

AGREEMENT

24-0161-ITB

Traffic_UPS, Batteries, Traffic & Solar Flashers

This Agreement (the “agreement” or “contract”) is entered into on the date last executed below (“Effective Date”), by and between Pinellas County, a subdivision of the State of Florida whose primary address is 315 Court Street, Clearwater, Florida 33756 (“COUNTY”) and EOLA Power, LLC whose primary address is 8782 NW 18th Terrace Miami, FL 33712 (hereinafter “CONTRACTOR”) (jointly, the “Parties”).

NOW THEREFORE, the Parties agree as follows:

A. Documents Comprising Agreement

1. This Agreement, including the Exhibits listed below, constitutes the entire agreement and understanding of the Parties with respect to the transactions and services contemplated hereby and supersedes all prior agreements, arrangements, and understandings relating to the subject matter of the Agreement. The documents listed below are hereby incorporated into and made a part of this Agreement:
 - a. This Agreement
 - b. Pinellas County Standard Terms and Conditions, located on Pinellas County Purchasing's website, effective 6/14/2023, posted at <https://pinellas.gov/county-standard-terms-conditions/>
 - c. Solicitation Section 4, titled Special Conditions attached as Exhibit C.
 - d. Solicitation Section 5, titled Insurance Requirements attached as Exhibit D.
 - e. Contractor's response to Solicitation Section 6, titled Scope of Work / Specifications attached as Exhibit E.
 - f. Contractor's response to Solicitation Section 9, titled Pricing Proposal attached as Exhibit F.
2. In the case of a conflict, the terms of this document govern, followed by the terms of the attached Exhibits, which control in the order listed above.

B. Term

1. The initial term of this Agreement is for 12 months from the Effective Date (hereinafter the “Contract Term”). At the end of the initial term of this contract, this Agreement may be extended for four (4), additional twelve (12) month terms, or such other renewal terms agreed to by the Parties.

C. Expenditures Cap

1. Payment and pricing terms for the initial and renewal terms are subject to the Pricing Proposals in Exhibit F. County expenditures under the Agreement will not exceed \$253,945.60 for the Contract Term without a written amendment to this Agreement.

D. Entire Agreement

1. This Agreement constitutes the entire agreement between the Parties.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their undersigned officials, who are duly authorized to bind the Parties to the Agreement.

For Contractor: EOLA Power LLC

Signature:



Print Name and Title: David Friedman - Business Development Executive

Date: 4/25/2024

For County:

Signature:

Print Name and Title:

Date:

APPROVED AS TO FORM

By: Keiah Townsend
Office of the County Attorney

Exhibit C

Special Conditions

4. Special Terms & Conditions

4.1. INTENT

It is the intent of Pinellas County to establish an Agreement for Traffic UPS, Batteries, Traffic & Solar Flashers to be ordered, as and when required.

4.2. NON-NEGOTIABLE TERMS

While the County prefers that no exceptions to its contract terms be taken, the solicitation does authorize respondent to take exception to terms as part of its submittal. The County has deemed the following contract terms in the County's Standard Terms & Conditions <https://pinellas.gov/county-standard-terms-conditions/> to be non-negotiable:

Section 3: Compliance with Applicable Laws (all terms)

Section 7: Indemnification & Liability (all terms)

Section 8: Insurance & Conditions Precedent

Section 10(G): Governing Law & Venue

Section 12(A): Fiscal Non-Funding

Section 13: Confidential Records, Public Records, & Audit (all terms)

Section 19: Digital Content (all terms) (*if the Agreement includes software, online, or digital content services*)

Any terms required by law.

4.3. PRICING/PERIOD OF CONTRACT

Duration of the Agreement will be for a period of 12 months with unit prices adjustable at 12 months after the date of award and thereafter annually for the life of the contract, in an amount not to exceed the average of the Producer Price Index (PPI) or 8%, whichever is less, for Producer Price Index by Industry: Storage Battery Manufacturing (PCU3359133591) for the twelve months prior.

It is the Contractor's responsibility to request any pricing adjustment under this provision. For any adjustment to commence annually, the Contractor's request for adjustment will be submitted between 90-120 days prior to Agreement anniversary date, utilizing the available index at the time of request. The Contractor adjustment request will not be in excess of the relevant pricing index change. If no adjustment request is received from the Contractor, the County will assume the Contractor has agreed to continue without a pricing adjustment. Any adjustment request received outside of the 90–120-day period above will not be considered.

4.4. TERM EXTENSION(S) OF CONTRACT

The Agreement may be extended subject to written notice of agreement from the County and successful respondent, for 4 additional 12-month period(s) beyond the primary contract period. Term extensions will allow for price adjustments (Decrease/Increase) in an amount not to exceed the average of the Producer Price Index (PPI) or 8%, whichever is less, for Producer Price Index by Industry: Storage Battery Manufacturing (PCU3359133591) for the twelve months prior to extension. The extension shall be exercised only if all terms and conditions remain the same and the County Administrator or Director of Purchasing grants approval.

It is the vendor's responsibility to request any pricing adjustment under this provision. For any adjustment to commence on the first day of any exercised extension period, the vendor's request for adjustment should be submitted at time of the extension request from the County, utilizing the available index at the time of request. The vendor adjustment request should not be in excess of the relevant pricing index change. If no adjustment request is received from the vendor, the County will assume the vendor has agreed that the extension term may be exercised without pricing adjustment. Any adjustment request received after the commencement of a new extension period may not be considered. County has the right to request pricing decreases at any time.

4.5. PRE-COMMENCEMENT MEETING

Not Applicable

4.6. ORDERS

Within the term of this Agreement, County may place one or more orders for goods and/or services at the prices listed on the Pricing Proposal section of this solicitation, which is incorporated by reference hereto.

4.7. ASBESTOS MATERIALS

The Contractor must perform all Work in compliance with Federal, State and local laws, statutes, rules, regulations and ordinances, including but not limited to the Department of Environmental Protection (DEP)'s asbestos requirements, 40 CFR Part 61, Subpart M, and OSHA Section 29 CFR 1926.58. Additionally, the Contractor must be properly licensed and/or certified for asbestos removal as required under Federal, State and local laws, statutes, rules, regulations and ordinances. The County is responsible for filing all DEP notifications and furnish a copy of the DEP notification and approval for demolition to the successful Contractor. The County will furnish a copy of the asbestos survey to the successful Contractor. The Contractor must keep this copy on site at all times during the actual demolition.

4.8. GOODS & PRODUCTS

The terms below are applicable if the Solicitation includes the purchase of GOODS or PRODUCTS:

1. **DELIVERY/CLAIMS** - Prices quoted will be FOB Destination, freight included and unloaded to location(s) within Pinellas County. Actual delivery address(s) will be identified at time of order. Successful Contractor(s) will be responsible for making any and all claims against carriers for missing or damaged items.

4.9. QUANTITIES

Any quantities stated are an estimate only and no guarantee is given or implied as to quantities that will be used during the Agreement period. Estimated quantities are based upon previous use and/or anticipated needs.

4.10. PERFORMANCE SECURITY

Not Applicable

Exhibit E

Scope of Work / Specifications

6. Scope of Work / Specifications

6.1. OBJECTIVE/JUSTIFICATION

Pinellas County Board of County Commissioners, Public Works Department is seeking a contract for Uninterruptible Power Source (UPS) batteries with warranty. These batteries will replace older non-functioning batteries installed in Myer UPS traffic controller cabinets, ITS Cabinets and Carmanah Flashing Solar Powered Speed Check Signs throughout Pinellas County. The UPS batteries will be purchased on an as-needed basis.

The County may award this contract to multiple contractors in order to fulfill the material and delivery demands. If awarded, pricing must remain valid for the initial term of the contract.

6.2. GENERAL REQUIREMENTS

This contract is for UPS batteries with warranties only, and price must be inclusive of transportation and delivery to the below stated address. No additional fees or charges will be paid.

1) Deliveries:

(a) Order Size:

(i) Minimum size order for EnerSys Odyssey Battery ODX-AGM31 is 48 batteries.

(ii) Minimum size order for Model no: Bright Way Group BW 12550DC (12V 55Ah) is 12 batteries.

(iii) Minimum size order for Model no: Alpha Technologies Services, Inc. - AlphaCell® 100XTV (12V 56Ah) is 12 batteries.

(b) Deliveries will be accepted Monday – Thursday only. 8:00am-5:00pm

(c) All products must be securely wrapped and palletized.

(d) Delivery address: 22211 U.S. Highway 19 North, Building 1; Clearwater, Florida 33765

2) Specifications:

(a) Items must be genuine and original.

(b) Supply a specification sheet for each battery being offered along with informational material for evaluation and consideration.

3) Warranty:

(a) The batteries included in this invitation require a minimum warranty period – one (1), four (4) and five (5) year minimums dependent on the battery.

(b) Warranty must be fully warranted (non-prorated) unconditional and free replacement warranty covering battery failures in the field and defective batteries. All replacement batteries shall be of current issue, genuine and original.

(i) County staff will date stamp battery at time-of-service installation. Warranty shall begin at the time-of-service installation.

6.3. PRODUCT REQUIREMENTS

Replacement batteries must fit into Myers MP Series MP2000E (1500W) Systems UPS units contained within UPS traffic controller cabinets, ITS cabinets and solar flasher units. The battery shall have a reputable history of durability within the State of Florida climate and meet the following requirements:

1. Five (5) Year Fully Warrantied with Unconditional and Free Replacement: Shall meet the model specifications shown here. The Alpha Technologies Services, Inc. - AlphaCell 100XTV is the current five (5) Year model in use. There will be no, or equal replacements accepted for this battery.

- Alpha Technologies Services, Inc. AlphaCell 100XTV.
- 56 Ah, 12 Volt

2. Four (4) Year Fully Warrantied UPS battery with Unconditional and Free Replacement: Shall meet the model specifications shown here. The EnerSys ODX-AGM31 is the current four (4) Year model in use. The EnerSys unit replaced the NorthStar Model NSB-AGM 31**

- EnerSys Odyssey ODX-AGM31 or approved equivalent.
- 03 Ah, 12 Volt
- Single handle/strap
- Top mount bolt on connection (bolt size: one quarter twenty)

**January 27, 2022 –The manufacturer of the NorthStar Model NSB-AGM 31 discontinued retail sales of this battery; the battery is only available for OEM truckers. The manufacturer suggested, EnerSys ODX-AGM31 as a replacement and was approved by County staff as an or equal approved replacement.

- Other products meeting material specifications will be considered. See (3.14 DESCRIPTION OF GOODS/SERVICES/SUPPLIES)

Section E "OR EQUAL DETERMINATION". Provide details such as life expectancy, utilization

within the State of Florida and the ability to withstand the harsh temperatures (high heat) for a minimum of four (4) years without failure.

- Provide specific warranty information, implied and stated with documentation. Pricing must be all inclusive.

3. One (1) Year Fully Warrantied UPS battery with Unconditional and Free Replacement: Bright Way BW12550DC (12V 55AH). There will be no, or equal replacements accepted for this battery.

- 55 AH, 12 Volt
- Single or twin handle/strap
- Terminal type Z or M6

Exhibit F Pricing Proposal

#1 EOLA Power LLC					
\$253,945.60					
UPS, Batteries & Solar Flares		EOLA Power LLC			
Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total
1	Alphacell 100XTV/ITS Replacement Batteries, with 5-year warranty. (Mfg - Alpha)	100	Each	\$227.80	\$22,780.00
2	Odessey ODX-AGM 31 or approved equal UPS solar batteries, with 4-year warranty. (Mfg - EnerSys)	480	Each	\$456.67	\$219,201.60
3	Model: BW 12550 DC (12V55AH) UPS/Solar unit replacement batteries, Part No. HXD1255; delivered. (Mfg - Bright Way) with Standard Mfg Warranty	120	Each	\$99.70	\$11,964.00
Total					\$253,945.60