contract, is a material change, or will otherwise require more compensation to the Contractor, the Contractor must immediately notify the City's Representative in writing of this belief. If the City's Representative believes that the particular work/service is within the scope of the contract as written, the Contractor will be ordered to and shall continue with the work/service as changed and at the cost stated for the work/service within the scope. The Contractor must assert its right to an adjustment under this clause within thirty (30) days from the date of receipt of this agreement.

2. COMPENSATION

As compensation for the services contemplated herein and performance rendered by Contractor of its duties and obligations hereunder, City shall pay Contractor according to the accepted bid proposal. The City shall pay to the Contractor as full consideration for the performance of the work required by this Agreement, at the UNIT PRICES contained in the Contractor's cost proposal, upon the basis of actual measured quantities as the same may be finally determined by the City Manager or his designee(s).

- A. Extra and/or Additional Work Changes. Should City at any time during the progress of said work request any alterations, deviations, additions, or omissions from said specifications or other contract documents, it shall be at liberty to do so by written authorization to Contractor, and the same shall in no way affect or make void the Agreement. The value of such will be added to or deducted from the contract Bid price, as the case may be, by a fair and reasonable valuation.
B. Additional Spaces. The areas throughout the Gulf Blvd Complex or other City facilities which are either not currently contemplated by the Scope of Services or have not been constructed as of the Effective Date of this Contract but may be added to the Scope of Services either by work order or by amendment of this Contract at the discretion of the City.

3. PAYMENT

The "closure date" for work to be invoiced for payment shall be the 30th of each calendar month, except February where it shall be the 28th. The Contractor shall submit an itemized invoice by

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building to the City for the amount of work satisfactorily completed as of the closure date. The invoice(s) shall be delivered to accounts payable at City Hall, 17007 Panama City Beach Parkway, Panama City Beach, Florida 32413 no later than three days after the closure date of each calendar month. The City will issue payment via ACH or Virtual Credit Card only.

4. TERM

Unless terminated sooner pursuant to the provision of the Termination clauses contained in paragraph 5, and subject to the availability of funds appropriated for this purpose, this Agreement shall take effect on the executed date of award for a period of two (2) years and may be extended by mutual written consent of each party for up to three (3) additional one (1) year terms.

- A. Extension. In the event of a delay in awarding a subsequent contract, the City reserves the right at its sole discretion to extend this Contract at the same terms and conditions on a month-to-month basis for a maximum of twelve (12) months until a subsequent contract is awarded and commences, or this Contract is otherwise terminated. The City Manger or his/her designee is authorized to enter into such extension. Such extension will be effective by the issuance of a written letter to the contractor by the City Manager.

5. TERMINATION OF CONTRACT

- A. City Termination for Cause. The Agreement may be terminated by the City for cause in the event of any breach hereof, including, but not limited to, Contractor's: (1) failing to carry forward and complete the Work as provided herein; (2) failing to comply with applicable laws, regulations, permits, or ordinances; (3) failing to timely correct defective Work (See Section 12. Remedies); (4) making a general assignment for the benefit of its creditors; (5) having a receiver appointed because of insolvency; (6) filing bankruptcy or having a petition for involuntary bankruptcy filed against it; (7) failing to make payments when due to subcontractors, vendors, or others for materials or labor used in the Work; (8) making a material misrepresentation to the City regarding the Work, (9) arrest or conviction of felony or fraud, or (10) any other material breach of this Agreement. In such event, the City shall provide Contractor with written notice of its intention to terminate this Agreement, stating the nature of the deficiency and the effective date of termination. At the City's sole judgment and discretion, the City may afford Contractor an opportunity to cure said deficiency, in which event the notice shall specify the time allowed. Upon termination, the City may take possession of the premises and of all materials thereon and finish the Work by whatever means it deems expedient.
- B. City Termination for Convenience. Notwithstanding any other provision hereof, the City may at any time terminate this Agreement or any Work issued under it, in whole or in part, without cause, upon thirty (30) days written notice to Contractor. In such event, Contractor shall be compensated for any Work performed prior to the date of termination and for materials that were ordered prior to receipt of notice of termination that cannot be returned to the vendor, which shall become City property. Upon receipt of notice, Contractor shall discontinue the Work on the date and to the extent specified therein and shall place no further orders for materials, equipment, services, or facilities, except as needed to continue any portion of the Work not terminated. Contractor shall also make every reasonable effort to cancel, upon terms satisfactory to the City, all orders or subcontracts related to the terminated Work. Contractor may not claim any compensation not

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specifically provided for herein, including, but not limited to loss of anticipated profits, idle equipment, labor, and facilities; any additional claims of subcontractors and vendors.

The Contractor also reserves the right to suspend or terminate this Agreement with prior written notice if the City defaults in payments to Contractor or in any way breaches the terms of this agreement.

6. COMPLIANCE WITH LAWS.

The Contractor shall be responsible to know and to apply all applicable federal and state laws, all local laws, ordinances, rules, regulations, and all orders and decrees of bodies or tribunals having jurisdiction or authority which in any manner affect the work, or which in any way affect the conduct of the work. Contractor shall always observe and comply with all such laws, ordinances, rules, regulations, orders, and decrees. The Contractor shall protect and indemnify City of Panama City Beach and all its officers, agents, servants, or employees against any claim or liability arising from or based on the violation of any such law, ordinance, rule, regulation, order, or decree caused or committed by Contractor, its representatives, sub-contractors, sub-consultants, professional associates, agents, servants, or employees. Additionally, Contractor shall obtain and maintain at its own expense all licenses and permits to conduct business pursuant to this contract from the federal government, State of Florida, Bay County, or municipalities when legally required, and maintain same in full force and effect during the term of the contract.

7. WARRANTY

The Contractor agrees that, unless otherwise specified, the product and/or service furnished as a result of this invitation and award thereto shall be covered by the most favorable commercial warranty the Contractor gives to any customer for comparable quantities of such products and/or services and that the right and remedies provided herein are in addition to and do not limit any rights afforded to the City by any other provision of the invitation/offer.

8. INSURANCE AND INDEMNIFICATION

Contractor/Vendor shall at its own expense maintain in force during the term of the contract the insurance on policies and insurers acceptable to the City as required by the City's Insurance Requirements attached hereto as Exhibit "A".

- i. Within thirty (30) days of the date of the Award, and thereafter upon the written request of the City, Contractor/Vendor shall furnish to the City such certificates of coverage and certified copies of policies pursuant to the City's Insurance requirements in order to satisfy this provision, the documentation required by this part must be sent to the following address: ATTN: RISK MANAGEMENT DIRECTOR, 17007 Panama City Beach Parkway, Panama City Beach, Florida 32413.
- ii. Regardless of the coverage provided by any insurance, the successful Contractor/Vendor shall indemnify, save harmless and defend the City, its agents, servants, or employees from and against any and all claims, liability, losses and/or causes of action which may arise from any negligent act or omission of the successful Contractor/Vendor, its sub-contractors, agents, servants, or employees during the course of performing services or caused

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by the goods provided pursuant to these Bid documents and/or resultant contract.

If any third-party claim is made against the City that, if sustained, would give rise to indemnification liability of the Contractor/Vendor under this Agreement, the City shall promptly cause notice of the claim to be delivered to the successful Contractor/Vendor and shall afford the Contractor/Vendor and its counsel, at the Contractor's/Vendor's sole expense, the opportunity to join in defending or compromising the claim. The covenants contained in this paragraph shall survive the termination of this Agreement.

9. ATTORNEY'S FEES

In the event of any litigation hereunder, each party shall be responsible for its own attorney's fees and court costs at all trial and appellate levels and at any mediation or arbitration.

10. TIME

Time is of the essence in this Agreement.

11. FORCE MAJEURE

The Contractor's failure or inability to perform the stated scope of services at any time as a result of circumstances beyond its control, such as, but not limited to, war, terrorism, strikes, fires, floods, hurricanes, acts of God, power failures, or damage or destruction of any facility related thereto, shall not be deemed a breach of this Agreement.

12. REMEDIES

In the event of failure of the Contractor to deliver services in accordance with the contract terms and conditions, the City, after due written notice, may procure the services from other sources and hold the Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies that the City may have. Failure to cure a breach of a material term hereunder within twenty-four (24) hours of Contractor's receipt of written notice thereof shall entitle the City to terminate this Agreement. All rights and remedies conferred upon the parties in this Agreement shall be cumulative and in addition to those available under the laws of the State of Florida.

13. ASSIGNMENT

This Agreement is assignable with prior authorization from the City Council.

14. SEVERABILITY

In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

15. CHOICE OF LAW & VENUE

This Agreement shall be governed by the laws of the State of Florida. Any legal proceeding regarding this Agreement shall be brought in the 14th Judicial Circuit in Bay County, Florida.

16. MODIFICATIONS

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No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the City and Contractor.

17. WAIVER

Failure by the City to enforce any provision of this Agreement shall not be deemed a waiver of the provision or modification of this Agreement. A waiver by the City of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

18. NOTICES

Any notice required by this Agreement shall be directed to the parties as follows:

A. As to City:

City Representative: SHAWN LEGGISTER
Title/Position: Captain FIRE INSPECTIONS
17007 Panama City Beach Pkwy., PCB, FL 32413
Phone: 850-630-2346

B. As to Contractor:

Contract Representative: Kyle Flowers
Title/Position: Regional Sales Manager
Email address: kflowers@hillercompanies.com
Mailing address: 60 Bulldog Rd
Freeport, FL 32439
Phone/Cell: 850-659-7555



19. ENTIRE AGREEMENT

This Agreement, and any exhibits or appendixes attached hereto and incorporated herein, constitutes the entire agreement between parties pertaining to the subject matter hereof, and supersedes all prior and contemporaneous agreements, understandings, negotiations, and discussions of the parties, whether oral or written, and there are no representations, warranties, covenants, or other agreements among them.

The term "Agreement" means and includes the following documents, all of which are incorporated into this Agreement by reference:

- Advertisement for Bids
- Information for Bidders

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- Scope of Work/Specifications
- Bid Proposal Form
- Drug Free Work Place Statement
- Public Entity Crimes Statement
- Non-Collusion Affidavit
- E-Verify
- Terms and Conditions
- Intent to Award
- Agreement
- Exhibit A
- Any Additional Exhibits or Appendices

ADDENDA (S)

No. 1, dated 1/17, 20 24
 No. 2, dated 1/30, 20 24
 No. _____, dated _____, 20 _____

IN WITNESS WHEREOF, the Contractor has executed this Agreement as of the day and year first above written.

Signed in the presence of: Contractor

Witness 1 Carrie Jagers
 (Print Name): Carrie Jagers By: [Signature]



Witness 2 Becky Cox
 (Print Name): Becky Cox

ATTEST:

Lynne Fasone

THE CITY OF PANAMA
 CITYBEACH, FLORIDA,
 a municipal corporation

City Clerk

By: [Signature]
 Drew Whitman , City Manager

Agreement