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**Issue Date:** April 24, 2017

***No pre-bid meeting will be held.***  
**Question Submittal Deadline is May 9, 2017.**

**Bid Due Date:** May 24, 2017 @ 3:00 p.m. local time

**INVITATION TO BID**

**BID NO. RTSX-170038-DS**

**DIESEL FUEL TREATMENTS**

**Purchasing Representative:**  
Daphyne Sesco, Senior Buyer  
Purchasing Division  
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Email: [sescoda@cityofgainesville.org](mailto:sescoda@cityofgainesville.org)

**City of Gainesville**  
**200 East University Avenue, Room 339 – Gainesville, Florida 32601**

TABLE OF CONTENTS

**SECTION I – INSTRUCTION TO BIDDERS** ..... 4

1. **Definition of Terms** .....4

2. **Specifications**.....5

3. **Bond Requirements** .....5

4. **Preparation of Bids**.....5

5. **Contact Person**.....6

6. **Qualifications of Bidders**.....6

7. **Receipt and Opening of Bids** .....6

8. **Consideration of Bids and Award of Contract** .....6

9. **Performance** .....7

10. **Collusion**.....7

11. **Addenda**.....7

**SECTION II – GENERAL CONDITIONS** ..... 9

1. **Scope** .....9

2. **Cancellation**.....9

3. **Delay** .....9

4. **Bids**.....9

5. **Eligibility of Equipment or Materials**.....9

6. **Deviations From Specifications**.....10

7. **Warranty** .....10

8. **Errors**.....10

9. **Payment** .....10

10. **Notices**.....11

11. **Insurance** .....11

12. **Non-Assignment/Subcontractors** .....11

13. **Public Entity Crime Information statement**.....12

14. **Local Small Business Participation**.....12

15. **Sovereign Immunity** .....12

16. **Local Preference**.....12

17. **Records/Audits** .....12

18. **Investigation of Alleged Wrongdoings, Litigation/Settlements/Fines/Penalties** .....12

19. **Tie Bids**.....13

20. **Indemnification** .....13

21. **Rights of Appeal**.....13

22. **Joint Bidding/Cooperative Purchasing Agreement** .....13

23. **Disputes** .....13

24. **Florida Public Records Act**.....13

**SECTION III – SPECIAL PROVISIONS** ..... 15

1. **Scope** .....15

2. **Term of Purchasing Agreement**.....15

3. **Delivery Schedule** .....15

4. **Delivery Location** .....15

5. **Inquiries** .....15

6. **Insurance** .....15

7. **Subcontractors**.....16

8. **Local Preference**.....16

9. **Small Business Procurement Program** .....16

**SECTION IV – TECHNICAL SPECIFICATIONS** ..... 17

1. **Scope** .....17

2. **Detailed Description of Materials/Work**.....17

**BID FORM** ..... 20

**TABULATION OF SUBCONTRACTORS AND MATERIAL SUPPLIERS**..... 24

**DRUG FREE WORKPLACE FORM** ..... 25

**DEBARRED AND SUSPENDED BIDDERS**..... 26

**ARTICLE X. LOCAL PREFERENCE POLICY\***..... 30  
**LOCAL SMALL BUSINESS PROGRAM**..... 32  
**PURCHASING DIVISION SURVEY**..... 35

**City of Gainesville**  
**General Government Purchasing**  
**Invitation to Bid**

**DATE:** April 24, 2017

**BID #:** RTSX-170038-DS

**BID NAME:** Diesel Fuel Treatments

**BID DATE:** May 24, 2017  
 @ 3:00 p.m. local time

Sealed bids will be received by the City of Gainesville, Florida, at General Government Purchasing until 3:00 p.m., local time, on the bid date, at which time and place all bids will be publicly opened and will be available for inspection upon notice of award or intended award or within 30 days after bid opening, whichever is earlier. If special accommodations are needed in order to attend a pre-bid conference or a bid opening, please contact the Purchasing Division at least 72 hours in advance. Bid prices may be read at the public bid opening, at the sole discretion of General Government Purchasing. Bids must be in the possession of General Government Purchasing prior to bid call at 3:00 p.m. on the bid date. Possession is defined as being physically received in General Government Purchasing at City Hall, 200 East University Avenue, Room 339, Gainesville, Florida 32601. The time clock located in General Government Purchasing will be the official time for bid call. Bids shall be sealed and plainly marked on the outside of the envelope with both the bid number and the bid name. **ANY BID RECEIVED IN GENERAL GOVERNMENT PURCHASING AFTER THE SPECIFIED TIME WILL NOT BE CONSIDERED.** Bids must be completed and signed in ink in space[s] provided on the enclosed bid form(s) and **submitted in triplicate** or bid will be subject to rejection. In addition, proposer should provide one (1) electronic copy of their bid in PDF format on a CD or USB flash drive. Electronic document should not be password protected, encrypted, etc. Delivery shall be F.O.B. Gainesville, Florida. The point of delivery will be specified on the purchase order or other notification of acceptance. Please note that if bonds are required, they must be in the approved form attached to the specifications or the bid will be subject to rejection.

Any deviation from the specifications must be explained in detail on sheets attached to the Bid Form and labeled "Clarifications and Exceptions," and each deviation must be itemized by number and must specifically refer to the applicable specification paragraph and page. Otherwise, it will be considered that items offered are in strict compliance with these Specifications and the successful Bidder will be held responsible for meeting the Specifications. A Bidder who is aggrieved in connection with the specifications of this bid must advise General Government Purchasing in writing prior to the opening of bids. If Bidder wishes its Standard Terms and Conditions to be considered as part of its bid, such terms and conditions must be made part of the "Clarifications and Exceptions." The City reserves the following rights: to waive clarifications and exceptions in awarding the bid in the best interest of the City; to accept or reject any or all bids; to waive any or all irregularities; and to award the contract to the most responsible and responsive Bidder whose bid is determined by the City to be in its best interest. Notice of intended award shall be posted at 200 East University Avenue, 3rd floor, Gainesville, Florida. Protests of the intended award must be filed within five business days of posting for purchases which do not require prior approval of the City Commission and within five business days for purchases which require prior approval of the City Commission. It is the Bidder's responsibility to inform himself of intended award and specific protest procedures.

Daphyne SESCO, Senior Buyer  
 General Government Purchasing  
 (352) 334-5021

## SECTION I – INSTRUCTION TO BIDDERS

### 1. Definition of Terms

- 1.1 Authorized Representative: Any representative of the City, whether or not a City employee, designated as the City's Authorized Representative for the purposes of this Contract either in a provision of these Specifications or in written communication from the City Manager to the Contractor.
- 1.2 Bidder: Any person, firm, corporation, organization or agency submitting a bid for the work proposed, or its duly authorized representative.
- 1.3 City: City of Gainesville, Florida, or an Authorized Representative.
- 1.4 Commercially Useful Function: Shall exist when the local small business is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. The criteria in 49 CFR Parts 23 & 26, shall be utilized when determining whether a commercially useful function exists.
- 1.5 Construction Services: All labor, services, and materials provided in connection with the construction, alteration, repair, demolition, reconstruction, or an other improvements to real property.
- 1.6 Contract or Agreement: The Contract executed by the Owner and Contractor for the performance of the work. The Contract shall be substantially in the form provided in these Specifications or by purchase order incorporating the provision of the Specifications.
- 1.7 Contractor: The person, firm, corporation, organization or agency with whom the City has executed a contract for performance of the work or supply of equipment or materials, or its duly authorized representative.
- 1.8 Control: Means having the primary power, direct or indirect, to influence the management of a business enterprise. The controlling party must have the demonstrable ability to make independent and unilateral business decisions on a day-to-day basis, as well as the independent and unilateral ability to make decisions which may influence and chart the future course of the business. In determining whether socially and economically disadvantaged owners control a firm the City may utilize the criteria in 49 CFR Part 23 & 26, Section 26.71.
- 1.9 Laws and Regulations. Laws or Regulations—Any and all applicable laws, rules, regulations, ordinances, codes and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
- 1.10 Local Business: The vendor has a valid business tax receipt, issued by the City of Gainesville, to do business in said locality that authorizes the business to provide the goods, services, or construction to be purchased, and a physical business address located within the limits of said locality, in an area zoned for the conduct of such business, from which the vendor operates or performs business on a day-to-day basis. Post office boxes are not verifiable and shall not be used for the purpose of establishing said physical address. In order to be eligible for local preference, in the Bid or RFP evaluation, the vendor must provide a copy of the business tax receipt and Zoning Compliance Permit. Exhibit -A-(Attach Codified document). The business tax receipt must be issued at least six months prior to bid or proposal opening date.
- 1.11 Local Small Business: A Small Business, which is duly licensed and authorized to engage in business and maintains a permanent principal place of operation with full time personnel within the corporate limits of the City of Gainesville and possess a current City business tax receipt, and is so certified by the Local Small Business Program Procurement Coordinator.
- 1.12 Material Supplier: (also Supplier) a manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or any Subcontractor.
- 1.13 Specifications: Directions, provisions, and requirements contained in the Invitation to Bid, Instructions to Bidders, Special Provisions, General Conditions, Technical Specifications (if any), Supplementary Conditions (if any), Bid Form, Bids (if any), together with any written contract made or to be made setting out or relating to the methods and manner for the work to be carried out.

- 1.14 **Subcontractor:** An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work at the site.
- 1.15 **Supplier:** (also Material Supplier) A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or any Subcontractor.
- 1.16 **Work:** The entire completed construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.

## **2. Specifications**

- 2.1 All sections of the Specifications and all supplementary documents are essential parts of the Contract and requirements occurring in one are as though occurring in all. These Specifications and documents in their entirety shall be included in, and made a part of, the Contract between the City and the successful Bidder.
- 2.2 If there is any conflict between the terms and conditions contained in the Specifications, the precedence of the Specifications shall be as follows:
- (a) contract
  - (b) addenda or modifications of any nature, if any
  - (c) supplementary conditions, if any
  - (d) technical specifications, if any
  - (e) special provisions
  - (f) general conditions
  - (g) instructions to bidders
  - (h) bid form
  - (i) invitation to bid
- 2.3 Any Bidder in doubt as to the true meaning of any part of the Specifications or related documents may submit a written request to the City for interpretation thereof. Any interpretation to a bidder will be made only by an addendum duly issued and a copy of such addendum will be mailed or delivered to each Bidder receiving a set of documents.
- 2.4 A vendor who is aggrieved in connection with the specifications of this bid, may protest in writing to the city of Gainesville Purchasing Division prior to the opening of bids.

## **3. Bond Requirements**

Bond requirements are detailed in the sections entitled Special Provisions.

## **4. Preparation of Bids**

- 4.1 Bids shall be submitted in triplicate on the prescribed form provided in these Specifications. All copies must be plainly marked by the Bidder who will be responsible for their correctness. All blank spaces must be filled in as noted in ink or type. Any erasures or corrections must be initialed in ink by the Bidder. In addition, proposer should provide one (1) electronic copy of their bid in PDF format on a CD or USB flash drive. Electronic document should not be password protected, encrypted, etc.
- 4.2 Only one bid from any individual, firm, corporation, organization or agency under the same or different name shall be considered. Should it appear to the City that any Bidder is interested in more than one bid, all bids in which such Bidder has interest will be rejected.
- 4.3 Bids shall be accompanied with the attached Tabulation of Subcontractors & Suppliers form, listing the Subcontractors and Material Suppliers which the Bidder proposes to employ.

- 4.4 Any deviation from these Specifications must be explained in detail. Otherwise, it will be considered that labor, materials and equipment bid are in strict compliance with these Specifications and the successful Bidder will be held responsible for meeting those Specifications. Any exceptions or clarifications to any section of the Specifications shall be clearly indicated on a separate sheet(s) attached to the Bid Form and shall specifically refer to the applicable specification paragraph and page.
- 4.5 A Bidder is expected to fully inform itself as to the requirements of the Specifications and failure to do so will be at its own risk. A Bidder shall not expect to secure relief on the plea of error.

## **5. Contact Person**

To ensure fair consideration and consistent and accurate dissemination of information for all proposers, the City prohibits communication to or with any department, employee, or agent evaluating or considering the proposals during the submission process, except as authorized by the contact person.

During the blackout period as defined herein, except as pursuant to an authorized appeal, no person may lobby, as defined herein, on behalf of a competing party in a particular procurement process, City officials or employees except the purchasing designated staff contact in the purchasing division. Violation of this provision shall result in disqualification of the party on whose behalf the lobbying occurred.

The blackout period means the period between the issue date which allows for immediate submittals to the City of Gainesville Purchasing Department for an invitation for bid or the request for proposal, or qualifications, or information, or the invitation to negotiate, as applicable, and the time the City Officials and Employee awards the contract. Lobbying means when any natural person, for compensation, seeks to influence the governmental decision-making, to encourage the passage, defeat or modification of any proposal, recommendation or decision by City officials and employees, except as authorized by procurement documents.

## **6. Qualifications of Bidders**

- 6.1 The City reserves the right to make such investigations as it may deem necessary to establish the competency and financial ability of any Bidder to perform the work.
- 6.2 If, after the investigation, the evidence of competency and financial ability is not satisfactory, the City reserves the right to reject the bid.

## **7. Receipt and Opening of Bids**

- 7.1 All bids must be submitted in a sealed envelope, addressed, and mailed or delivered as stated in the Invitation to Bid. Any Bidder may withdraw its bid either personally, or by telegraphic or written communication at any time prior to the scheduled closing time for the bid.
- 7.2 The Bidder shall submit its bid on the form furnished with all indicated information filled in on the form. Bids shall be in the units specified for each item. The Bidder shall enter the company name wherever the Bid Form so indicates and shall sign the Bid Form wherever the Bid Form so indicates.
- 7.3 Bids shall be publicly opened at the time and place indicated in the Invitation to Bid and will be available for inspection upon notice of award or intended award or within 30 days after bid opening, whichever is earlier.

## **8. Consideration of Bids and Award of Contract**

- 8.1 If the Contract is awarded, the City will accept the bid and award the Contract to the successful Bidder(s) within sixty (60) days after the opening of the Bids by written notice to the successful Bidder(s). The City reserves the right to award this bid on the basis of each line individually, any combination of line items or all line items combined as it determines to be in its best interest. The City reserves the right to not award any line item as it determines to be in its best interest.
- 8.2 Failure on the part of the successful Bidder to execute a Contract within fifteen (15) days after the notice of acceptance shall be just cause for annulment of award. The City may then accept the bid of the next best evaluated bid or re-advertise for bid.

- 8.3 If the bid of the next best Bidder is accepted, this acceptance shall bind such Bidder as though he were the original successful Bidder
- 8.4 City reserves the right to award the contract to other than the low Bidder for such reasons as acceptability of specific products or designs, delivery times, warranties, past performance, unacceptable deviations or exceptions taken to these Specifications or degree of compliance with any other requirement of these Specifications. Further, City shall have the right to consider price, quality, past performance including compliance with Local Small Business Procurement Program requirements, time required for performance and qualifications of the Bidder in making the award.
- 8.5 Tie Bids. Whenever two or more bids which are equal with respect to price, quality and service are received, preference shall be given in the following order: (1) Bidders submitting the attached Drug-Free Workplace form with their bid/proposal certifying they have a drug free workplace in accordance with Section 287.087, Florida Statutes; (2) Bidders located within the City of Gainesville, if not subject to the Local Preference Ordinance; (3) Bidders located within Alachua County; and (4) Bidders located within the State of Florida. In projects where federal funds are used for the services, articles 2, 3 and 4 will not apply.
- 8.6 The City of Gainesville reserves the right to accept or reject any or all bids, reserves the right to waive any or all irregularities, and to award the contract to the responsible and responsive Bidder whose bid is determined by the City to be in its best interest.
- 8.7 Any contract resulting herefrom shall not be effective until fully executed by all parties.

## **9. Performance**

- 9.1 All material and parts shall be bid F.O.B. Gainesville, Florida, at the job site.
- 9.2 The performance time may be a factor in the evaluation of the Bid. The performance time shall be defined as the anticipated time period expected to elapse between receipt of the purchase order or execution of the Contract and completion of the work. It is to be emphasized that the meeting of specified performance schedules is a significant part of ability to perform and that failure to meet such schedule may result in termination of the Contract and will surely be considered in the evaluation of future bids.

## **10. Collusion**

- 10.1 The bid shall be made without any previous understanding, agreement, or connections with any persons, firms, or corporations making a bid on the same items and shall be in all respects fair and in good faith without any outside control, collusion or fraud.
- 10.2 No City Commissioner, other City officer, or City employee shall directly or indirectly own more than five (5) percent of the total assets or capital stock of the bidding entity, nor will such person directly or indirectly benefit by more than five (5) percent from the profits or emoluments of this contract. For purposes of this section, indirect ownership or benefit does not include ownership or benefit by a spouse or minor child.

## **11. Addenda**

Addenda issued by City prior to the bid opening shall be binding as if written into the Specifications. Bidders shall acknowledge receipt of the same as indicated on the Bid Form.

## **12. Trade Secret and/or Confidential and/or Proprietary Information**

All proposals (including all documentation and materials attached to proposals or provided in connection with this RFP) submitted to the City are subject to Florida's public records laws (i.e., Chapter 119, Florida Statutes), which requires disclosure of public records, unless exempt, if a public records request is made. Proposals (including all documentation and materials attached to proposals or provided in connection with this RFP (even if in a separate envelope)) submitted to the City cannot be returned. The City will not consider proposals if the entire proposal is labeled a Trade Secret and/or Confidential and/or Proprietary.



If proposer believes that its proposal contains information that is a trade secret (as defined by Florida law) and/or information that is confidential and/or proprietary and therefore exempt from disclosure then such information must be submitted in a separate envelope and comply with the following requirements. In addition to submitting the information in a separate envelope, proposer must include a general description of the information designated as a trade secret and/or confidential and/or proprietary and provide reference to the Florida statute or other law which exempts such designated information from disclosure in the event a public records request.

The City does not warrant or guarantee that information designated by proposer as a trade secret and/or confidential and/or proprietary is a trade secret and/or confidential and/or proprietary and exempt from disclosure. The City offers no opinion as to whether the reference to the Florida statute or other law by proposer is/are correct and/or accurate. The City will notify proposer if a public records request is received and proposer, at its own expense, will have forty-eight (48) hours after receipt of such notice (email notice is acceptable notice) to file the necessary court documents to obtain a protective order.

Please be aware that the designation of information as a trade secret and/or confidential and/or proprietary may be challenged in court by any person or entity. By designation of information as a trade secret and/or confidential and/or proprietary proposer agrees to defend the City, its employees, agents and elected and appointed officials ("Indemnified Parties") against all claims and actions (whether or not a lawsuit is commenced) related to its designation of information as a trade secret and/or confidential and/or proprietary and to hold harmless the Indemnified Parties for any award to a plaintiff for damages, costs and attorneys' fees, and for costs and attorneys' fees {including those of the City Attorney's office) incurred by the City by reason of any claim or action arising out of or related to proposer's designation of information as a trade secret and/or confidential and/or proprietary.

Failure to comply with the requirements above shall be deemed as a waiver by proposer to claim that all additional information in its proposal is a trade secret and/or confidential and/or proprietary regardless if such information is labeled trade secret and/or confidential and/or proprietary. Proposer acknowledges and agrees that all information in proposer's proposal (not including information in section 12) will be disclosed, without any notice to proposer, if a public records request is made for such information.

Please be advised that proposer's proposal, including the information submitted in a separate envelope in accordance with the requirements set forth in this Section 12, will be distributed to the Evaluation Committee members, City staff and City Consultants to allow proposer's entire proposal, including the information submitted in a separate envelope, to be evaluated and considered for award of this Contract. The entire contents of Proposer's proposal, including the information submitted in a separate envelope, may be discussed at meetings that are open to the public, subject to the requirements set forth in Chapter 286, Florida Statutes. In the event a public records request is received the City will notify Proposer and Proposer, at its own expense, will have forty-eight (48) hours after receipt of such notice (e-mail notice is acceptable notice) to file the necessary court documents to obtain a protective order.

## **SECTION II – GENERAL CONDITIONS**

### **1. Scope**

These General Conditions shall govern purchases by the City of Gainesville under these Specifications, except that Special Provisions and Technical Specifications, whether provided by separate section attached hereto or stated in the Invitation to Bid, will govern if any conflict arises between such sections and these General Conditions.

### **2. Cancellation**

The City reserves the right to cancel any purchasing agreement arising out of an award under these Specifications if, in its opinion, there is any failure to adequately perform the requirements of these Specifications. Under these conditions, cancellation will be effective immediately upon written notification to the vendor and such cancellation will relieve the City from any obligation to purchase any items under such purchasing agreement.

### **3. Delay**

3.1 Notwithstanding the delivery schedule, the City shall have the right to delay the delivery for up to three months as necessary or desirable and such delay shall not be deemed a breach of contract, but the delivery schedule shall be extended for a period equivalent to the time lost by reason of the City's delay.

3.2 If the project for which the delivery is required is stopped or delayed for more than three months, either in whole or in substantial part, and either the City or Vendor elects to terminate the Contract because of such delay, if such stoppage or delay is due to actions taken by the City within its control, Vendor's sole remedy under the Contract shall be reimbursement for costs reasonably expended in preparation for or in performance of the contract plus Vendor's lost profit in respect to the equipment or materials procured, manufactured or kept idle for the City under the Contract.

3.3 If the performance of the Contract is delayed by fire, lightning, earthquake, cyclone, or other such cause completely beyond the control of either the City or the Vendor, then the time for completion of the Contract shall be extended for a period equivalent to the time lost by reason of any of the aforesaid causes.

### **4. Bids**

4.1 All discounts shall be stated as a part of the bid and shall be fully explained. Prompt payment discounts shall not be considered in the award of the bid.

4.2 Bids shall be considered based on the following priority:

4.2.1 First, only those bids which are firm for the contract period.

4.2.2 Second, those bids which are not firm but which specify a guaranteed maximum price adjustment for the contract period will be considered at the maximum level the price could possibly obtain.

4.3 Late payment penalties, if any, shall be listed as Clarifications and Exceptions to paragraph 4.4 and shall not be included as a part of the quotation.

4.4 The price shall be determined by the price in effect on the date an order is placed. The City shall not be responsible for any additional charges not accepted by the City, and any invoicing at variance with this provision shall be grounds for cancellation of the Contract at the option of the City.

### **5. Eligibility of Equipment or Materials**

5.1 When a particular manufacturer's name and catalog number "or equivalent" is specified, consideration will be given to other manufacturers. The term "or equivalent" shall be defined to mean of similar design and performance characteristics. If a product is being bid as an equivalent, complete technical data necessary to properly evaluate such product shall be submitted with the bid.

5.2 The City reserves the right to request additional data after the bid is opened and prior to the award. Failure to supply data necessary to properly evaluate a product will constitute sufficient reason for rejection the bid.

5.3 All information specifically requested by this Specification shall be furnished attached to the bid. Failure to do so may invalidate the bid.

## **6. Deviations From Specifications**

6.1 Any deviation from these Specifications must be explained in detail. Otherwise, it will be considered that items offered are in strict compliance with these Specifications and the successful bidder will be held responsible for meeting these Specifications. Deviations must be explained on separate sheets attached to the bid, labeled Clarifications and Exceptions and each must be itemized by number and must refer to the applicable specification paragraph and page.

6.2 The City reserves the right to waive clarifications and exceptions in awarding the bid in the best interest of the City.

6.3 Equipment or materials supplied by award of this bid which does not comply with the Specifications shall be subject to return by the City at the expense of the vendor. Credit in an amount equal to the cost of the equipment or materials, plus any delivery charges resulting from such return, shall be made to the applicable City account. The City shall have a 60 day period following receipt of equipment to make notifications of non-conformance.

## **7. Warranty**

7.1 The bidder shall indicate on the Bid Form if any warranty is being provided by either itself or a manufacturer, and if any such warranty is being provided, such warranty shall be stated on the Bid Form or attached thereto and submitted as part of the bid.

7.2 When the manufacturer normally warrants the equipment or materials being supplied, the vendor shall provide such warranty to the City or shall state as a Clarification and Exception the reason the vendor is not able to provide such warranty.

## **8. Errors**

The Bidder shall read the Specifications fully and be informed as to the requirements of these Specifications. Failure to do so will be at Bidder's own risk. A Bidder shall not be relieved of a requirement of these Specifications on the plea of error.

## **9. Payment**

9.1 Invoicing. The contractor shall be responsible for invoicing the City for payment as described below.

9.2 Payment. Payment will be due to the Contractor thirty (30) days after receipt of the invoice, provided that Contractor shall not submit more than one invoice per thirty-day period. Payment may be withheld by the City due to failure by the Contractor to comply with these Specifications or because unacceptable equipment or materials were delivered as determined by the City's inspection or failure by the Contractor to comply with the "Prompt Payment: Late Payments by Contractors to Subcontractors and Material Suppliers; penalty:" clause. The City shall notify the Contractor of any unsatisfactory performance as soon as practicable so that it can be corrected without delaying payment if possible.

Contractor payment by City issued procurement card (currently VISA) is preferred. Otherwise, contractor will be paid electronically as an electronic funds transfer (EFT).

9.3 Prompt Payment Assurance: Late Payments by Contractors to Subcontractors and Material Suppliers; penalty: When a Contractor receives from the City of Gainesville any payment for contractual services, commodities, materials, supplies, or construction contracts, the Contractor shall pay such moneys received to each subcontractor and Material Supplier in proportion to the percentage of Work Completed by each Subcontractor and Material Supplier at the time of receipt. If the Contractor receives less than full payment, then the Contractor shall be required to disburse only the funds received on a pro rata basis with the Contractor, Subcontractors, and Material Suppliers, each receiving a prorated portion based on the amount due on the payment. If the Contractor without reasonable cause fails to make payments required by the section to Subcontractors and Material Suppliers within 10 days after the receipt by the Contractor of full or partial payment, the Contractor shall pay to the Subcontractors and Material Suppliers a penalty in the amount of 1 percent of the amount due, per month, from the expiration of the period allowed herein for payment. Such penalty shall be in addition to actual payment

owed. Retainage is also subject to this prompt payment requirement and must be returned to the Subcontractor or Material Supplier whose Work has been completed, even if the prime contract has not been completed. The Contractor shall include the above obligation in each subcontract it signs with a Subcontractor or Material Supplier.

9.4 Records of progress payment made by prime contractors to Subcontractors or Material Suppliers are required at least on a monthly basis. However, information can be submitted more frequently than monthly.

9.5 For a contract for construction services, the City and Contractor agree to abide by the regulations stated in the Local Government Prompt Payment Act (FS).

## 10. Notices

10.1 Notices to the Contractor pursuant to these Specifications shall be deemed to have been properly sent when mailed to the Contractor at the address provided on the Bid Forms.

10.2 Notices to the City shall be deemed to have been properly sent when mailed to the Purchasing Manager of the City at the address stated for the mailing of bids on the Invitation to Bid.

## 11. Insurance

11.1 Owners and Subcontractors Insurance. The Contractor shall procure and maintain worker's compensation insurance to the extent required by Florida Statute 440 for all his employees to be engaged in work under this Contract.

11.2 Public Liability Insurance. The Contractor shall procure and shall maintain broad form comprehensive general liability insurance (including contractual coverage) and comprehensive automobile liability insurance in the amounts shown in the Special Provisions section. The City shall be an additional insured on this insurance with respect to all claims arising out of the operations or work to be performed.

Comprehensive General (Public) Liability (other than automobile):

- B) Premises/Operations
- C) Independent Contractors
- D) Products/Completed Operations
- E) Personal Injury
- F) Contractual Liability
- G) Explosion, collapse and underground property damage (unless such coverage is excluded in the Special Provisions section)
- H) Contractor's Pollution

Comprehensive Automobile Bodily Injury and Property Damage Liability

- A) Owner/Leased Automobiles
- B) Non-Owned Automobiles
- C) Hired Automobiles

11.3 Proof of Carriage of Insurance. The Contractor shall furnish the City a Certificate of Insurance in a form acceptable to the City for the insurance required. Such certificate or an endorsement provided by the Contractor must state that the City will be given thirty days written notice (except the City will accept ten (10) days written notice for non-payment) prior to cancellation or material change in coverage.

## 12. Non-Assignment/Subcontractors

12.1 The Contractor shall not assign or subcontract in whole or in part any right or obligation under this Contract; or any monies due or to become due thereunder without the written consent of the City.

12.2 The Contractor must notify the City in writing of any intention to assign or subcontract and no assignment shall occur or subcontractor shall be employed without the written approval of the City.

- 12.3 If the City grants written consent, the Contractor shall be as fully responsible to the City for acts and omissions of persons directly or indirectly employed by him as he is for the acts and omissions of persons strictly employed by him.

### **13. Public Entity Crime Information statement**

For your information, Section 287.133 (2)(a) , Florida Statutes, contains the following provisions: “A person or affiliate who has been placed on the convicted vendor list following a conviction for 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.”

### **14. Local Small Business Participation**

- 14.1 Policy. It is the policy of the City of Gainesville that local small businesses as defined in the City of Gainesville’s Local Small Business Procurement Program Policies and Procedures (the policy) shall have the maximum practical opportunity to participate in the competitive process of supplying commodities and services to the City.

Notification is hereby given that local small businesses are strongly encouraged to submit a proposal for this bid.

- 14.2 Enforcement of Program. Any individual or entity that engages in fraud, misrepresentation, or other wrongful conduct, whether by act or omission, related to its participation in or eligibility to participate in the City’s Local Small Business Procurement Program or in the performance of its small business obligations under a City contract, shall be in violation of the Program. This determination shall be solely at the decision of the City.

Violators of the City’s Local Small Business Procurement Program may be subject to, on an individual and/or entity basis, the debarment or suspension from participating in the City’s contracts in accordance with the City’s of Gainesville’s Debarment and Suspension Policy.

### **15. Sovereign Immunity**

Nothing in the contract shall be interpreted that the City waives its sovereign immunity granted under Section 768.28, Florida Statutes.

### **16. Local Preference**

In bidding of, or letting contracts for procurement of, supplies, materials, equipment and services, as described in the purchasing policies, the city commission, or other purchasing authority, may give a preference to local businesses in making such purchase or awarding such contract in an amount not to exceed five percent of the local business' total bid price, and in any event the cost differential should not exceed \$25,000.00.

### **17. Records/Audits**

Contractor shall maintain records sufficient to document their completion of the scope of services established by this Contract. These records shall be subject at all reasonable time to review, inspect, copy and audit by persons duly authorized by the City. These records shall be kept for a minimum of three (3) years after completion of the Contract. Records which relate to any litigation, appeals or settlements of claims arising from performance under this Order shall be made available until a final disposition has been made of such litigation, appeals, or claims.

### **18. Investigation of Alleged Wrongdoings, Litigation/Settlements/Fines/Penalties**

The City Commission specifically requests that responders to this document indicate in writing any investigations of wrongdoings, litigation and/or settlements, and fines or penalties (anywhere in the U.S) involving the Contractor and specific Contractors listed as projected to provide services to the City. You may be required to respond to questions on this subject matter.

## **19. Tie Bids**

Whenever two or more bids which are equal with respect to price, quality and service are received, preference shall be given in the following order: (1) Bidders submitting the attached Drug-Free Workplace form with their bid/proposal certifying they have a drug free workplace in accordance with Section 287.087, Florida Statutes; (2) Bidders located within the City of Gainesville, if not subject to the Local Preference Ordinance; (3) Bidders located within Alachua County; and (4) Bidders located within the State of Florida. In the case where Federal funds are being utilized, articles 2, 3 and 4 will not apply.

## **20. Indemnification**

The Contractor shall indemnify, defend, and hold harmless the City, its officers, agents, and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the contractor and other persons employed or utilized by the Contractor in the performance of the work.

## **21. Rights of Appeal**

Participants in this Invitation to Bid solicitation may protest Invitation to Bid specifications or award in accordance with Section 41-580 of the City of Gainesville's Financial Procedures Manual.

## **22. Joint Bidding/Cooperative Purchasing Agreement**

Cooperative Purchasing Agreement: All bidders submitting a response to this invitation to bid agree that such response also constitutes a bid to all State Agencies and Political Subdivisions of the State of Florida under the same terms and conditions, for the same prices and the same effective period as this bid, should the bidder deem it in the best interest of its business to do so. This agreement in no way restricts or interferes with any State Agency or Political Subdivision of the State of Florida to rebid any or all items.

## **23. Disputes**

Except as otherwise provided in this Contract, any dispute concerning a question of fact or of interpretation of a requirement of the Contract which is not disposed of by mutual consent between the parties shall be decided by the City Manager or designee, who shall reduce the decision to writing and furnish a copy thereof to the parties. In connection with any dispute proceeding under this clause each party shall be afforded an opportunity to be heard and to offer evidence in support of its version of the facts and interpretation of the Contract. The City Manager or designee shall make such explanation as may be necessary to complete, explain or make definite the provisions of this Contract and the findings and conclusions shall be final and binding on both parties. Pending the final decisions of a dispute hereunder, Contractor shall proceed diligently with its performance of the Contract in accordance with the preliminary directions of the City Manager or designee.

## **24. Florida Public Records Act**

Florida has a very broad public records law and certain records of a contractor may be considered public records. Accordingly, by entering into an agreement with the City, contractor must:

1. Keep and maintain public records required by the public agency to perform the service.
2. Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter 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 for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the public agency.
4. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable

requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS –DEPARTMENT PROJECT MANAGER PAUL STARLING, 352-393-7840, STARLINGPK@CITYOFGAINESVILLE.ORG, AND P.O. BOX 490 MAIL STATION 5, GAINESVILLE, FL 32627) .**

## SECTION III – SPECIAL PROVISIONS

### 1. Scope

These Special Provisions shall supplement the General Conditions and shall govern purchases by the City of Gainesville under these Specifications, except that Technical Specifications, whether provided by separate section attached hereto, or stated in the Invitation to Bid, will govern if any conflict arises between such technical specifications and these Special Provisions.

### 2. Term of Purchasing Agreement

- 2.1 These Specifications shall be for the purchase of an estimated quantity of materials ordered on an as-needed basis.
- 2.2 Any bid submitted in response to these Specifications shall be binding for a period of 60 calendar days after the bid opening date.
- 2.3 An award made under these Specifications shall in no way prevent the City of Gainesville from requesting bids on identical or similar items to those covered herein.
- 2.4 The contract period for work under this agreement shall commence upon execution of the contract and continue for five years.

### 3. Delivery Schedule

- 3.1 Meeting specified delivery schedules is of the essence of this Contract and is a significant part of the performance of the Contract. Failure to meet such schedules may result in cancellation of the Contract as described in Section 2 of the General Conditions and will be considered in the evaluation of future bids.
- 3.2 The delivery schedule as used herein and as stated on the Bid Form is hereby defined as the period which will elapse between receipt of a purchase order and the arrival of the equipment at the designated point of delivery.
- 3.3 Time of delivery shall be within the time stated on the bid form.

### 4. Delivery Location

- 4.1 All equipment shall be bid F.O.B. Gainesville.

### 5. Inquiries

- 5.1 Any inquiry should be directed to Daphyne Sesco, Senior Buyer, Purchasing Division, 200 University Avenue, Room Gainesville, Florida 32601, (352) 334-5021.

### 6. Insurance

The Contractor shall furnish the City a Certificate of Insurance in a form acceptable to the City for the insurance required. Such certificate or an endorsement provided by the Contractor must state that the City will be given thirty days written notice (except the City will accept ten (10) days written notice for non-payment) prior to cancellation or material change in coverage.

- ( ) Contractor shall be required to maintain sufficient insurance to cover its liability in performance of the contract.
- (x) The following insurance amounts shall be required (See Section 12, General Conditions for details):

Worker’s Compensation insurance providing coverage in compliance with Chapter 440, Florida Statutes.

Comprehensive General (Public) Liability (other than automobile)	\$500,000 combined single limit for bodily injury and property damage.
--	---



Automobile Bodily Injury	\$300,000 per individual \$500,000 aggregate
Automobile Property Damage Liability	\$500,000 per occurrence

- Explosion, collapse and underground property damage is required.
- Explosion, collapse and underground property damage is not required.

- Contractor's Pollution liability insurance is required.
- Contractor's Pollution liability is not required.

**NOTE: The City of Gainesville shall be named as an additional insured on an insurance certificate in a form which is acceptable to the City.**

**7. Subcontractors**

- Subcontractor will be allowed.
- Subcontractor will not be allowed.

**8. Local Preference**

A copy of your Business tax receipt and Zoning Compliance Permit should be submitted with the bid if a local preference is requested.

**9. Small Business Procurement Program**

The City of Gainesville requires Good Faith Efforts to maximize utilization of Qualified Local Small Businesses for this project. (see Exhibit B).

A listing of qualified businesses is located on the City's website at:

[http://www.cityofgainesville.org/Portals/0/eo/Small\\_SDV%20Business%20Listing%20\(1.28.16\).pdf](http://www.cityofgainesville.org/Portals/0/eo/Small_SDV%20Business%20Listing%20(1.28.16).pdf)

## SECTION IV – TECHNICAL SPECIFICATIONS

### 1. Scope

- 1.1 The provisions contained in this section are intended to be cooperative with, to supplement, or to modify instructions to Bidders, Special Provisions and General Conditions; and, in case of any conflict with such sections, the intent of any and all Technical Specifications shall govern.

### 2. Detailed Description of Materials/Work

- 2.1 The City of Gainesville’s Regional Transit System consumes approximately 1.1 million gallons annually of #2 Ultra Low Sulfur Diesel Fuel. RTS desires to purchase fuel treatment(s) to control the accumulation of water and the rate of fuel decomposition, and control bacteria and fungi growth in its diesel storage tanks. Three (3) 20,000 gallon tanks and one (1) 3,750 gallon Generator tank.

#### 2.2 Contractor Requirements

Bidder must demonstrate that product being offered have been in distribution for a minimum of five (5) years. The bidder shall submit with the bid product information, including technical and descriptive literature and MSDS on all products offered.

#### 2.3 Fuel Analysis

The contractor shall perform an initial fuel analysis and quarterly fuel analysis through-out the term of this contract. The contractor shall provide instruction required to correct any conditions resulting in abnormal test results. The following are the minimal acceptable tests:

- Particle Count (ASTM D7619, ISO 4406)
- FTIR Biodiesel (%) (ASTM D7806)
- API Gravity (degrees API) (ASTM D287)
- Water (ppm) (ASTM D7546)
- Accelerated Stability (Octel F21)
- Bacteria/Fungi (Typical Results: Bacteria < 104/mL, Fungi <102/mL)

The results of the analysis shall be provided in an electronic file emailed to: [starlingpk@cityofgainesville.org](mailto:starlingpk@cityofgainesville.org) and [bristowro@cityofgainesville.org](mailto:bristowro@cityofgainesville.org)

Mail to:

City of Gainesville Regional Transit System  
PO Box 490 Station 5  
Gainesville, FL 32627

#### 2.4 Warranty

Bidders shall provide warranty statements for all products being offered.

#### 2.5 Delivery

The point of delivery for the item(s) purchased under this contract will be:

**Ship to:** City of Gainesville, Regional Transit System  
34 SE 13<sup>th</sup> Rd.  
Gainesville, Florida 32601  
Phone # (352) 393-7864  
Alt # (352) 393-7823

Contractor shall insure that all orders delivered or picked up are complete with itemized sales forms or shipping documents.

Contractor is responsible for obtaining a signed receiving document from the City employee who receives the merchandise. The City will not be responsible for merchandise payments unless a receiving document supporting the Contractor’s invoice has been issued.

2.6 Acceptance of Orders

The Contractor hereby guarantees to accept orders issued by the City if it can meet the delivery schedule specified, at the net discount level quoted. Acceptance of orders constitutes a guarantee of delivery. Any order which cannot be filled by the lowest cost Contractor will be offered to another Contractor, until the offering is accepted. Inability to meet the delivery schedule specified by the City shall be the only valid reason for declining an order.

2.7 No Guarantee of Purchases

The City of Gainesville does not guarantee any dollar amounts to be purchased from any supplier.

2.8 Payment

*Invoicing*--The vendor shall be responsible for invoicing the City on delivery of the items purchased. The invoice must be numbered, dated and include the name of the Department Representative that placed the order.

*Payment*--The City desires to do Statement Billing with payment due once a month or utilize a procurement card to pay for products invoiced. The Vendor should state payment terms in their bid. Payment may be withheld by the City due to failure by the vendor to comply with these Specifications or because unacceptable materials were delivered as determined by the City’s inspection. The City shall notify the vendor of any unsatisfactory performance as soon as practicable so that it can be corrected without delaying payment if possible.

*Monthly Statements*--Monthly statements shall be mailed as follows:

**For RTS – Sold To:** City of Gainesville Regional Transit System  
Attn: Ronda Carney  
PO Box 480 Station 5  
Gainesville, Florida 32627

*Placing of Orders*--Only those orders placed by a Department Representative will be considered authorized.

*Shipping of Product/Mailing of Invoices*--Products shall be shipped with invoices to one of the following as directed by the Purchase Order or Parts Specialist:

**Ship to:** City of Gainesville  
Regional Transit System  
34 SE 13<sup>th</sup> Road  
Gainesville, Florida 32601

**Mail to:** City of Gainesville  
Regional Transit System  
PO Box 490 Station 5  
Attn: Ray Bristow  
Gainesville, Florida 32601  
Phone # (352) 393-7864  
Fax# (352) 334-2617

2.8 Project Meetings

A meeting will be held between the Contractor and the Departments Representative(s) prior to the initiation of the contract for the purpose of reviewing the contract requirements and discussing administration and coordination activities. Follow up meetings with the Contractor and/or its staff and Department Representative(s) will be held throughout the term of the contract at a minimum of once per quarter to discuss the administration of the contract and to review any issues or concerns that may develop.

2.9 Additional Requirements

The following documentation is requested to be provided with the bid response. However, any such documentation not provided will be requested by the buyer after the bid opening.

- Must demonstrate products offered have been in distribution for minimum of five (5) years
- Must provide a copy of current licenses/permits required for your business
- Must provide three (3) references for customers who are currently using product bid
- Must provide documentation of being a factory authorized full service distributor or dealer

**BID FORM**

TO: City of Gainesville, Florida  
200 East University Avenue  
Gainesville, Florida 32601

PROJECT: **Diesel Fuel Treatments**

BID#: **RTSX-170038-DS**

BID DUE DATE: **May 24, 2017 at 3:00 p.m. local time**

CITY’S REPRESENTATIVE (to be contacted for additional information on this proposal):

Name: Daphyne Sesco, Senior Buyer Telephone Number: 352-334-5021  
Fax Number: 352-334-3163  
Email address: sescoda@cityofgainesville.org

Bidder Legal Name: \_\_\_\_\_

Bidder Alias/DBA: \_\_\_\_\_

Bidder’s Address: \_\_\_\_\_  
\_\_\_\_\_

BIDDER’S REPRESENTATIVE (to be contacted for additional information on this proposal):

Name: \_\_\_\_\_ Telephone Number: \_\_\_\_\_  
Date: \_\_\_\_\_ Fax Number: \_\_\_\_\_  
Email address: \_\_\_\_\_

**BIDDER’S DECLARATION AND UNDERSTANDING**

The undersigned, hereinafter called the Bidder, declares that the only person or parties interested in this Bid are those named herein, that this Bid is, in all respects, fair and without fraud, that it is made without collusion with any official of the City, and that the Bid is made without any connection or collusion with any person submitting another Bid on this contract.

The Bidder further declares that no City Commissioner, other City officer, or City employee directly or indirectly owns more than five percent of the total assets or capital stock of the bidding entity, nor will directly or indirectly benefit by more than five percent from the profits or emoluments of this contract. (For purposes of this paragraph, indirect ownership or benefit does not include ownership or benefit by a spouse or minor child.)

The Bidder further declares that it has carefully examined the Specifications and that this Bid is made according to the provisions and under the terms of the Specifications, which Specifications are hereby made a part of this Bid.

Bidder further declares that any deviation from the specifications are explained on separate sheets labeled Clarifications and Exceptions attached to this Bid Form and that each deviation is itemized by number and specifically refers to the applicable specification paragraph and page.

**ADDENDA**

The Bidder hereby acknowledges receipt of Addenda No.'s \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, to these Specifications.

**TAXES**

The Bidder agrees that any applicable Federal, State and Local sales and use taxes, which are to be paid by City of Gainesville, are included in the stated bid prices. Since often the City of Gainesville is exempt from taxes for equipment, materials and services, it is the responsibility of the Contractor to determine whether sales taxes are applicable. The Contractor is liable for any applicable taxes which are not included in the stated bid prices.

**BID PRICES**

The undersigned hereby proposes and agrees, if this bid is accepted, to perform the work in accordance with the specifications for the following bid prices:

*Prices stated below shall reflect price per unit delivered and shall be firm for the entire term of the contract.*

<u>Item</u>	<u>Price Amount</u>
Diesel Fuel Treatment cost per gallon of diesel fuel	\$ _____
Cost of initial fuel analysis	\$ _____
Cost of quarterly fuel analysis, thereafter	\$ _____
Cost of diesel treatment per 55 gallon drum	\$ _____

**Term for delivery ARO:** \_\_\_\_\_

Bidder certifies compliance with requirement, and can provide documentation, that product offered has been in distribution for a minimum of five (5) years: \_\_\_Yes \_\_\_\_\_ (initial)

Bidder certifies compliance with requirement, and can provide documentation of, that bidder has current licenses/permits required for their business: \_\_\_Yes \_\_\_\_\_ (initial)

Bidder certifies compliance with requirement, and can provide documentation, that bidder is a factory authorized full service distributor or dealer: \_\_\_Yes \_\_\_\_\_ (initial)

Bidder certifies compliance with requirement, and can provide documentation, to provide list of three customer references currently using product being offered: \_\_\_Yes \_\_\_\_\_ (initial)

**Bidders are requested to supply the requested documentation with their bid response. However, if the documentation is not provided, the buyer will contact the bidder after the bid opening to provide the documentation.**

Note: THE PRICES SET FORTH ABOVE SHALL BE CONSIDERED FIRM BIDS NOT SUBJECT TO PRICE ADJUSTMENT UNLESS BIDDER’S PROVISIONS FOR PRICE ESCALATION ARE STATED ON A SEPARATE SHEET ATTACHED TO THE BID.

**LOCAL PREFERENCE (check one)**

Local preference is requested \_\_\_\_\_ yes \_\_\_\_\_ no

A copy of your Business tax receipt and Zoning Compliance Permit should be submitted with your bid if a local preference is requested

**QUALIFIED LOCAL SMALL BUSINESS STATUS (check one)**

Is your business qualified as a Local Small Business in accordance with the City of Gainesville Small Business Procurement Program? (Refer to Definitions)  YES  NO

**SIGNATURE ACKNOWLEDGES THAT: (check one)**

- Bid is in full compliance with the Specifications.
- Bid is in full compliance with specifications except as specifically stated and attached hereto.

Signature also acknowledges that Bidder has read the current City of Gainesville Debarment/Suspension/Termination Procedures and agrees that the provisions thereof shall apply to this bid.

(CORPORATE SEAL)

ATTEST:

BIDDER:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_



### TABULATION OF SUBCONTRACTORS AND MATERIAL SUPPLIERS

The Undersigned states that the following is a complete list of the proposed Subcontractors and Material Suppliers on this Project and the class of work to be performed by each, and that such list will not be added to nor altered without written consent of the City of Gainesville. This form should be completed and submitted with the bid.

Please TYPE or PRINT legibly. Use additional sheets as necessary.

#### SUBCONTRACTORS

Company Name	Company Phone Number	Class of Work	% or Price of Work	Qualified Local Small Business
1.				<input type="checkbox"/> Yes <input type="checkbox"/> No
2.				<input type="checkbox"/> Yes <input type="checkbox"/> No
3.				<input type="checkbox"/> Yes <input type="checkbox"/> No
4.				<input type="checkbox"/> Yes <input type="checkbox"/> No
5.				<input type="checkbox"/> Yes <input type="checkbox"/> No

#### MATERIALS SUPPLIERS

Company Name	Company Phone Number	Type of Supply/Material	% or Price of Materials	Qualified Local Small Business
1.				<input type="checkbox"/> Yes <input type="checkbox"/> No
2.				<input type="checkbox"/> Yes <input type="checkbox"/> No
3.				<input type="checkbox"/> Yes <input type="checkbox"/> No
4.				<input type="checkbox"/> Yes <input type="checkbox"/> No
5.				<input type="checkbox"/> Yes <input type="checkbox"/> No

Bidding Company Name: \_\_\_\_\_

Form Completed By: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

## DRUG FREE WORKPLACE FORM

The undersigned vendor in accordance with Florida Statute 287.087 hereby certifies that

\_\_\_\_\_ does:

(Name of Business)

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 of nolo contendere to, any violation of Chapter 893, Florida Statutes, or of any controlled substance law of the United State 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.

\_\_\_\_\_  
Bidder's Signature

\_\_\_\_\_  
Date

## **DEBARRED AND SUSPENDED BIDDERS**

### **Breach of Contract**

1. **Scope.**  
This policy prescribes policies and procedures relating to:
  - (a) the debarment of bidders for cause;
  - (b) the suspension of bidders for cause under prescribed conditions;  
and,
  - (c) the rejection of bids, revocation of acceptance and termination of contracts for cause.
 It is directly applicable to the advertised and negotiated purchases and contracts, for equipment and services of the City.
2. **General.**  
Debarment and suspension are measures which may be invoked by the City either to exclude or to disqualify bidders and contractors from participation in City contracting or subcontracting. These measure should be used for the purpose of protecting the interests of the City and not for punishment. To assure the City the benefits to be derived from the full and free competition of interested bidders, these measures should not be instituted for any time longer than deemed necessary to protect the interests of the City, and should preclude awards only for the probably duration of the period of non-responsibility.
- 2.1 **Definitions.**
  - (a) "Debarment" means, in general, an exclusion from City contracting and subcontracting for a reasonable, specified period of time commensurate with the seriousness of the offense, improper conduct or the inadequacy of performance.
  - (b) "Suspension" means a disqualification from City contracting and subcontracting for a temporary period of time because a concern or individual is suspected upon adequate evidence (See Section 6) of engaging in criminal, fraudulent, improper conduct or inadequate performance.
  - (c) A "debarment list" or "debarred bidders list" means a list of names of concerns or individuals against whom any or all of the measures referred to in this policy have been invoked.
  - (d) "Bidders" means, wherever the term is used in this policy, an offerors bidding pursuant to an invitation for bids or a request for proposals.
  - (e) "Affiliates" means business concerns which are affiliates of each other when either directly or indirectly one concern or individual controls or has the power to control another, or when a third party controls or has the power to control both.
  - (f) "Business operations" means commercial or industrial activity engaged in regularly and continuously over a period of time for the purpose of receiving pecuniary benefit or otherwise accomplishing an objective. "Business operations" constitute and are equivalent to "carrying on business", "engaged in business", "doing business".
3. **Establishment and Maintenance of a List of Concerns or Individuals Debarred or Suspended.**
  - (a) The Purchasing Department shall establish and maintain on the basis contained in Sections 6 and 6.1, a consolidated list of concerns and individuals to whom contracts will not be awarded and from whom bids or proposals will not be solicited.
  - (b) The list shall show as a minimum the following information:
    - (1) the names of those concerns or individuals debarred or suspended (in alphabetical order) with appropriate cross-reference where more than one name is involved in a single action;
    - (2) the basis of authority for each action;
    - (3) the extent of restrictions imposed; and,
    - (4) the termination date for each debarred or suspended listing.
  - (c) The list shall be kept current by issuance of notices of additions and deletions.
4. **Treatment to be Accorded Firms or Individuals Debarred or Suspended**  
Firms or individuals listed by the Purchasing Department as debarred or suspended shall be treated as follows.
  - (a) **Total restrictions.** A contract shall not be awarded to a concern or individual that is listed on the basis of a Section 5(a)(1), (2) or (3) felony "conviction", or to any concern, corporation, partnership, or association in which the listed concern or individual has actual control or a material interest; nor shall bids or proposals be solicited therefrom. However, when it is determined essential in the public interest by the City Commission, an exception may be made with respect to a particular procurement action where the individual or concern is effectively the sole source of supply or it is an emergency purchase.
  - (b) **Restrictions on subcontracting.** If a concern or individual listed on the debarred and suspended bidders list is proposed as a subcontractor, the Purchasing Department shall decline to approve subcontracting with that firm or individual in any instance in which consent is required of the City before the subcontract is made, unless it is determined by the City to grant approval City Commission essential to public interest and the individual or concern is effectively the sole source of supply or it is an emergency purchase.
5. **Causes and Conditions Applicable to Determination of Debarment.**  
Subject to the following conditions, the Purchasing is authorized to debar a firm or individual in the public interest for any of the following causes occurring with ten (10) years of debarment.

- (a) Causes
  - (1) "Conviction" for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract, or subcontract thereunder, or in the performance of such contract or subcontract.
  - (2) "Convictions" of embezzlement, theft, forgery, issuance of worthless checks, bribery, falsification or destruction of records, perjury, or receiving stolen property where the conviction is based upon conduct which arose out of, or was related to, business operations of the bidder.
  - (3) "Conviction" for bid-rigging activities arising out of the submission of bids or proposals.
  - (4) Violation of contract provisions, as set forth below, of a character which is regarded by the City to be so serious as to justify debarment action:
    - (i) willful failure to perform in accordance with the specifications or within the time limit provided in the contract;
    - (ii) a record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts. Failure to perform or unsatisfactory performance caused by acts beyond the control of the firm or individual as a contractor shall not be considered to be a basis for debarment.
  - (5) Debarment by any other governmental agency.

- (b) Conditions.
  - (1) Debarment for any of the causes set forth in this section shall be made only upon approval of the Purchasing.
  - (2) The existence of any of the causes set forth in (a) of this section does not necessarily require that a firm or individual be debarred except as provided in 4(a). In each instance, whether the offense or failure, or inadequacy of performance, be of criminal, fraudulent, or serious nature, the decision to debar shall only be made if supported by a preponderance of the credible evidence available. Likewise, all mitigating factors may be considered in determining the seriousness of the offense, failure, or inadequacy of performance, in deciding whether debarment is warranted. The actual or apparent authority of an involved individual, the present relationship of involved individuals with the bidder, the past performance of the individual or concern, and the relationship of the violation to the services or materials involved shall be considered.
  - (3) The existence of a cause set forth in (a)(1), (2), and (3) of this section shall be established by criminal "conviction" by a court of competent jurisdiction. In the event that an appeal taken from such conviction results in reversal of the "conviction", the debarment shall be removed upon the request of the bidder (unless other causes for debarment exists). for the purposes of this policy, the following shall have the same effect as a "conviction": pleading guilty or nolo contendere, or being found guilty by a jury or court of, the offense in question, regardless of whether probation is imposed and adjudication withheld.
  - (4) The existence of a cause set forth in (a)(4) and (5) of this section shall be established by a preponderance of credible evidence by the Purchasing.
  - (5) Debarment for the cause set forth in (a)(5) of this section (debarment by another agency) shall be proper if one of the causes for debarment set forth in (a)(1) through (4) of this section was the basis for debarment by the original debarring agency. Such debarment may be based entirely on the record of facts obtained by the original debarring agency, or upon a combination of such facts and additional facts.

5.1 Period of Debarment.

- (a) Debarment of a firm or individual shall be for a reasonable, definitely stated period of time commensurate with the seriousness of the offense or the failure or inadequacy or performance. As a general rule, a period of debarment shall not exceed five (5) years. However, when partial or total debarment for an additional period is deemed necessary, notice of the proposed additional debarment shall be furnished to that concern or individual in accordance with Section 8.
- (b) A debarment may be removed or the period thereof may be reduced by the City Manager upon the submission of an application supported by documentary evidence, setting forth appropriate grounds for the granting of relief; such as newly discovered material evidence, reversal of a conviction, bona fide change of ownership or management, or the elimination of the causes for which the debarment was imposed. The City Manager may request additional information, shall consider all relevant facts, and shall render a decision within twenty (20) days of receipt of the application unless a longer period is warranted under the circumstances.

6. Suspension of Bidders.

- (a) Suspension is a drastic action and, as such, shall not be based upon an unsupported accusation. In assessing whether evidence exists for invoking a suspension, consideration should be given to the amount of credible evidence which is available, to the existence or absence of corroboration as to important allegations, as well as to the inferences which may properly be drawn from the existence or absence of affirmative facts. This assessment should include an examination of basic documents, such as contracts, inspection reports, and correspondence. In making a determination to suspend, the Purchasing shall consider the factors set forth in Section 5(b)(2). A suspension may be modified by the City Manager as described in Section 5.1(b).

6.1 Causes and Conditions Under Which the City May Suspend Contractors

- (a) The Purchasing may, in the interest of the City, suspend a firm or individual when the firm or individual is suspected, upon credible evidence, of having committed one or more the following act(s) within three (3) years of the date of suspension:
- (1) Commission of fraud or a criminal offense as an incident to obtaining, attempting to obtain, or in the performance of a public contract;
  - (2) Violation of statutes concerning bid-rigging activities out of the submission of bids and proposals; and,
  - (3) Commission of embezzlement, theft, forgery, issuance of worthless checks, bribery, falsification, or destruction of records, perjury, receiving stolen property. Commission of any other offense indicating a lack of business integrity or business honesty which seriously and directly affects the question of present responsibility as a City contractor.

6.2 Period of Suspension.

- (a) All suspension shall be for temporary period pending the completion of an investigation and such legal proceedings as may ensue. In the event that prosecution has not been initiated within twelve (12) months form the date of the suspension, the suspension shall be terminated. Upon removal of suspension, consideration may be given to debarment in accordance with Section 5 of this policy.

7. Scope of Debarment or Suspension.

- (a) A debarment or suspension may include all known affiliates of a concern or individual.
- (b) Each decision to include a known affiliate within the scope of a proposed debarment or suspension is to be made on a case-by-case basis, after giving due regard to actual or apparent authority of the controlling concern or individual and similarity of the services provided by the affiliate to those provided by the debarred individual or concern.
- (c) The criminal, fraudulent, or seriously improper conduct of an individual may be imputed to the business concern with which he is connected, where such impropriety was accomplished within the course of his official duty or apparent authority, or was effected by him with the knowledge and approval of that concern. When the individual was an officer of the concern, knowledge and approval may be presumed. Likewise, where a concern is involved in criminal, fraudulent, or seriously improper conduct, any individual who was involved in the commission of the impropriety may be debarred or suspended.

8. Notice of Debarment of Suspension.

When the Purchasing seeks to debar or suspend a concern or individual (or any affiliate thereof) for cause, it shall furnish that party with a written notice:

- (1) stating that debarment or suspension is being considered;
- (2) setting forth the reasons for the proposed action;
- (3) indicating that such party will be afforded an opportunity for a hearing if he so requests one within ten (10) days; and,
- (4) indicating that such party may make a written response in accordance with Section 9(a).

9. Response to Notice of Debarment or Suspension.

- (a) In lieu of requesting a hearing within the prescribed ten (10) day period, the party may, within said ten (10) day period, notify the City of its intent to provide a written reply and submit written evidence to contest the debarment or suspension. Such written evidence must be submitted within twenty (20) days after receipt of the notice of proposed debarment or suspension in order for it to be considered.
- (b) Whatever response is received to the notice of intent to debar or suspend, such will be considered in determining whether debarment or suspension action will be made. Where a reply is received to the notice of intent to debar or to suspend, and evidence to refute such action is furnished but no hearing is requested, the information furnished will be considered in determining the action to be taken.
- (c) If a hearing is requested, it shall be conducted by the City Manager. The hearing will be held at a location convenient to the City as determined by the City Manager and on a date and at a time stated. An opportunity shall be afforded to the firm or individual to appear with witnesses and counsel, to present facts or circumstances showing cause why such firm or individual should not be debarred or suspended. The proceeding shall be of an informal nature as determined by the City Manager. After consideration of the facts, the City Manager shall notify the firm or individual of the final decision.
- (d) If no response is made to the notice of debarment or suspension within the first ten (10) day period, the decision of the Purchasing shall be deemed final and the party so notified.

10. Rejection of Bids, Breach of Contract.

- (a) Previously solicited and/or accepted bids may be rejected or acceptance revoked prior to beginning of performance upon discovery by the City that the bidder or its affiliates have committed any act which would have been cause for debarment.
- (b) If after a contract is awarded and performance has been begun the City discovers that the bidder or its affiliates have committed any act prior to award or acceptance which would have been cause for debarment had it been discovered prior to solicitation or acceptance, the City may consider such to be a material breach of the contract and such shall constitute cause for termination of the contract.

- (c) If after bids have been solicited and/or accepted or after a contract is awarded and performance begun, the City discovers that the bidder or its affiliates committed any act prior to award or acceptance which would have been cause for disbarment or suspension had it been discovered prior to solicitation or acceptance, the City may require additional satisfactory assurances that such act(s) have not occurred and that the contract can and will be faithfully performed. If additional assurances are requested and are not satisfactory or if the bidder or its affiliates fail to immediately cooperate with all reasonable requests, including requests for information reasonably calculated to lead to the discovery of relevant evidence, then such may be considered a material breach of the contract and such shall constitute cause for termination of the contract.

## ARTICLE X. LOCAL PREFERENCE POLICY\*

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**\*Editor's note:** Section 9 of Ord. No. 001261 states: "This ordinance shall become effective October 1, 2004, and shall be reviewed by the City Commission October 1, 2005, and unless extended by action of the City Commission, shall be deemed repealed effective March 31, 2006, provided that it shall remain applicable to new contracts solicited prior to repeal."

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### **Sec. 2-620. Findings of fact.**

The city annually spends significant amounts on purchasing personal property, materials, and contractual services and in constructing improvements to real property or to existing structures. The dollars used in making those purchases are derived, in large part, from taxes, fees, and utility revenues derived from local businesses in the corporate city limits of Gainesville, and the city commission has determined that funds generated in the community should, to the extent possible, be placed back into the local economy. Therefore, the city commission has determined that it is in the best interest of the city to give a preference to local businesses in the corporate city limits of Gainesville in making such purchases whenever the application of such a preference is reasonable in light of the dollar-value of proposals received in relation to such expenditures.

(Ord. No. 001261, § 1, 3-29-04)

### **Sec. 2-621. Definition.**

"Local business" means the vendor has a valid occupational license, issued by the City of Gainesville at least six months prior to bid or proposal opening date, to do business in said locality that authorizes the business to provide the goods, services, or construction to be purchased, and a physical business address located within the limits of said locality, in an area zoned for the conduct of such business, from which the vendor operates or performs business on a day-to-day basis. Post office boxes are not verifiable and shall not be used for the purpose of establishing said physical address. In order to be eligible for local preference, the vendor must provide a copy of the occupational license.

(Ord. No. 001261, § 2, 3-29-04)

### **Sec. 2-622. Local preference in purchasing and contracting.**

In bidding of, or letting contracts for procurement of, supplies, materials, equipment and services, as described in the purchasing policies, the city commission, or other purchasing authority, may give a preference to local businesses in making such purchase or awarding such contract in an amount not to exceed five percent of the local business' total bid price, as described below, and in any event the cost differential should not exceed \$25,000.00. Total bid price shall include not only the base bid price but also all alterations to that base bid price resulting from alternates which were both part of the bid and actually purchased or awarded by the city commission or other authority. In the case of requests for proposals, letters of interest, best evaluated bids, qualifications or other solicitations and competitive negotiation and selection in which objective factors are used to evaluate the responses, local businesses are assigned five percent of the total points of the total evaluation points.

(Ord. No. 001261, § 3, 3-29-04)

### **Sec. 2-623. Exceptions to local preference policy.**

The preference set forth in this Article X shall not apply to any of the following purchases or contracts:

- (1) Good or services provided under a cooperative purchasing agreement;
- (2) Contracts for professional services procurement of which is subject to the Consultants' Competitive Negotiation Act (F.S. § 287.055) or subject to any competitive consultant selection policy or procedure adopted or utilized by the city commission or charter officer;
- (3) Purchases or contracts which are funded, in whole or in part, by a governmental entity and the laws, regulations, or policies governing such funding prohibit application of that preference; or

- (4) Purchases made or contracts let under emergency or noncompetitive situations, or for litigation related legal services, etc., as such are described in the city's purchasing policies;
- (5) Purchases with an estimated cost of \$50,000.00 or less;
- (6) Application of local preference to a particular purchase, contract, or category of contracts for which the city commission is the awarding authority may be waived upon written justification and recommendation of the charter officer and approval of the city commission. The preferences established herein in no way prohibit the right of the city commission or other purchasing authority to compare quality or fitness for use of supplies, materials, equipment and services proposed for purchase and compare qualifications, character, responsibility and fitness of all persons, firms, or corporations submitting bids or proposals. Further, the preferences established herein in no way prohibit the right of the city commission or other purchasing authority from giving any other preference permitted by law in addition to the preference authorized herein.

(Ord. No. 001261, § 4, 3-29-04)

**Sec. 2-624. Application, enforcement.**

The local preference shall apply to new contracts for supplies, materials, equipment and services first solicited after October 1, 2004. This article shall be implemented in a fashion consistent with otherwise applicable city purchasing policies and procedures.

(Ord. No. 001261, § 5, 3-29-04)



## LOCAL SMALL BUSINESS PROGRAM

It is the policy of the City of Gainesville that Local Small Businesses shall have the maximum opportunity to participate in the performance of all aspects of contracting and subcontracting opportunities for the City of Gainesville. In this regard, the City of Gainesville and its contractors will take all necessary and reasonable steps to ensure that Local Small Businesses have the maximum opportunity to compete for and perform such contracts/subcontracts and provide materials for such contracts/subcontracts.

*Except as provided below, evaluation of a bid/proposal may result in bid/proposal being rejected for failure to comply with the following conditions. Upon contract award, failure of any Bidder/Proposer to comply with these conditions/requirements which seek to maximize the use of Local Small Businesses shall constitute a breach of a contract award. Upon such breach, the City of Gainesville may at its option, terminate the contract and/or pursue any and all other appropriate remedies available under the contract or otherwise under applicable law.*

### **Contract Award Conditions:**

Contract award will be conditioned on meeting the requirements of this section. The City of Gainesville requires the following:

1. Submission by the Bidder/Proposer of the completed "Tabulation of Subcontractors" form (BF-4) with the bid/proposal;
2. The names and addresses of all Subcontractors. Clearly designate which Subcontractors are Local Small Businesses that will participate in the contract;
3. A description of the Work and/or Materials that each Local Small Businesses will perform or supply;
4. The dollar amount or percentage of the Work and/or Materials that each Local Small Business will provide on the project.
5. If the actual participation of Local Small Business in the apparently successful bid/proposal is not maximized, as determined by the Local Small Business Procurement Program Coordinator, such bidder/proposer shall submit documentation of all Good Faith Efforts (successful and unsuccessful) that were engaged in, prior to bid or proposal submission, to maximize the use of Local Small Businesses on this project. Efforts undertaken after bid submissions are not relevant to the decision to award.

### **Good Faith Efforts:**

A condition of contract award is that the contract award be made only to the Bidder/Proposer (including Local Small Business Bidders/Proposers) who maximize the utilization of Local Small Business subcontractors or who makes Good Faith Efforts to maximize the use of Local Small Business Subcontractors. The City of Gainesville will determine whether a Bidder/Proposer has made Good Faith Efforts if the Bidder/Proposer does the following:

**If the Bidder/Proposer does not maximize the participation of Local Small Businesses on this project, the Bidder/Proposer must provide all documentation** which by its scope, quality, quantity and intensity of the different kinds of efforts the Bidder/Proposer made to maximize participation can be confirmed and be evaluated. The documentation should be provided both as to those efforts wherein the Bidder/Proposer was successful in obtaining participation and those where it was not. In the latter case, the documentation should further indicate the reason for lack for success, i.e. Subcontractor's bid too high, Subcontractor who bids is apparently not qualified to perform the particular services, no bids received, etc.

**Mere pro forma efforts are not Good Faith Efforts to meet the Local Small Business requirements. The Bidder/Proposer will be required to submit written documentation of Good Faith Efforts when the participation on this project is not maximized, if they wish to be awarded the contract.**

The City of Gainesville will consider the following list of types of actions as a part of the Bidder's/Proposer's Good Faith Efforts to obtain Local Small Business Subcontractor participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

1. Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all Local Small Business who have the capability to perform the Work or provide Materials needed to complete the project. The Bidder/Proposer must solicit this interest within sufficient time to allow them to respond to the solicitation.

The Bidder/Proposer must determine with certainty if they are interested by taking appropriate steps to follow-up the initial solicitations.

2. Selecting portions of the Work to be performed or portions of the Materials to be provided by Local Small Businesses in order to increase the likelihood that participation is maximized. This includes, where appropriate, breaking out contract Work items or Material items into economically feasible units to facilitate participation, even when the prime contractor might otherwise prefer to perform these Work items or provide these Material items with its own forces.
3. Providing interested Local Small Businesses with adequate information about the plans, specifications and requirements of the contract in a timely manner to assist them in responding to a solicitation.
4.
  - (a) Negotiating in good faith with interested Local Small Businesses. It is the Bidder's/Proposer's responsibility to make a portion of the Work or Materials available to the Subcontractors and to select those portions of the Work or Material needed consistent with the available Local Small Business Subcontractors, so as to facilitate participation. Evidence of such negotiation includes the names, addresses and telephone numbers of Local Small Businesses that were considered; a description of the information provided regarding the plans and specifications for the Work or Materials selected for subcontracting; and evidence as to why additional agreements could not be reached to perform the Work or provide the Materials.
  - (b) A Bidder/Proposer using good business judgment would consider a number of factors in negotiating with Subcontractors, and would take a firm's price and capabilities into consideration. However, the fact that there may be some additional costs involved in finding and using Local Small Businesses is not in itself sufficient reason for a Bidder/Proposer's failure to seek to maximize the use of them as long as such costs are reasonable and/or may be offset by other less tangible benefits. Also, the availability or desire of a Bidder/Proposer, including a Local Small Business Bidder/Proposer to perform the Work or provide the Materials of a contract with its own organization does not relieve the Bidder/Proposer the responsibility to make Good Faith Efforts and maximize utilization of other Local Small Businesses. Bidder/Proposers are not, however, required to accept higher quotes from Local Small Businesses if the price difference is excessive or unreasonable or they are not qualified to perform the Work. These decisions should, however, be supportable and documented as part of the required Good Faith Efforts.
5. Making efforts to assist interested Local Small Businesses in obtaining bonding, lines of credit, or insurance as required by the City of Gainesville or Bidder/Proposer.
6. Making efforts to assist interested Local Small Businesses in obtaining necessary equipment, supplies, Materials, or related assistance and services.
7. Effectively using the services of available small and minority business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of Local Small Businesses.

*In determining whether a Bidder/Proposer has maximized participation, the City of Gainesville will take into account the performance of other Bidders/Proposers in meeting this requirement of the bid/proposal and historical participation by Local Small Businesses involving similar Work or Materials. For example, when the apparent successful Bidder/Proposer fails to obtain or fails to maximize Local Small Business participation, but others Bidders/Proposers obtained and/or maximized such participation, the City of Gainesville will reasonably raise questions whether, with additional reasonable efforts, the apparent successful Bidder/Proposer could have obtained and/or maximized participation. As indicated, a reasonable level of participation (maximization) may not be apparent until after bids/proposals are opened and participation of various bidders compared. Therefore, it is recommended that in all cases, all pre-submittal Good Faith Efforts be documented, and retained in the event that such are required to be submitted for review/verification.*

*Even if a Bidder/Proposer is a Local Small Business, maximizing the utilization of other Local Small Businesses is still required.*

**Local Small Businesses Terminations/Substitutions:**

*A Bidder/Proposer shall not terminate for convenience a Local Small Business Subcontractor and then perform the Work or provide the Materials of the terminated Subcontractor within its own forces or those of an affiliate without the prior consent of the City of Gainesville.*

*When a Local Small Business Subcontractor is terminated or fails to complete its Work or fails to provide the Materials on the contract for any reason, the prime contractor shall make Good Faith Efforts to find another Local Small Business subcontractor to substitute for the original Local Small Business. These Good Faith Efforts shall be directed at finding another Local Small Business to perform at least the same amount of Work or provide the same amount of Materials under the contract as the business that was terminated to the extent needed to meet the contract goal or commitment.*

*The City of Gainesville shall have the right to consider price, quality, past performance including meeting Small Business Procurement Program commitments, time required for performance and qualifications of the Bidder/Proposer in making the award.*

**Equal Opportunity Assurance:**

The contractor, sub recipient, or Subcontractor shall not discriminate on the basis of race, color, religion, gender, national origin, marital status, sexual orientation, age, disability, and gender identity in the performance of this contract. Failure by the contractor to carry out these requirements is a material breach of his contract, which may result in termination of this contract or such other remedy as the recipient deems appropriate.

The Contractor shall include this assurance in each subcontract it signs with a Subcontractor or Material Supplier.

**Protest of Rejected Bid/Proposal – Administrative Reconsideration**

1. The Local Small Business Procurement Program Coordinator shall review bids and proposals to evaluate whether said bids or proposals comply with the above stated requirements. In the event that a bid or proposal is rejected for failure to comply with the stated requirements, the affected bidder or proposer may obtain reconsideration of such determination by filing a Protest/Request for Reconsideration.
2. In the reconsideration, the Bidder/Proposer has the opportunity to demonstrate how the Bid/Proposal met the requirements of the Program. The Request for Reconsideration shall be submitted to the Small Business Procurement Program Office within five (5) working days after receipt of notice of rejection. The Request for Reconsideration shall address the issues of whether the Bidder/Proposer maximized Local Small Business participation or made adequate good faith efforts to maximize the participation of local small business participation and shall include documentation associated with these factors.
3. The decision on reconsideration will be made by the Administrative Services Director.
4. The Bidder/Proposer may have the opportunity to meet in person with the Administrative Services Director to discuss the issue of whether it met the criteria outlined above (see Item 2).
5. The Bidder/Proposer will be sent a written decision on reconsideration, explaining the basis for finding that the Bidder/Proposer did or did not meet the criteria above. (see Item 2).
6. All the arguments, documentation, and evidence, which is relevant to the Request for Reconsideration must be submitted by the Bidder/Proposer to the Administrative Services Director at least three (3) working days prior to the meeting described in Item 4 above or, if no meeting is held, three (3) days prior to the anticipated date of the decision on reconsideration. Absent fraud or mistake not attributable to the Bidder/Proposer, evidence of efforts undertaken subsequent to submission of the bid/proposal will not be considered. If no additional evidence or documentation is submitted by the Bidder/Proposer in accordance with the above, only the documents currently on file with the Purchasing Division will be reviewed at the meeting.

**CITY OF GAINESVILLE  
GENERAL GOVERNMENT  
PURCHASING DIVISION SURVEY  
BID INFORMATION**

**BID #:** RTSX-170038-DS

**DUE DATE:** May 24, 2017  
@ 3:00 p.m., local time

**SEALED BID ON:** Diesel Fuel Treatments

**IF YOU DO NOT BID**

Please check the appropriate or explain:

- \_\_\_\_\_ 1. Not enough bid response time.
- \_\_\_\_\_ 2. Specifications not clear.
- \_\_\_\_\_ 3. Do not submit bids to Municipalities.
- \_\_\_\_\_ 4. Current work load does not permit time to bid.
- \_\_\_\_\_ 5. Delay in payment from Governmental agencies.
- \_\_\_\_\_ 6. Do not handle this item.
- \_\_\_\_\_ 7. Other: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Company: \_\_\_\_\_

Address: \_\_\_\_\_

Are you a qualified local small business? yes \_\_\_\_\_ no \_\_\_\_\_