

CITY OF CORAL SPRINGS TERMS AND CONDITIONS

You are a person or entity entering into a contract with the City of Coral Springs (“City”). The words “you” and “your” refer to either you as an individual or as representative of the legal entity that you represent. Your signature on or agreement to the document (whether in hard copy or electronic) that directed you to these terms and conditions binds you to these terms and conditions. These terms and conditions are material and are hereby incorporated into the document that you signed.

The City may change these terms and conditions unilaterally without any notice to you. In the event the web address changes that displays these terms and conditions, the City will provide an updated link on its homepage for no less than 30 days.

SECTION 1. INDEMNIFICATION

For adequate and sufficient consideration that you acknowledge and received, you agree to indemnify, defend, save and hold City, its officers, agents and employees, harmless from any and all claims, damages, liability, losses, causes of action of any nature whatsoever, which may arise out of, in connection with, or because of the document that directed you to these terms and conditions.

You shall pay all claims, losses, liens, settlements or judgments of any nature whatsoever in connection therewith, including but not limited to, attorney’s fees and costs to defend all claims or suits, in the name of City when applicable and shall pay all costs and judgments which may issue thereon.

City reserves the right to select its own legal counsel to conduct any defense in any such proceeding and all costs and fees associated therewith shall be Your responsibility under this indemnification agreement.

Such indemnification shall not be limited to the amount of comprehensive general liability insurance. Nothing contained herein is intended nor shall be construed to waive City’s rights and immunities under the common law or Section 768.28, Florida Statutes, as amended from time to time and the limits provided for therein.

PATENT AND COPYRIGHT INDEMNIFICATION: You shall indemnify, save and hold harmless, City, its officers, agents and employees from all claims, damages, losses, liabilities and expenses arising out of an alleged infringement of copyrights, patent rights, the unauthorized or unlicensed use of any material, property or other work in connection with or arising out of the document directing you to these terms and conditions.

SECTION 2. INSURANCE

If insurance is required as determined by the City, then you shall be required to secure and maintain, at your own expense, and keep in effect during the full term of any contract, a policy or

policies of insurance, which must include the following coverages and minimum limits of liability:

(1) Worker's Compensation Insurance for statutory obligations imposed by Worker's Compensation or Occupational Disease Laws, including, where applicable, the United States Longshoremen's and Harbor Worker's Act, the Federal Employers' Liability Act and the Jones Act. Employer's Liability Insurance shall be provided with a minimum of two hundred thousand and xx/100 dollars (\$200,000.00) per accident. You will be required to agree to be responsible for the employment, conduct and control of your employees and for any injury sustained by such employees in the course of their employment.

(2) Commercial Automobile Liability Insurance for all owned, non-owned and hired automobiles and other vehicles used by you and/or your company in the performance of any obligations under any contract you enter into with the City, with the following minimum limits of liability with no restrictive endorsements:

\$1,000,000.00 Combined Single Limit, per occurrence, Bodily Injury & Property Damage

(3) Comprehensive General Liability (occurrence form) with the following minimum limits of liability with no restrictive endorsements:

\$1,000,000.00 Combined Single Limit, per occurrence, Bodily Injury & Property Damage.

Coverage shall specifically include the following with minimum limits not less than those required for Bodily Injury Liability and Property Damage Liability:

- (a) Premises and Operations.
- (b) Independent Contractors.
- (c) Product and Completed Operations Liability.
- (d) Broad Form Property Damage.
- (e) Broad Form Contractual Coverage applicable to the Agreement and specifically insuring the indemnification and hold harmless agreement contained in Section 1 above.
- (f) Owner's or Contractor's Protective Liability.

UPON CONTRACT EXECUTION, YOU SHALL BE REQUIRED TO SUBMIT TO THE City COPIES OF YOUR CERTIFICATE(S) OF INSURANCE EVIDENCING THE REQUIRED COVERAGES AND SPECIFICALLY PROVIDING THAT THE City OF CORAL SPRINGS IS AN ADDITIONAL NAMED INSURED OR ADDITIONAL INSURED WITH RESPECT TO THE REQUIRED COVERAGES AND YOUR OPERATIONS UNDER THE AGREEMENT. Insurance companies selected must be acceptable to the City. All of the policies of insurance so required to be purchased and maintained shall contain a provision or endorsement that the coverage afforded shall not be canceled, materially changed or renewal refused until at least thirty (30) calendar days written notice has been given to the City by certified mail.

These insurance requirements shall not relieve or limit your liability. The City does not in any way represent that the types and amounts of insurance required are sufficient or adequate to protect your interests or liabilities but are merely minimum requirements established by the City's Risk Manager. The City reserves its right to require any other insurance coverages that the City deems necessary depending upon the risk of loss and exposure to liability.

The required insurance coverage shall be issued by an insurance company authorized and licensed to do business in the State of Florida, with the minimum rating of B+ to A+, in accordance with the latest edition of A.M. Best's Insurance Guide.

You shall be required to require each of your subcontractors of any tier to maintain the insurance required herein (except as respects limits of coverage for employers and public liability insurance which may not be less than One Million (\$1,000,000) Dollars for each category), and you shall be required to provide verification thereof to the City upon request of the City.

All required insurance policies shall preclude any underwriter's rights of recovery or subrogation against the City with the express intention of the parties being that the required insurance coverage protects both parties as the primary coverage for any and all losses covered by the above-described insurance.

You shall be required to ensure that any company issuing insurance to cover the requirements contained in any contract you enter into, and you shall be required to agree that you shall have no recourse against the City for payment or assessments in any form on any policy of insurance.

The clauses "Other Insurance Provisions" and "Insured Duties in the Event of an Occurrence, Claim or Suit" as it appears in any policy of insurance in which the City is named as an additional named insured shall not apply to the City. Instead, the City shall provide written notice of occurrence within fifteen (15) working days of the City's actual notice of such an event to you.

You shall not be allowed to commence performance of any services until you have obtained all of the minimum insurance herein described and the same has been approved.

Violation of any of the insurance terms shall constitute a breach of your contract and the City, at its sole discretion, may cancel your contract and all of your rights, title and interest shall thereupon cease and terminate.

If you are a self-insured state agency or political subdivision as defined in Chapter 768.28, Florida Statutes, an acknowledgment that you are a self-insured governmental entity subject to the limitations of Section 768.28, Florida Statutes and that you institute and maintain a fiscally sound and prudent risk management program with regard to your obligations under any contract entered into with the City in accordance with the provisions of Section 768.28, Florida Statutes, shall meet the above insurance requirements.

SECTION 3. **ACCIDENT PREVENTION**

You shall be required to exercise reasonable care and precaution at all times for the protection of persons and property on the premises. Safety provisions of all applicable laws and ordinances shall be strictly observed. The City reserves the right to expel any person from municipal property who is causing a disturbance, is conducting themselves in violation of City rules, regulations, ordinances or whose conduct or activity presents a safety risk or public nuisance. Neither the City nor any of its officers, agents or employees shall be liable to you and/or your company for any damages that may be sustained by you and/or your company through exercise by City of such right.

SECTION 4. **INDEPENDENT CONTRACTOR STATUS**

You and your employees, volunteers and agents shall be and remain as independent contractors and not agents or employees of the City, with respect to all of the acts and services performed by and under the terms of any such contract. The provision of your services under any contract shall not in any way be construed to create a partnership, association or any other kind of joint undertaking or venture between yourself and the City.

SECTION 5. **NON-EXCLUSIVITY**

The agreement that you are entering into is non-exclusive.

SECTION 6. **COMPLIANCE WITH LAWS**

You shall be required to comply with all statutes, laws, ordinances, rules, regulations and lawful orders of the United States of America, State of Florida, City of Coral Springs and of any other public authority, which may be applicable.

SECTION 7. **PERMITS, FEES AND LICENSES**

You shall be required to secure and pay for all permits and governmental fees, licenses and charges necessary for the proper execution and completion of the services you provide.

SECTION 8. **TAXES**

You shall be required to pay all applicable sales, consumer use and other similar taxes required by law.

SECTION 9. **CONFLICT OF INTEREST**

You shall be required to covenant that no person under your employ who presently exercises any functions or responsibilities in connection with your services has any personal financial interests, direct or indirect, with the City. You will further be required to covenant that, in the performance of your services, no person having such conflicting interest shall be employed. Any such interests, on the part of you or your employees, must be disclosed in writing to the City.

You must familiarize yourself with the conflict-of-interest laws of the Municipal Code of the City of Coral Springs, Broward County and the State of Florida, Chapter 112, Florida Statutes, as amended from time to time, and agree that you will fully comply in all respects with the terms of said laws.

You will also be required to warrant that you have not employed or retained any person employed by the City to solicit or secure any contract with the City and that you have not offered to pay, paid, or agreed to pay, any public official or person employed by the City any fee, commission, percentage, brokerage fee or gift of any kind, contingent upon or resulting from the award of a contract.

SECTION 10. WARRANTIES

You shall be required to warrant to the City that your services shall be performed in a workmanlike manner, and that such services, including all materials and equipment provided shall conform to professional standards of care and practice in effect at the time the work is performed, be of the highest quality and free from fault and defects, whether patent or latent, and be merchantable and fit for the ordinary purposes for which they are intended.

You shall also be required to warrant to the City that: you will comply with all applicable federal, state and local laws, regulations and orders in carrying out your obligations; the consummation of the services shall not result in the breach of any term or provision of or constitute a default under any indenture, mortgage, contract or agreement to which you are a party; you do not have any financial interest in marketing the City's debt, or financial interest with investment banks, banks or underwriters associated with the City's proposed debt issues; and, you are not insolvent, you are not in bankruptcy proceedings or receivership, nor are you engaged in or threatened with any litigation or other legal or administrative proceedings or investigations of any kind which would have an adverse effect on your ability to perform your obligations.

No warranty, express or implied, may be modified, excluded or disclaimed in any way by you and all warranties shall remain in full force and effect subsequent to the provision of all specified services.

SECTION 11. ASSIGNMENT

You shall not be allowed to assign, or transfer your rights, title or interests nor shall you delegate any of your duties and/or obligations undertaken by you without the City's prior written approval.

Changes in Staff. You agree that you will advise the City not less than thirty (30) days in advance of any proposed changes in your staff assignment to enable the City an opportunity to discuss such proposed changes with you.

SECTION 12. INSOLVENCY

In the event that you become insolvent, make a general assignment for the benefit of creditors, suffer or permit the appointment of a receiver for your business or your assets or shall avail yourself of, or become subject to, any proceeding under the Federal Bankruptcy Act or any other statute of any state relating to insolvency or the protection of rights of creditors, or become subject to rehabilitation, then, at the option of the City and immediately upon written notice, your services shall terminate and any contract entered into between yourself and the City will be of no further force and effect.

SECTION 13. NON-DISCRIMINATION AND EQUAL OPPORTUNITY EMPLOYMENT

You shall not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin. You will be required to take affirmative action to ensure that employees are treated during employment, without regard to their race, creed, color, or national original. Such action must include, but not be limited to, the following: employment, upgrading; demotion or transfer; recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. You shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this non-discrimination clause.

SECTION 14. RECORDS AND AUDIT

14.01 If you are a contractor, vendor, or receiving any money from the City, this Section 14 shall apply to you.

14.02 The City reserves the right to audit your records relating to the agreement directing you to these terms and conditions at any time during the performance and term of the Agreement and for a period of three (3) years after completion and acceptance by City. If required by City, you shall agree to submit to an audit by an independent certified public accountant selected by City. You shall allow City to inspect, examine and review your records at any and all times during normal business hours during the term of this Agreement.

14.03 You agree that you shall keep accurate and complete records with regard to all services you provide to City.

14.04 You shall preserve and make available for inspection by City personnel, or by personnel duly authorized by City, computer data and other records related to services you provide to City. These records will be made available during normal business hours upon twenty-four (24) hours' notice by the City.

14.05 IF YOU HAVE QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO YOUR DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT THE CITY OF CORAL

**SPRINGS, GEORGIA ELLIOTT, FCRM, City CLERK, 9500 WEST
SAMPLE ROAD, CORAL SPRINGS, FLORIDA 33065,
GELLIOTT@CORALSPRINGS.GOV, TELEPHONE NUMBER (954) 344-
1067.**

14.03 You understand, acknowledge and agree that You shall, pursuant to Section 119.0701, Florida Statutes, as amended from time to time, do the following:

- (1) Keep and maintain public records required by City to perform the service.
- (2) Upon request from City's custodian of public records, provide City 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 Chapter 119, Florida Statutes, or as otherwise provided by law or City policy.
- (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 You do not transfer the records to City.
- (4) Upon completion of the contract, transfer, at no cost, to City all public records in Your possession or keep and maintain public records required by City to perform the service. If You transfer all public records to City upon completion of the contract, You shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If You keep and maintain public records upon completion of the contract, You shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to City, upon request from City's custodian of public records, in a format that is compatible with the information technology systems of City.

14.04 YOUR NONCOMPLIANCE

- (1) A request to inspect or copy public records relating to a City's contract for services must be made directly to City. If City does not possess the requested records, City shall immediately notify You of the request, and You must provide the records to City or allow the records to be inspected or copied within a reasonable amount of time.
- (2) If You do not comply with City's request for records, City shall enforce the contract provisions in accordance with the contract.
- (3) If You fail to provide the public records to City within a reasonable time, You may be subject to penalties under Section 119.10, Florida Statutes.
- (4) If a civil action is filed against You to compel production of public records relating to a City's contract for services, the court shall assess an award against You for the reasonable costs of enforcement.

SECTION 15. TERMINATION AND CUMULATIVE REMEDIES

The City may, without cause and without prejudice to any other right or remedy, terminate the Agreement for the City's convenience whenever the City determines that such termination is in the best interest of the City. Upon your receipt of the City's notice to terminate for convenience, you shall promptly discontinue all performance, service, and/or work at the time and to the extent indicated on the Notice of Termination, terminate all outstanding subcontractors and purchase orders to the extent that they relate to the terminated portion of the Agreement and refrain from placing further orders and subcontracts except as they may be necessary, to complete any continued portions of the work.

The remedies expressly provided to the City shall not be deemed to be exclusive but shall be cumulative and in addition to all other remedies in favor of the City now or hereafter existing at law or in equity.

SECTION 16. ENTIRE AGREEMENT

This Agreement contains the entire understanding of the parties relating to the subject matter superseding all prior communications between the parties whether oral or written. The agreement may not be altered, amended, modified or otherwise changed nor may any of the terms thereof be waived, except by a written instrument executed by both parties. The failure of a party to seek redress for violation of or to insist on strict performance of any of the covenants of any contract between yourself and the City shall not be construed as a waiver or relinquishment for the future of any covenant, term, condition or election but the same shall continue and remain in full force and effect.

SECTION 17. ATTORNEY'S FEES AND COSTS

In any legal action between You and City arising from the document directing you to these terms and conditions, the City shall be entitled to its reasonable attorney's fees, including paralegal and support staff fees, costs, and interest at the maximum rate allowable by law.

SECTION 18. GOVERNING LAW; VENUE

The validity, construction and effect of any agreement with City shall be governed by the laws of the State of Florida.

Any claim, objection or dispute arising out of the terms of any agreement shall be litigated in the Seventeenth Judicial Circuit in and for Broward County, Florida.

SECTION 19. CONSTRUCTION OF AGREEMENT

The terms and conditions of any contract entered into with the City are to be construed with their common meaning to effectuate the intent of the contract. All words used in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words in any gender shall extend to and include all genders.

The parties agree that each party has been represented by counsel or had sufficient time to consult counsel before the execution of the contract. Any applicable law that would require interpretation of claimed ambiguities against the drafting party has no application and is expressly waived by both parties. If either party raises a claim as to any conflict, omission, or ambiguity in the provisions of the contract, there shall be no presumption or burden of persuasion that will be implied.

SECTION 20. SEVERABILITY

Should any part, term or provision of any contract entered into with the City shall be by the courts decided to be invalid, illegal or in conflict with any law of this State, the validity of the remaining portions or provisions shall not be affected thereby.

SECTION 21. CONFLICT

In the event of conflict between this Agreement and the terms and conditions set forth in any Exhibit attached hereto, the terms of this Agreement shall control. Except as expressly and explicitly provided for in this Agreement, any term, condition, or webpage link to any terms or condition contained in any Exhibit attached hereto shall have no force or effect.

SECTION 22. NOTICES

All notices or other communications required by any contract shall be in writing and deemed delivered upon mailing by registered or certified mail, return receipt requested, hand-delivery, overnight courier, facsimile or email to the persons/addresses noted in the contract.

Each such notice shall be deemed delivered on the date delivered if by hand-delivery or overnight courier; on the date upon which the return receipt is signed or delivery is refused or the notice is designated by the postal authorities as not deliverable, as the case may be, if mailed; and on the date of transmission with confirmed answer back if by facsimile or email.

SECTION 23. SCRUTINIZED COMPANIES

You understand that pursuant to Section 287.135, a company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a contract with the City if you are on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, as amended, or is engaged in a boycott of Israel. Additionally, you understand that if the consideration for this Agreement exceeds one million dollars at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, and you are on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473, Florida Statutes, as amended, or is engaged in business operations in Syria, that you are ineligible to, and may not bid on, submit a proposal for, or enter into or renew a contract with the City.

By entering into this Agreement, you certify that you and your principals and/or owners are not listed on the Scrutinized Companies that Boycott Israel List, Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or is engaged in business operations with Syria.

In the event that you are placed on the Scrutinized Companies that Boycott Israel List, engaged in a boycott of Israel, Scrutinized Companies with Activities in the Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or is engaged in business operations with Syria, the City may immediately terminate this Agreement without any liability to you notwithstanding any other provision in this Agreement to the contrary.

SECTION 24. E-VERIFY

This Section 24 shall only apply if you are a contractor, vendor of the City, if you provide goods to the City, or if you provide any service to the City.

In accordance with Section 448.095, *Florida Statutes*, You agree as follows:

(a) You agree to utilize the E-Verify system to verify work authorization status of all newly hired employees. You shall provide sufficient evidence that it is registered with the E-Verify system before commencement of performance under this Agreement. City may immediately terminate this Agreement for a breach of this subparagraph.

(b) You shall require an affidavit from each subcontractor providing that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. You shall retain a copy of the affidavit for the term of this Agreement and all renewals thereafter, and in accordance with all other Sections of this Agreement. City may immediately terminate an Agreement for a breach of this subparagraph.

(c) City shall terminate this Agreement if City has a good faith belief that You are in violation of Section 448.09(1), *Florida Statutes*.

(d) You shall terminate any agreement with any subcontractor if You have a good faith belief that the subcontractor is in violation of Section 448.09(1), *Florida Statutes*. City may immediately terminate this Agreement for a breach of this subparagraph.

(e) City shall notify and order You to immediately terminate a contract with a subcontractor if City has a good faith belief that Your subcontractor knowingly violated this Section, but You have otherwise complied with this Section. City may immediately terminate this Agreement for a breach of this subparagraph.

(f) A contract terminated pursuant to this Section is not a breach of contract and shall not be considered as such.

(g) You shall be liable for any and all additional costs incurred by City as a result of a termination for this Section.

SECTION 25. **FORCE MAJEURE AND APPROPRIATION**

25.01 In no event shall City be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation: epidemic/pandemic/viral or communicable disease outbreak; quarantines; accidents; acts of war or terrorism; civil or military disturbances; nuclear or natural catastrophes (including floods, fires, earthquakes, tornadoes, tropical storms, and hurricanes) or other acts of God; any National, State, County or Local State of Emergency or any act, order, or requirement of any governmental authority; interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; or any other similar causes beyond the control of City; it being understood that City shall use reasonable efforts to resume performance as soon as practicable under the circumstances.

25.02 City's performance and obligation to pay under this Agreement is contingent upon appropriation by the Coral Springs City Commission.