



**Department of Finance**  
5800 Melaleuca Lane  
Greenacres, FL 33463-2399  
(561) 642-2000  
(561) 642-2037 Fax

Samuel J. Ferreri  
Mayor

Wadie Atallah  
City Manager

Thomas Hughes  
Director of Finance

### NOTICE OF AGREEMENT RENEWAL

November 17, 2014

Attn: Kevin Perron  
General Manager  
Smithco Services  
4420 Georgia Ave  
West Palm Beach, FL 33405

**Subject:** RFP No. 11-014, HVAC Repair and Annual Maintenance

Attn: Kevin Perron

The agreement for the RFP referenced above expires on December 13, 2014. As specified in the agreement documents, there is an option to renew the existing agreement for another one-year period, if it is mutually agreeable to all parties. Please advise by signature below if a one-year extension of our current agreement would be acceptable. This will be the last possible renewal of the agreement. The new agreement term will be from December 14, 2014 through December 13, 2015.

Please complete and return this form to the Purchasing Division by Monday, November 24, 2014 at 5:00PM. Your response may be faxed using the City fax number (561) 642-2037 with the original mailed to the above address.

If you have any questions, please contact me at (561) 642-2039.

Sincerely,

Monica Powery, CPPB  
Purchasing Administrator

I hereby agree to a one year extension of the subject agreement.

I am unable to extend the agreement for an additional one year period.

Signature

11-19-2014  
Date

Secondary

**A G R E E M E N T**

Between

**CITY OF GREENACRES**

and

**SMITHCO WEST PALM BEACH, INC**

for

**HVAC Repair and Annual Maintenance  
City of Greenacres  
RFP No. 11-014**

This is an Agreement between the CITY OF GREENACRES, a municipal corporation of the State of Florida (hereinafter the "CITY"), through its City Council;

**AND**

Smithco West Palm Beach, Inc. successors and assigns, (hereinafter "CONTRACTOR"). This agreement is dated December 13, 2011.

W I T N E S S E T H, in consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, CITY and CONTRACTOR, agree as follows:

**ARTICLE I**  
**SCOPE OF SERVICES**

CONTRACTOR agrees to provide HVAC repair and annual maintenance services at CITY facilities as identified in City of Greenacres' Request for Proposal No. 11-014, titled HVAC Repair and Annual Maintenance, dated August 7, 2011 attached hereto as Attachment "A" (hereinafter the "RFP") and CONTRACTOR'S proposal response dated September 1, 2011 attached hereto as Attachment "B" (hereinafter "Response to RFP") and both by this reference made a part hereof.

**ARTICLE II**  
**TERM**

The term of this Agreement shall be for a period of twelve (12) months beginning on the effective date. The effective date of this Agreement shall be when the last party executes and dates same. CITY shall have the option to renew the agreement for up to three (3) additional twelve (12) month periods. Option for renewal will only be exercised upon written mutual agreement and with all original terms and conditions. Price adjustments may be considered upon renewal and shall be based on the percent change in the Consumer Price Index. The Consumer Price Index shall be based upon All Urban Consumers, for the Miami-Fort Lauderdale Region, from June to June of each prior and renewal year respectively, as published by the United States Department of Labor.

**ARTICLE II- TERM *Continued***

Agreement renewal shall be based on satisfactory performance, mutual acceptance, and determination that the agreement is in the best interest of the City. Any renewal will be subject to appropriation of funds by the City Council.

**ARTICLE III**  
**COMPENSATION AND METHOD OF PAYMENT**

CITY shall issue purchase orders as needed citing RFP No 11-014 and this Agreement as authority. Authorization/approval from an authorized City representative is required prior to commencing any work. City shall not be responsible for payment for any work performed without prior authorization, including pre and post diagnostics.

Upon satisfactory completion of each project, the CONTRACTOR shall invoice CITY at the address shown on the purchase order based on the pricing set forth in the CONTRACTOR'S pricing proposal, attached hereto as Attachment "C". Invoices shall be submitted in the format as enumerated in RFP Documents Section 2-2, page 16, titled "Invoice Itemization": CITY shall pay each correctly submitted invoice for which work was authorized and satisfactorily completed within thirty (30) calendar days of receipt of such invoice.

**ARTICLE IV**  
**CONTRACTOR RESPONSIBILITIES**

CONTRACTOR shall perform repair services as needed for approximately thirty-five (35) heating, ventilating, and air conditioning (HVAC) systems throughout the City. CONTRACTOR may also be required to provide suggestions and feedback for improving or upgrading the HVAC systems throughout the City. All work provided hereunder shall be performed in accordance with the equipment manufacturer's specifications.

CONTRACTOR shall provide all labor, materials, supplies, equipment, transportation, shop facilities, and any other requirement necessary to perform maintenance and repair City-owned HVAC units in order to maintain the equipment in proper operating condition. All work performed shall be in accordance with all of the RFP and Agreement terms and conditions.

Should performance of any required service be inadequate or unsatisfactory, the CONTRACTOR shall be notified of the deficiency(ies) and corrective action(s) required. Upon being notified of the deficiency(ies) and corrective action(s) required, CONTRACTOR shall make the needed corrections within twenty-four (24) hours of notification. Notice either verbally or in writing and shall be sufficient for this purpose.

If the CONTRACTOR is unable to make the necessary corrections within the specified time, CONTRACTOR shall notify the Agreement Coordinator with justification of non-compliance and request a correction period extension. The CITY reserves the right to accept or reject a correction period extension request. CONTRACTOR may be considered in default of the agreement if the corrective action is not completed within the agreed upon correction period time.

**ARTICLE V**  
**MODIFICATION OF AGREEMENT TERMS**

The terms of this agreement may be modified by mutual consent to increase or decrease the scope of work, adjust prices in subsequent agreement periods, or for such other purposes as shall become necessary during the conduct of the agreement period. Such amendments shall be accomplished in writing as an addendum to the Agreement.

**ARTICLE VI**  
**MISCELLANEOUS**

**6.1 TERMINATION**

This Agreement may be terminated by either party for cause, or by CITY for convenience, upon thirty (30) days written notice from the terminating party to other party. In the event of such termination, CONTRACTOR shall be paid its compensation for satisfactorily completed services performed to termination date. In the event that CONTRACTOR abandons this Agreement or causes it to be terminated by CITY, CONTRACTOR shall indemnify CITY against any loss pertaining to this termination.

For purposes of this Agreement, termination by CITY for cause includes, but is not limited to, the following:

1. CONTRACTOR'S failure to keep, perform and observe each and every provision of this Agreement and such failure continues for a period of more than seven (7) days after delivery to CONTRACTOR of a written notice of such breach or default; and/or
2. CONTRACTOR'S abandonment of the work for a period of seven (7) days or more during the course of a year. Such days need not be consecutive; and/or
3. Any material misrepresentation, written or oral, made by the CONTRACTOR to the CITY; and/or
4. Failure by the CONTRACTOR to timely perform and/or observe any or all of the covenants, rules, regulations, guidelines or terms and conditions of this Agreement; and/or
5. Insolvency, bankruptcy, and/or suggestion of bankruptcy on the part of the CONTRACTOR or the assignment of assets for the benefit of creditors by the CONTRACTOR.

CONTRACTOR recognizes and agrees that in the event of the termination or expiration of this Agreement, it will be necessary to assist the CITY and/or a selected successor to CONTRACTOR with an orderly transition of work. CONTRACTOR shall be paid in accordance with Article III for all services rendered through the date of termination.

## **6.2 EQUAL OPPORTUNITY EMPLOYMENT**

CONTRACTOR agrees that it will not discriminate against any employee or applicant for employment for work under this Agreement because of race, color, religion, sex, age, and national origin; disability and will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to race, color, religion, sex, age, national origin or disability. This provision shall include, but not be limited to, the following: employment upgrading, demotion or transfer; recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeships.

## **6.3 PUBLIC ENTITY CRIMES ACT**

In accordance with Section 287.133, Florida Statutes, CONTRACTOR through execution of this agreement, certifies that it is not listed on the convicted vendors list maintained by the State of Florida, Department of General Services.

## **6.4 ASSIGNMENT**

This Agreement, or any interest herein, shall not be assigned, transferred or otherwise encumbered by CONTRACTOR, under any circumstances, without the prior written consent of CITY.

## **6.5 INDEMNIFICATION OF CITY**

CONTRACTOR shall at all times hereafter, indemnify, hold harmless, and defend CITY, its agents, and employees from and against any claim, demand, or cause of action of any kind or nature arising out of error, omission or negligent act of CONTRACTOR, its agents, or employees in the performance of services under this Agreement.

CONTRACTOR further agrees, at all times hereafter, to indemnify, hold harmless and defend CITY, its agents, and employees from and against any claim, demand or cause of action of any kind or nature arising out of any conduct or misconduct of CONTRACTOR resulting from the performance of services under this Agreement for which CITY, its agents, or employees are alleged to be liable.

CONTRACTOR acknowledges and agrees that CITY would not enter into this Agreement without this indemnification of CITY by CONTRACTOR, and that CITY'S entering into this Agreement shall constitute good and sufficient consideration for this indemnification. These provisions shall survive the expiration or earlier termination of this Agreement. Nothing in this Agreement shall be construed to affect in any way the CITY'S rights, privileges, and immunities as set forth in Florida Statutes 768.28.

## **6.6 NON EXCLUSIVITY**

CONTRACTOR is the secondary awarded vendor of a multiple award agreement. Nothing herein is intended nor shall be construed as creating any exclusive arrangement with CONTRACTOR. This Agreement shall not restrict CITY from acquiring similar, equal, or like goods and/or services from other entities or sources.

## 6.7 INSURANCE

CONTRACTOR shall provide, pay for, and maintain in force at all times during the services to be performed, such insurance as required below and in Attachment "A", including Workers' Compensation Insurance, Comprehensive General Liability Insurance, and Business Automobile Liability Insurance.

Such policy or policies shall be issued by United States Treasury, approved companies authorized to do business in the State of Florida, and having agents upon whom service of process may be made in the State of Florida. CONTRACTOR shall specifically protect CITY by naming the CITY OF GREENACRES, as an additional insured under the Comprehensive General Liability Insurance Policy hereinafter described.

- 6.7.1 Worker's Compensation Insurance to apply for all employees in compliance with the Workers Compensation Law of the State of Florida and all applicable federal laws.

Notice of Cancellation and/or Restriction: The policy(ies) must be endorsed to provide CITY with thirty (30) days notice of cancellation and/or restriction.

- 6.7.2 Comprehensive General Liability Insurance with minimum limits of One Million Dollars (\$1,000,000.00) per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Comprehensive General Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include:

- Premises and/or Operations.
- Independent Contractors.
- Broad Form Property Damage.
- Broad Form Contractual Coverage applicable to this specific Agreement.
- Personal Injury Coverage with Employee and Contractual Exclusions removed with minimum limits of coverage equal to those required for Bodily Injury Liability and Property Damage Liability.

The CITY OF GREENACRES is to be named as additional insured with CONTRACTOR to liability arising out of operations performed for CITY, by or on behalf of CONTRACTOR, or acts or omissions of CONTRACTOR in connection with such operation.

Notice of Cancellation and/or Restriction: The policy(ies) must be endorsed to provide CITY with thirty (30) days notice of cancellation and/or restriction.

**(6.7 Continued)**

6.6.3 Business Automobile Liability Insurance with minimum limits of One Million Dollars (\$1,000,000.00) per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office and must include:

- o Owned vehicles.
- o Hired and non-owned vehicles.
- o Employers' non-ownership.

CONTRACTOR shall provide to CITY, prior to the effective date of this Agreement, a Certificate of Insurance or a copy of all insurance policies required by Section 6.7, including any subsection there under. CITY reserves the right to require a certified copy of such policies upon request. All endorsements and certificates shall state that CITY shall be given thirty (30) days notice prior to expiration or cancellation of the policy.

**6.8 PERFORMANCE OF WORK BY CONTRACTOR/SUBCONTRACTORS**

It is expressly agreed that CONTRACTOR is and shall be in the performance of all work, services, and activities under this Agreement, an independent contractor and not an employee, agent, or servant of CITY. All persons engaged in any work, service or activity performed pursuant to this Agreement shall at all times and in all places be subject to CONTRACTOR'S sole direction, supervision and control. CONTRACTOR shall exercise control over the means and manner in which it and its employees perform and work, and in all manner in which it and its employees perform the work, and in all CONTRACTOR'S relationship and the relationship of its employees to CITY, shall be that of an independent contractor and not as employees or agents of CITY.

In the event CONTRACTOR, during the term of this Agreement, requires the services of any subcontractors or other professional associates, in connection with services covered under this Agreement, CONTRACTOR must secure the prior written approval of CITY'S Purchasing Agent. Any subcontractor authorized to perform under this Agreement shall be required to possess the same insurance coverage as enumerated in section 6.7 herein.

**6.9 LAWS AND REGULATIONS**

It is further understood by the parties that CONTRACTOR will, in carrying out the duties and responsibilities under this Agreement, abide by all federal, state, and local laws.

**6.10 AGREEMENT COORDINATOR**

The CITY'S Contractor Coordinator during the performance of services pursuant to this Agreement shall be the CITY'S Building Services Supervisor, telephone number, (561) 642-2076.

#### **6.11 NO CONTINGENT FEE**

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

#### **6.12 GOVERNING LAW AND VENUE**

This agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County, and the Agreement will be interpreted according to the laws of Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other of further exercise thereof.

#### **6.13 ATTORNEY'S FEES**

In any action brought by either party for the enforcement of the obligations of the other party, the prevailing party shall be entitled to recover reasonable attorney's fees and costs.

#### **6.14 AUTHORITY TO ENGAGE IN BUSINESS**

CONTRACTOR hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business, and that it will at all times conduct its business activities in a reputable manner. Proof of such licenses and approvals shall be submitted to the CITY'S representative upon request.

#### **6.15 ALL PRIOR AGREEMENTS SUPERSEDED**

This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein; and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document.

It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document.

**6.16 SEVERABILITY**

The invalidity, illegality, or unenforceability of any provision of this Agreement, or the occurrence of any event rendering any portion or provision of this Agreement void, shall in no way affect the validity or enforceability of any other portion or provision of the Agreement. Any void provision shall be deemed severed from the Agreement and the balance of the Agreement shall be construed and enforced as if the Agreement did not contain the particular portion or provision held to be void. The parties further agree to reform the Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision.

The provisions of this section shall not prevent the entire Agreement from being void should a provision which is of the essence of the Agreement be determined to be void.

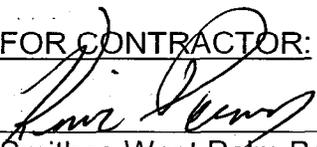
**6.17 NOTICES**

Whenever either party desires to give notice unto the other, such notice must be in writing, sent by certified United States mail, return receipt requested, addressed to the party for whom it is intended at the place last specified; and the place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice:

FOR CITY OF GREENACRES:

Director of Finance/  
Purchasing Agent  
City Of Greenacres  
5800 Melaleuca Lane  
Greenacres, Fl 33463-2399

FOR CONTRACTOR:

  
\_\_\_\_\_  
Smithco West Palm Beach, Inc.  
4420 Georgia Avenue  
West Palm Beach, FL 33405

13<sup>th</sup> IN WITNESS WHEREOF, the parties hereto have set their hands and official seals this day of December, 2011.

(Seal)



**CITY OF GREENACRES**  
A Municipal Corporation of the  
State of Florida.

ATTEST:

Denise McGrew

City Clerk

[Signature]

Director of Finance/  
Purchasing Agent

ENDORSED AS TO FORM  
AND SUFFICIENCY:

[Signature]

Pamela S. Terranova, City Attorney

**SMITHCO WEST PALM BEACH, INC.**

WITNESSES:

[Signature]

By: [Signature]

CESAR MANZAN

Kevin person Gm  
Print Name and Title

(Corporate Seal)



SWORN TO and SUBSCRIBED before me this 17<sup>th</sup> day of November, 2011.

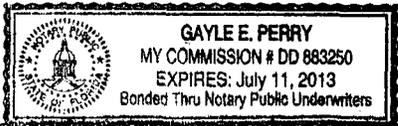
Signature:

[Signature]

Notary Public - State of Florida

(Notary Seal)

GAYLE E PERRY  
Printed Name



Commission No. \_\_\_\_\_

Commission Expires: 7/11/13



**RFP No. 11-014  
HVAC Repair and Annual Maintenance  
Proposal Pricing**

Hourly Rate- Regular

Supervisor \$ 0 /Hour  
 Technician \$ 80.00 /Hour  
 Helper \$ 50.00 /Hour

Hourly Rate- After Hours & Weekends

Supervisor \$ 0 /Hour  
 Technician \$ 115.00 /Hour  
 Helper \$ 85.00 /Hour

Hourly Rate- Federal Holidays

Supervisor \$ 0 /Hour  
 Technician \$ 157.50 /Hour  
 Helper \$ 115.00 /Hour

The City must receive completed proposal pricing form in sealed envelope by 2:00 pm on October 6, 2011. The proposals shall be submitted at the following address  
**CITY OF GREENACRES  
 PURCHASING DIVISION  
 CITY HALL  
 5800 Melaleuca Lane  
 Greenacres, Florida 33463**

Parts

**Check one**

Please indicate percentage mark down from manf. list price or percentage mark up from your cost. Manufacturer published price lists and/or supplier purchase receipts will be required to verify discounts.

Trane, OEM	<u>35</u> %	Mark up <input checked="" type="checkbox"/>	Mark down <input type="checkbox"/>
Aaon, OEM	<u>35</u> %	Mark up <input checked="" type="checkbox"/>	Mark down <input type="checkbox"/>
Mitsubishi, OEM	<u>35</u> %	Mark up <input checked="" type="checkbox"/>	Mark down <input type="checkbox"/>
Miscellaneous/Other	<u>45</u> %	Mark up <input checked="" type="checkbox"/>	Mark down <input type="checkbox"/>

New Equipment Purchase

Trane	<u>20</u> %	Mark up <input checked="" type="checkbox"/>	Mark down <input type="checkbox"/>
Aaon	<u>20</u> %	Mark up <input checked="" type="checkbox"/>	Mark down <input type="checkbox"/>

Refrigeration

R22 charge \$ 38.00 /lb  
 R410A charge \$ 40.00 /lb

Ductwork

Inspect and repair system ductwork (duct board) \$ 25 /sq ft

Annual service \$ 50 /Unit

Company Name: Smithco Services Date: 10/18/11

Authorized Signature: \_\_\_\_\_

Printed Name & Title: Kevin D Perron



## RFP No. 11-014 HVAC Repair and Annual Maintenance Proposal Pricing

### Hourly Rate- Regular

Supervisor \$ \_\_\_\_\_/Hour  
 Technician \$ 82.00 /Hour  
 Helper \$ 51.00 /Hour

### Hourly Rate- After Hours & Weekends

Supervisor \$ \_\_\_\_\_/Hour  
 Technician \$ 118.00 /Hour  
 Helper \$ 87.00 /Hour

### Hourly Rate- Federal Holidays

Supervisor \$ \_\_\_\_\_/Hour  
 Technician \$ 161.00 /Hour  
 Helper \$ 118.00 /Hour

The City must receive completed proposal pricing form in sealed envelope by 2:00 pm on October 6, 2011. The proposals shall be submitted at the following address:

**CITY OF GREENACRES  
PURCHASING DIVISION  
CITY HALL  
5800 Melaleuca Lane  
Greenacres, Florida 33463**

### Parts

### **Check one**

Please indicate percentage mark down from manf. list price or percentage mark up from your cost.

Manufacturer published price lists and/or supplier purchase receipts will be required to verify discounts.

Trane, OEM	<u>35</u> %	Mark up ____	Mark down ____
Aaon, OEM	<u>35</u> %	Mark up ____	Mark down ____
Mitsubishi, OEM	<u>35</u> %	Mark up ____	Mark down ____
Miscellaneous/Other	<u>45</u> %	Mark up ____	Mark down ____

### New Equipment Purchase

Trane	<u>20</u> %	Mark up ____	Mark down ____
Aaon	<u>20</u> %	Mark up ____	Mark down ____

### Refrigeration

R22 charge \$ 39.00 /lb  
 R410A charge \$ 41.00 /lb

### Ductwork

Inspect and repair system ductwork (duct board) \$ 26.00 /sq ft

### Annual service

\$ 51.00 /Unit

Company Name: Smithco Date: 11/19/2014

Authorized Signature: \_\_\_\_\_

Printed Name & Title: \_\_\_\_\_