

## The Jasper Group International, Inc.

Bid Contact **Phillip Culmone**  
**pculmone@thejaspergroup.net**  
**Ph 561-278-1959**

Address **3606 South Ocean Blvd.**  
**Suite 303**  
**Highland Beach, FL 33487**

Bid Notes **The Jasper Group is an Authorized Dell Reseller and Partner.**

Item #	Line Item	Notes	Unit Price	Qty/Unit	Attch.	Docs
2016-113L--01-01	Dell PowerVault	<b>Supplier Product Code:</b> <b>Supplier Notes:</b> The Jasper Group is an Authorized Dell Reseller and Partner.	First Offer - \$37,374.00	2 / each	\$74,748.00	Y Y
					Supplier Total	\$74,748.00

**The Jasper Group International, Inc.**Item: **Dell PowerVault****Attachments**

Bid 2016-113L with signed documents.pdf

Letter of Intent.pdf

Bidders Statement of Organization.pdf

City of Delray Beach Addendum 1.pdf

City of Delray Beach Addendum 2.pdf

References.pdf



CITY  
100 NW 1<sup>st</sup> AVENUE, DELRAY BEACH, FL 33444

**Invitation to Bid 2016-113L  
Data Storage Unit with Maintenance**

MAYOR	- CARY D. GLICKSTEIN
VICE MAYOR	- SHELLY PETROLIA
DEPUTY VICE MAYOR	- AL JACQUET
COMMISSIONER	- JORDANA JARJURA
COMMISSIONER	- MITCH KATZ
CITY MANAGER	- DONALD B. COOPER

Purchasing Department ♦ (561) 243-7161 ♦ [purchasing@mydelraybeach.com](mailto:purchasing@mydelraybeach.com)

**CITY  
INVITATION TO BID  
2016-113L**

<b>Title:</b>	<b>Data Storage Unit with Maintenance</b>
<b>Bidder Name:</b>	The Jasper Group International, Inc.

**Addenda Enclosed**      1   thru   2  

**Submission Deadline:**    June 2, 2016/2:00 P.M. ET

**Submissions Accepted Via:**    BidSync, Mail or in Person

**Submit to:**    City of Delray Beach  
                    Purchasing Division  
                    100 N.W. 1<sup>st</sup> Avenue  
                    Delray Beach, FL 33444

**Comments:**    A fax copy will not be accepted as a sealed Bid.

**City**

**Time Stamped In:**

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Data Storage Unit with Maintenance****Contents**

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**CITY**  
**TEL: (561) 243-7161**  
**FAX: (561) 243-7166**

**PURCHASING DEPARTMENT**

**INVITATION TO BID**

**ITB NO: 2016-113L**

**TITLE: Data Storage Unit with Maintenance**

**ISSUE DATE: May 16, 2016**

**DEPARTMENT: Information Technology**

**DUE DATE: June 2, 2016**

**TIME: 2:00 PM ET**

**INSTRUCTIONS**

**ELECTRONIC BID SUBMISSION:** Electronic Bids may be submitted through a secure mailbox at BidSync ([www.bidsync.com](http://www.bidsync.com)) until the Due Date and Time as indicated in this Invitation to Bid (ITB). It is the sole responsibility of the Bidder to ensure their bid response (Bid) reaches BidSync before the ITB Due Date and Time. There is no cost to the Bidder to submit a response to a City of Delray Beach (City) ITB via BidSync. Electronic Bid submissions may require the uploading of electronic attachments. The submission of attachments containing embedded documents or proprietary file extensions is prohibited. All documents should be attached as separate files.

**PAPER (HARD COPY) SUBMISSION:** Paper hard copies of Bidder's Bid can be submitted as an alternative method. All copies of the Bid must be received on or before the Due Date and Time (local time) at the City Purchasing Office, 100 N.W. 1<sup>st</sup> Avenue, Delray Beach, Florida, 33444. Bids must be presented to the Purchasing Department in a sealed container unless otherwise indicated. It is the sole responsibility of the Proposer to utilize the forms provided in this ITB and to ensure their Bid reaches the Purchasing Department on or before, the Due Date and Time. City business hours are 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding City holidays. The Bidder's name, return address, the ITB number, ITB title, Due Date and Time must be noted on the outside of the sealed container. Included in the sealed container shall be:

- one (1) unbound original clearly marked "ORIGINAL".
- three (3) copies clearly marked "COPY" with all required information and identical to the original.
- one (1) electronic copy with all required information, and identical to the original, on a universal serial bus (USB) portable flash memory card. Electronic copies should be in Adobe Acrobat® pdf format in one continuous file. Do not password protect or otherwise encrypt electronic copies

**BID OPENINGS:** All Bids submitted shall be publicly opened at the Purchasing Office, located at 100 N.W. 1st Avenue, Delray Beach, FL or other designated City location as posted. The Purchasing Department will decrypt electronic bid responses received in BidSync immediately following the designated Due Date and Time.

**LATE BIDS – PAPER SUBMISSION:** Bids received after the Due Date and Time shall be returned to Bidder unopened and will be considered non-responsive. The City is not responsible for the lateness due to weather conditions, delivery service, or any other reasons.

**NOTIFICATION:** The City utilizes the following procedures for notification of solicitation opportunities:

BidSync – [www.bidsync.com](http://www.bidsync.com)

Request via email [purchasing@mydelraybeach.com](mailto:purchasing@mydelraybeach.com)

City – Hard copies are available at City Hall

These are the only forms of notification authorized by the City. The City shall not be responsible for receipt of notification and information from any source other than those listed. It shall be the Bidder's responsibility to verify the validity of all ITB information received by sources other than those listed.

**EVALUATION OF BIDS:** The review process will be conducted in two phases. In Phase One, the Chief Purchasing Officer (CPO) or designee shall determine whether each Proposer is responsive and responsible. A responsive Bidder shall mean a Bidder that has submitted a Bid that conforms in all material respects to the requirements in the ITB. Among other things, a Bid may be found non-responsive if the Bidder failed to provide the information requested in the Bid; failed to utilize or complete the required forms; provided incomplete, indefinite, or ambiguous responses; failed to comply with the applicable deadlines; provided improper or undated signatures; or provided information that is false, misleading, or exaggerated. A responsible Bidder means a Bidder meets the minimum qualification requirement(s) of this ITB.

In Phase Two, the Bid Tabulation will be completed for those Bidders that are deemed responsive and responsible.

**SOLICITATION SCHEDULE:**

ACTIVITY	DATE
Issue ITB	May 16, 2016
Deadline for Delivery of Questions	May 23, 2016
Due Date and Time (for delivery of Bids)	June 2, 2016
Institute Cone of Silence	June 2, 2016
Evaluation Complete(Responsive and Responsible)	June 3, 2016
Bid Tabulation Complete	June 6, 2016

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**Bid 2016-113L**  
**Data Storage Unit with Maintenance**

This ITB, General Conditions, Instructions to Bidders, Special Conditions, Specifications, Addenda and/or any pertinent document form a part of this ITB and by reference are made a part hereof.

**SCOPE OF SERVICES:** The City is seeking bids from qualified firms for the purchase of data storage units, in accordance with the specifications and requirements as stated herein.

**QUESTIONS:** Each Bidder must examine this ITB, which incorporates all its addenda, appendices, exhibits and attachments. All questions concerning this ITB, such as technical specifications, discrepancies, omissions and exceptions to any term or condition of the ITB documents, including the Sample Agreement, should be submitted in writing utilizing the question / answer feature provided by BidSync at [www.bidsync.com](http://www.bidsync.com). Questions of a material nature must be received prior to the Deadline for Delivery of Questions specified in the Solicitation Schedule for this ITB.

Questions and requests for information that would not materially affect the Scope of Services to be performed or the solicitation process will be answered by the City within the question / answer feature provided by BidSync and shall be for clarification purposes only. Material changes, if any, to the Scope of Services or the solicitation process will only be transmitted by official written addendum issued by the City and uploaded to BidSync as a separate addendum to the ITB. Under no circumstances shall an oral explanation given by any City official, officer, staff, or agent be binding upon the City.

Submission of a Bid will be considered evidence that the Bidder has familiarized themselves with the nature and extent of the work, and the equipment, materials, and labor required. The questions submitted and answers provided in BidSync shall become part of any Agreement resulting from this ITB.

**CITY'S ACCEPTANCE:** Unless otherwise specified herein, the Bidder will allow a minimum of ninety (90) days from the Due Date and Time for acceptance of its Bid by the City Manager and/or City Commission.

**AWARD:** The City reserves the right to waive minor defects, variations to specifications, informalities, irregularities and technicalities in any Bids, to reject any and all Bids in whole or in part, with or without cause, and/or to accept Bids that in its judgment will be for the best interest of the City. The City may also reject any or all Bids without cause prior to award.

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**SECTION 1: TERMS AND CONDITIONS**  
**Bid 2016-113L**  
**Data Storage Unit with Maintenance**

**1. SUBMISSION AND RECEIPT OF BIDS:**

- A. To receive consideration, Bids must be received prior to the Due Date and time as designated in this ITB.
- B. Unless otherwise specified, Bidders must complete all questions and price blanks in the spaces provided in this ITB. Failure to do so may cause the Bid to be rejected. Bidders may attach supplemental information.
- C. Bids having any erasures or corrections must be initialed by Bidder in ink. Bids shall be signed in ink. All prices shall be typewritten or filled in with ink.
- D. All Bids must be signed with the Bidder's name and by an officer or employee having the authority to bind the Bidder by his/her signature.

**2. BID PACKAGE:** The following forms must be included with each Bid in the format specified in Section 2:

- Form 1. Bidder's Submittal Signature Page
- Form 2. Public Entity Crimes
- Form 3. Drug-Free Workplace
- Form 4. Conflict of Interest
- Form 5. Acknowledgement of Addenda
- Form 6. Schedule of Pricing

**3. QUANTITIES OR USAGE:** Whenever a bid is solicited seeking a source for a specified time for materials or services with quantities or usage shown; these quantities are estimated only. No guarantee or warranty is given or implied by the City as to the total amount that may or may not be purchased from any resulting Agreement(s). These estimated quantities are for Bidders' information only and will be used for tabulation purposes and presentation of Bids for award.

**4. PRICING/PERIOD OF AGREEMENT:**

- A. Bidder warrants by virtue of bidding that prices, terms, and conditions quoted will be firm for acceptance for a period of ninety (90) days from the Due Date unless otherwise stated by the City or Bidder.
- B. Bidders may offer a cash discount for prompt payment. However, such discounts will not be considered in determining the lowest net cost for bid evaluation purposes. Therefore, Bidders should reflect any discounts to be considered in the bid evaluation in the unit prices quoted.

**5. COMPLIANCE WITH SAFETY STANDARDS:**

- A. All equipment, machinery, electrical appliances, cords and apparatus shall comply with all safety provisions of the Occupational Safety and Health Act (OSHA) and other applicable regulatory agencies.
- B. Whenever a bid is sought and services secured for any type of on-site construction the Bidder(s) that is awarded the Agreement(s) (Successful Bidder) shall remove from the work site at the end of each working day all rubbish and waste debris resulting from its operations. The Successful Bidder shall also secure the work site before leaving at the end of each working day.



- 6. SIGNED BID CONSIDERED AN OFFER:** This signed Bid shall be considered an offer on the part of the Bidder, which offer shall be deemed accepted upon approval by the City Manager and/or City Commission of the City and in case of default on the part of the Bidder after such acceptance, the City may take such action as it deems appropriate including legal action for damages or specific performance.
- 7. INDEMNITY/HOLD HARMLESS AGREEMENT:** Successful Bidder shall at all times hereafter indemnify, hold harmless and, at the City Attorney's option, defend or pay for an attorney selected by the City Attorney to defend the City, its offers, agents, servants, and employees from and against and all causes of action, demands, claims, losses, liabilities and expenditures of any kind, including attorney fees, court cost, and expenses, caused or alleged to be caused by any intentional, negligent, or reckless act of, omission of, Successful Bidder, its employees, agents, servants, or officers, or accruing, resulting from, or related to the subject matter of this Agreement including, without limitation, any and all claims, losses, liabilities, expenditures, demands or causes of action of any nature whatsoever resulting from injuries or damages sustained by any person or property. In the event any lawsuit or other proceedings is brought against the City by reason of any such claim, cause of action, or demand, Successful Bidder shall, upon notice from the City, resist and defend such lawsuit or proceedings by counsel satisfactory to City or, at City's option, pay for an attorney selected by the City Attorney to defend City. The obligations of this section shall survive the expiration or earlier termination of the Agreement. To the extent considered necessary by the Bidder, Administrator and the City Attorney, any sums due Successful Bidder under this Agreement may be retained by the City until all City's claims for indemnification pursuant to this Agreement have been settled or otherwise resolved. Any amount withheld shall not be subject to payment of interest by City.
- 8. LIMITATIONS ON COMMUNICATIONS -- CONE OF SILENCE:** Bidders are advised that a Cone of Silence will be in effect during this Bid. The Cone of Silence is effective from the Due Date and Time until award is made by the City Manager and/or Commission. The Cone of Silence prohibits any communications, regarding this Bid, between the Bidders or any Person representing the Bidders, and any member of the City Commission, the Commission's staff, any City employee authorized to act on behalf of the City to award the Agreement under this Bid, or any member of the Selection Committee. All correspondence regarding this ITB must be in writing and must be directed to the Chief Purchasing Officer, who is the only Person authorized to receive such documents.

Section 36.13 of the City Code provides "any person participating in a competitive solicitation issued by the City shall comply with Section 2-355 of the Palm Beach County Code of Ordinances." The County Code provides as follows:

- A. 'Cone of Silence' means a prohibition on any communication, except for written correspondence, regarding a particular request for proposals, request for qualification, bid, or any other competitive solicitation between:
- (1) Any person or person's representative seeking an award from such competitive solicitations; and
  - (2) Any county commissioner or commissioner's staff, any member of a local governing body or the member's staff, a mayor or chief executive officer that is not a member of a local governing body or the mayor or chief executive officer's staff, or any employee authorized to act on behalf of the commission or local governing body to award a particular Agreement.



- B. For the purposes of this section, a person's representative shall include but not be limited to the person's employee, partner, officer, director, consultant, lobbyist, or any actual or potential subcontractor or consultant of the person.
  - C. The Cone of Silence shall be in effect as of the deadline to submit the proposal, bid, or other response to a competitive solicitation. The Cone of Silence applies to any person or person's representative who responds to a particular request for proposals, request for qualification, bid, or any other competitive solicitation, and shall remain in effect until such response is either rejected by the county or municipality as applicable or withdrawn by the person or person's representative. Each request for proposals, request for qualification, bid or any other competitive solicitation shall provide notice of cone of silence requirements and refer to this article.
  - D. The provisions of this article shall not apply to oral communications at any public proceeding, including pre-bid conferences, oral presentations before selection committees, Bidder negotiations during any public meeting, presentations made to the board or local municipal governing body as applicable, and protest hearings. Further, the Cone of Silence shall not apply to Bidder negotiations between any employee and the intended awardee, any dispute resolution process following the filing of a protest between the person filing the protest and any employee, or any written correspondence at any time with any employee, county commissioner, member of a local municipal governing body, mayor or chief executive officer that is not a member of the local municipal governing body, or advisory board member or selection committee member, unless specifically prohibited by the applicable competitive solicitation process.
  - E. The Cone of Silence shall not apply to any purchases made in an amount less than the competitive solicitation threshold set forth in the county purchasing ordinance (County Code, chapter 2, article III, division 2, part A, section 2-51 et seq.) or municipal ordinance as applicable.
  - F. The Cone of Silence shall terminate at the time the board, local municipal governing body, or a county or municipal department authorized to act on behalf of the board or local municipal governing body as applicable, awards or approves an Agreement, rejects all Bids or responses, or otherwise takes action which ends the solicitation process.
  - G. Any Agreement entered into in violation of the Cone of Silence provisions in this section shall render the transaction voidable.
- 9. LIABILITY, INSURANCE, PERMITS AND LICENSES:** Where the successful Bidder is required to enter or go onto City property to deliver goods, materials, or perform work or services as a result of a Bid award, the successful Bidder will assume the full duty, obligation, and expense of obtaining all necessary licenses, permits, and insurance and assure all work complies with all Federal, State, Local, Palm Beach County and Delray Beach ordinances, orders, codes, laws, rules, regulations, directives, and guidelines. The successful Bidder shall be liable for any damages or loss to Delray Beach occasioned by negligence of the successful Bidder (or agent) or any person the successful Bidder has designated in the completion of the Agreement as a result of the Bid of this Bid.

The Bidder shall supply proof of insurance, detailing terms and provisions of coverage, and must be received and approved by the City Risk Manager within 10 days of final execution of the Agreement.

Bidder shall carry the following minimum types of insurance:



- A. **Workers' Compensation.** Successful Bidder shall carry Worker's Compensation insurance with the statutory limits; Employers' Liability insurance with a limit of not less than \$100,000 for each accident, \$100,000 for each disease, and \$500,000 for aggregate disease.
- B. **Comprehensive General Liability Insurance.** Successful Bidder shall carry Comprehensive General Liability Insurance with limits of not less than one million (\$1,000,000) dollars per occurrence and two million (\$2,000,000) in the aggregate for Bodily Injury and Property Damage. The insurance policy must include coverage that is not more restrictive than the latest edition of the Comprehensive General Liability Policy, without restrictive endorsements, as filed by the Insurance Services Offices, and the policy must include coverage's for premises and/or operations, independent Bidders, products and/or completed operations for Bidders, contractual liability, broad form contractual coverage, broad form property damage, products, completed operations, and personal injury. Personal injury coverage shall include coverage that has the Employee and contractual Exclusions removed.

All insurance policies shall be issued by companies that (a) are authorized to do business in the State of Florida; (b) have agents upon whom service of process may be made in Palm Beach County, Florida; and (c) have a Best's rating of B+VIII or better. All insurance policies shall name the City as an additional insured. The Successful Bidder agrees to notify the City within (5) business days of coverage cancellation, lapse or material modification. All renewal or replacement certificates of insurance shall be forwarded to the City Risk Management Division.

- 10. AWARD OF BID:** The City reserves the right to accept any Bid or combination of Bid alternates which, in the City's judgment will best serve the City's interest, reject any and all Bids, to waive any and all informalities and/or irregularities, and to negotiate terms with the Successful Bidder, and the right to disregard all non-conforming, non-responsive, unbalanced or conditional Bids. The City reserves the right to reject any or all Bids, or any part of any Bid, to waive any informality in any Bid, and to award the purchase in the best interest of the City. Discrepancies in the multiplication of units of work and unit prices will be resolved in favor of the unit price. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.
- 11. BILLING INSTRUCTIONS:** Invoices must show the purchase order number and shall be submitted electronically to [accountspayable@mydelraybeach.com](mailto:accountspayable@mydelraybeach.com) or mailed to Accounts Payable, 100 N.W. 1<sup>st</sup> Avenue, Delray Beach, FL 33444.
- 12. TAXES:** The City is exempt from any sales tax imposed by the State and/or Federal Government. State Sales Tax Exemption Certificate No. **85-8012621559C-4** appears on each purchase order.
- 13. EXCEPTIONS TO CONDITIONS:** In the event Bid Specifications differ from the General Conditions, Bid Specifications and Special Provisions will prevail.
- 14. TERMINATION:** The City reserves the right, in its best interest as determined by the City, to cancel the Agreement by giving written notice to the Successful Bidder thirty (30) days prior to the effective date of such cancellation. In the event of such termination, any completed services performed by the Successful Bidder under the Agreement shall, at the option of the City, become the City's property and the Successful Bidder shall be entitled to receive equitable compensation for any work completed to the satisfaction of the City.



**15. ANTI-COLLUSION:**

- A. Bidder certifies that its Bid is made without prior understanding, agreement, or connection with any corporation, firm or person submitting a Bid for the same materials, services, supplies, or equipment and is in all respects fair and without collusion or fraud.
- B. No premiums, rebates or gratuities permitted; either with, prior to, or after any delivery of material or provision of services. Any such violation may result in Agreement cancellation, return of materials or discontinuation of services and the possible removal from the supplier bid list(s).

**16. CONFLICT OF INTEREST:**

- A. Bidder declares and certifies that no officer, employee or person whose salary is payable in whole or part from the City is directly or indirectly interested in this bid or in the supplies, materials, equipment or services to which it relates or in any portion of the profits thereof; and
- B. The award is subject to provisions of Florida State Statutes and City Ordinances.

**17. CITY POLICIES:** Awarded Bidder shall comply with the City Equal Employment Opportunity Policy, Violence in the Workplace Policy, Drug and Alcohol Free Workplace Policy, General Complaint Policy and Sexual Harassment Policy. Copies of these policies may be obtained from the City Human Resources Division. Violations of these policies may result in cancellation/termination of the Agreement.**18. NON-DISCRIMINATION:** The Bidder shall not discriminate against employees or applicants for employment because of race, creed, color, religion, sex, age, handicapped status, disabilities, or national origin. The Bidder will endeavor to ensure that applicants are employed and that employees are treated during employment, without regard to their race, creed, color, religion, sex, age, handicapped status, disabilities, or national origin. Such action 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 apprenticeship. The Bidder agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. These provisions apply to all subcontractors and it is the responsibility of the subcontractors to be in compliance.**19. DISCRIMINATION:** An entity or affiliate who has been placed on the discriminatory supplier list may not submit a Bid on an Agreement to provide goods or services to a public entity, may not submit a Bid on an Agreement 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 award or perform work as a Bidder, supplier, subcontractors, or consultant under Agreement with any public entity, and may not transact business with any public entity.**20. BID PROTEST: PROTEST OF AWARD / PROTEST BOND:** Parties that are not actual Bidders including, but not limited to, subcontractors, material and labor suppliers, manufacturers and their representatives, shall not have standing to protest or appeal any determination made.

After the notice of intent to award and agreement is posted, any actual Bidder who is aggrieved in connection with the pending award of the agreement or any element of the process leading to the award of the agreement may file a protest with the CPO by close of



business on the third business day after posting (excluding the day of notification) or any right to protest is forfeited. It shall be the sole responsibility of such Bidder to verify the operating hours of City Hall. Notice of Intent to Reject all Bids is subject to the protest procedure.

**Note:** Any Bidder filing a protest shall simultaneously provide a Protest Bond to the City in the amount of fifteen thousand dollars (\$15,000). If the protest is decided, in the protester's favor the entire protest bond is returned. If the protest is not decided in the protester's favor the protest shall be forfeited to the City. The protest bond shall be in the form of a cashier's check. Ord.No.29-13, Section 36.04

Protest shall be addressed to:  
City of Delray Beach  
Chief Purchasing Officer  
100 N.W. 1<sup>st</sup> Avenue  
Delray Beach, FL 33444

- 21. PUBLIC RECORDS:** Bidder shall comply with all public records laws in accordance with Florida Statute Chapter 119. In accordance with State law, Bidder agrees to:
- A. Keep and maintain all records that ordinarily and necessarily would be required by the City.
  - B. Provide the public with access to public records on the same terms and conditions that the City would provide for the records and at a cost that does not exceed the costs provided in Chapter 119, Fla. Stat. or as otherwise provided by law.
  - C. Ensure that public records that are exempt or confidential and exempt from public records disclosure are not disclosed except as authorized by law.
  - D. Meet all requirements for retaining public records and transfer, at no cost, to the City all records in possession of the Bidder at the termination of the Agreement and destroy any public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the City. All records shall be transferred to the City prior to final payment being made to the Bidder.
  - E. If Bidder does not comply with this section, the City shall enforce the Agreement provisions in accordance with the Agreement and may unilaterally cancel this Agreement in accordance with state law.
- 22. PUBLIC ENTITY CRIMES INFORMATION STATEMENT:** Any person or affiliate who has been placed on the convicted supplier list following a conviction for a public entity crime may not submit a Bid on an Agreement to provide any goods or services to a public entity, may not submit a Bid on an Agreement 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 Bidder, supplier, subcontractor, or consultant under an Agreement 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 supplier list.
- 23. OFFICE OF THE INSPECTOR GENERAL:** Palm Beach County has established the Office of the Inspector General, which is authorized and empowered to review past, present and proposed city Agreements, transactions, accounts and records. The City has entered into an Inter-local Agreement for Inspector General Services. This agreement provides for the

Inspector General to provide services to the City in accordance with the City functions and powers set out in the Palm Beach County Office of Inspector General Ordinance. All parties doing business with the City and receiving City funds shall fully cooperate with the Inspector General, including providing access to records relating to the Agreement. The Inspector General has the power to subpoena witnesses, administer oaths, require the production of records, and audit, investigate, monitor, and inspect the activities of the Bidder, its officers, agents, employees, and lobbyists in order to ensure compliance with Agreement specifications and detect corruption and fraud.

Failure to cooperate with the Inspector General, or interference with or impeding any investigation shall be a violation of Ordinance 2009-049, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

**24. LOCAL PREFERENCE:** In accordance with the City Code of Ordinances Sec. 36.14, the City shall give preference to a Local Business if the Local Business' bid is determined to be within five percent (5%) or five thousand dollars (\$5,000.00), whichever is less, of the lowest responsible and responsive Bidder.

**25. METHOD OF ORDERING:** A Purchase Order(s) will be issued for this purchase.

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## SECTION 2: BID FORMAT

**A. INFORMATION:** Any process questions in regard to the submission of Bids should be submitted via email to: [purchasing@mydelraybeach.com](mailto:purchasing@mydelraybeach.com).

**B. MINIMUM QUALIFICATIONS:** Bidder must meet the following minimum qualification requirements:

1. Bidder must be registered with the State of Florida Division of Corporations to do business in Florida.

**No documentation is required. The City will verify registration.**

2. Bidder has submitted pricing on the product specified in this ITB or an alternate product as approved via addendum.

**No additional documentation is required. The City will verify from Bidder's Form 6, Schedule of Pricing.**

3. Bidder has no reported conflict of interests in relation to this ITB.

**No additional documentation is required. Confirmation must be provided by in Bidder's Form 4, Conflict of Interest, that no conflict exists.**

**C. BID FORMAT:** Bids must adhere to the following format:

Chapter 1	Letter of Intent and Form 1, Bid Submittal Signature Page
Chapter 2	Bidder's Statement of Organization
Chapter 3	Form 2, Public Entity Crimes Form 3, Drug-Free Workplace Form 4, Conflict of Interest
Chapter 4	Form 5, Acknowledgement of Addenda
Chapter 5	Form 6, Schedule of Pricing

1. **Letter of Intent:** Provide a brief statement of Bidder's understanding of the services to be rendered and/or goods to be provided and a statement of Bidders commitment to perform according to the requirements stated in this IT. Include the contact information for Bidder's primary representative during this ITB process to include name, title, phone number, email address, and mailing address. Letter should be limited to no more than two (2) pages.

2. **Bidder's Statement of Organization:** Include the following information regarding Bidder:

- i. Full legal name including any dba,



- ii. Address, City, State, Zip
- iii. Telephone number
- iv. Facsimile number
- v. E-mail address
- vi. Website URL address
- vii. Type of organization (e.g. corporation, partnership, LLC)
- viii. Hours of operation
- ix. Years in business
- x. Address of corporate headquarters
- xi. Address of local office (if any)
- xii. List of owners and/or partners and managers of the firm and their contact information (addresses and phone numbers)
- xiii. Any additional information that Bidder wishes to supply to augment its Bid.

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**SECTION 3 SCOPE OF WORK**  
**ITB 2016-113L**  
**Data Storage Unit with Maintenance**

**A. PURPOSE:** The City is seeking bids from qualified firms for the purchase of data storage units, in accordance with the specifications and requirements as stated herein.

**B. SPECIFICATIONS:**

(a) Item 1

Product:	Dell PowerVault
Model:	MD3800i
Specifications:	10GB ISCSI
	24x 4TB
	Snapshots
	MD1200 Expansion
	Dual 4GB Controllers
	Remote Replication
	24x7 Pro Support Maintenance
Quantity:	2

[Remainder of page intentionally left blank]

**BID SUBMITTAL CHECKLIST**

A responsive Bidder means a Bidder that has submitted a bid that conforms in all material respects to the requirements in this ITB. The CPO or designee will determine whether each Bidder correctly submitted all of the necessary forms and documents. The purpose of this checklist is to assist Bidders in completing their Bids and ensuring that all required forms and information is submitted. Do not include checklist with your Bid submittal.

- ☒ Letter of Intent
- ☒ Bid Submittal Signature Page
- ☒ Bidder's Statement of Organization
- ☒ Public Entity Crimes Form
- ☒ Drug Free Workplace Form
- ☒ Conflict of Interest Form
- ☒ Acknowledgement of Addenda Form
- ☒ Schedule of Pricing Form

## SECTION 4: FORMS FOR BID

Each Bidder must complete and submit the forms included in this Section 4.

- Form 1. Bidder's Submittal Signature Page
- Form 2. Public Entity Crimes
- Form 3. Drug-Free Workplace
- Form 4. Conflict of Interest
- Form 5. Acknowledgement of Addenda
- Form 6. Schedule of Pricing



**Form 1**  
**Bid Submittal Signature Page**

By signing this Bid, the Bidder certifies that it satisfies all legal requirements as an entity to do business with the City, including all Conflict of Interest and Code of Ethics provisions.

Firm Name: The Jasper Group International, Inc.

Street Address: 3606 South Ocean Blvd. Suite 303 Highland Beach, FL 33487

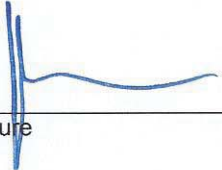
Mailing Address (if different from Street Address):

Telephone Number(s): (561)278-1959

Fax Number(s): (561)278-2662

Email Address: pculmone@thejaspergroup.net

Federal Identification Number: 27-0283280

 _____ Signature	5-31-16 _____ Date
Phillip Culmone _____ Printed Name and Title	President & CEO _____

By signing this document, the Bidder agrees to all terms and conditions of the ITB and the resulting agreement.

**THE EXECUTION OF THIS FORM CONSTITUTES THE UNEQUIVOCAL OFFER OF BIDDER TO BE BOUND BY THE TERMS OF ITS BID. FAILURE TO SUBMIT THIS FORM EXECUTED BY AN AUTHORIZED REPRESENTATIVE WHERE INDICATED SHALL RENDER THE BID NON-RESPONSIVE. THE CITY MAY, HOWEVER, IN ITS SOLE DISCRETION, ACCEPT ANY BID THAT INCLUDES AN EXECUTED DOCUMENT WHICH UNEQUIVOCALLY BINDS THE BIDDER TO THE TERMS OF ITS BID.**

**Form 2**  
**Public Entity Crimes**

**NOTIFICATION OF PUBLIC ENTITY CRIMES LAW**

Pursuant to Section 287.133, *Florida Statutes*, you are hereby notified that a person or affiliate who has been placed on the convicted Bidders list following a conviction for a public entity crime may not submit a Bid on a Bidder to provide any goods or services to a public entity; may not submit a Bid on a Bidder with a public entity for the construction or repair of a public building or public work; may not submit Bids on leases or real property to a public entity; may not be awarded or perform work as a Bidder, supplier, sub-Bidder, or consultant under a Bidder with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017 [F.S.] for Category Two [\$35,000.00] for a period of thirty-six (36) months from the date of being placed on the convicted Bidders list.

Acknowledged by:

The Jasper Group International, Inc.

Firm Name (print)

Signature

5-31-16

Date

Phillip Culmone

President & CEO

Printed Name and Title

### Form 3 Drug-Free Workplace

If identical tie bids exist, preference will be given to the vendors who submit a certification with their bid/Bid certifying they have a drug-free workplace in accordance with Section 287.087, Florida Statutes. The drug-free workplace preference is applied as follows:

**IDENTICAL TIE BIDS:** Preference shall be given to businesses with drug-free workplace programs. Whenever two or more bids which are equal with respect to price, quality, and service are received by the State or by any political subdivision for the procurement of commodities or contractual services, a bid received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. Established procedures for processing tie bids will be followed if none of the tied vendors have a drug-free workplace program.

As the person authorized to sign this statement, I certify that this firm complies fully with the following requirements:

- 1) This firm publishes 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) This firm informs 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) This firm gives each employee engaged in providing the commodities or Bidderual services that are under bid a copy of the statement specified in subsection (1).
- 4) In the statement specified in subsection (1), this firm notifies the employees that, as a condition of working on the commodities or Bidderual services that are under bid, the employee will abide by the terms of the statement and will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
- 5) This firm imposes a sanction on or requires 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) This firm will continue to make a good faith effort to maintain a drug-free workplace through implementation of this section.

The Jasper Group International, Inc.

Firm Name (print)

Signature

5-31-16

Date

Phillip Culmone

Printed Name and Title

President & CEO



**Form 4**  
**Conflict of Interest Disclosure Form**

The award of this ITB/bid/Bidder is subject to the provisions of Chapter 112, Florida Statutes and Palm Beach County Ordinance Section 2-443. All Bidders/bidders/Bidders must disclose: the name of any officer, director, or agent who is also an employee or relative of an employee of the City.

Furthermore, all Bidders/bidders/Bidders must disclose the name of any City employee or relative(s) of a City employee who owns, directly or indirectly, an interest in the Bidders/bidders/Bidders firm or any of its branches.

The purpose of this disclosure form is to give the City the information needed to identify potential conflicts of interest for key personnel involved in the award of this ITB/bid/Bidder.

The term "conflict of interest" refers to situations in which financial or other personal considerations may adversely affect, or have the appearance of adversely affecting, an employee's professional judgment in exercising any City duty or responsibility in administration, management, instruction, research, or other professional activities.

Please check one of the following statements and attach additional documentation if necessary:

☒ To the best of our knowledge, the undersigned firm has no potential conflict of interest as defined in Chapter 112, Florida Statutes and Section 2-443, Palm Beach County Code of Ordinances.

☐ The undersigned firm, by attachment to this form, submits information which may be a potential conflict of interest as defined in Chapter 112, Florida Statutes and Section 2-443, Palm Beach County Code of Ordinances.

Acknowledged by:

The Jasper Group International, Inc.

Firm Name (print)

Signature

5-31-16

Date

Phillip Culmone

President & CEO

Printed Name and Title



**Form 5**  
**Acknowledgment of Addenda**

The Bidder hereby acknowledges the receipt of the following addenda, which were issued by the City and incorporated into and made part of this ITB. The Bidder acknowledges that it is solely responsible for ensuring that it is aware of, and in receipt of, all addenda.

ADDENDUM NUMBER	DATE RECEIVED
Addendum 1	5-27-16
Addendum 2	5-27-16

The Jasper Group International, Inc.

Bidder (firm name)

Signature

5-31-16

Date

Phillip Culmone

President & CEO

Printed Name and Title

**Form 6**  
**Schedule of Pricing**  
**Bid 2016-113L**  
**Data Storage Unit with Maintenance**

**A. PRICE:** Bidder must submit pricing per the requirements and specification detailed in this ITB.

**B. ALTERNATE PRODUCTS:** No alternate products will be accepted.

<i>ITEM</i>	<i>QTY</i>	<i>DESCRIPTION</i>	<i>UNIT PRICE</i>	<i>EXTENDED PRICE</i>
1	2	Dell PowerVault	\$ 37,374.00	\$ 74,748.00

**C. SUPPORTING DOCUMENTATION:**

Submit the following supporting documentation with your Schedule of Pricing:

**D. JOINT BIDDING, CO-OPERATIVE PURCHASING AGREEMENT:** Will extend same price, terms, and conditions of this bid to other Palm Beach, Martin and Broward County Governmental agencies?

☒ Yes

☐ No

**C. BID INFORMATION WAS OBTAINED FROM:**

☒ BidSync

☐ Newspaper Ad

☐ City Hall

☐ Other (specify) \_\_\_\_\_



## Letter of Intent

The Jasper Group will be providing Dell hardware support, software support services, and Dell hardware as listed in the ITB 2016-113L bid specifications to the City of Delray Beach through Dell Corporation as an Authorized Reseller and Partner.

### Primary Representative:

Phillip Culmone  
President & CEO  
(561)278-1959  
[pculmone@thejaspergroup.net](mailto:pculmone@thejaspergroup.net)  
3606 South Ocean Blvd.  
Suite 303  
Highland Beach, FL 33487

**3606 South Ocean Blvd., Suite 303 • Highland Beach, FL 33487 • (561) 278-1959 • Fax (561) 278-2662  
[www.thejaspergroup.net](http://www.thejaspergroup.net)**



## Bidders Statement of Organization

The Jasper Group International, Inc. DBA The Jasper Group  
3606 South Ocean Blvd.  
Suite 303  
Highland Beach, FL 33487  
(561)278-1959 phone  
(561)278-2662 fax  
[pculmone@thejaspergroup.net](mailto:pculmone@thejaspergroup.net)  
[www.thejaspergroup.net](http://www.thejaspergroup.net)

The Jasper Group is an S-Corporation.  
Our corporate headquarters is at;

3606 South Ocean Blvd.  
Suite 303  
Highland Beach, FL 33487

The Jasper Group is open 8:30am-5:00pm Monday thru Friday.  
Support Services is open 24/7, 365 days a year.

Owner of Company:

Phillip Culmone  
President & CEO  
3606 South Ocean Blvd.  
Suite 303  
Highland Beach, FL 33487  
(561)278-1959

The Jasper Group is an Authorized Dell Reseller and Partner.

**3606 South Ocean Blvd., Suite 303 • Highland Beach, FL 33487 • (561) 278-1959 • Fax (561) 278-2662**  
**[www.thejaspergroup.net](http://www.thejaspergroup.net)**



CITY OF DELRAY BEACH  
100 N.W. 1<sup>st</sup> AVENUE, DELRAY BEACH, FL 33444

## Solicitation Addendum

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**Addendum No.:** 1  
**Solicitation No.:** 2016-113L  
**Solicitation Title:** Data Storage Unit with Maintenance  
**Addendum Date:** May 18, 2016  
**Purchasing Contact:** Ryan Lingholm

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**THE FOLLOWING ITEMS ARE MADE AND HEREBY BECOME A PART OF THIS SOLICITATION:**

**Change to:**

2016-113L ITB DOCUMENT, SECTION 3.B.a.

Item 1

**Product:** Dell PowerVault  
**Model:** MD3800i  
**Specifications:** 10GB ISCSI  
 24x 4TB  
 Snapshots  
 MD1200 Expansion  
 Dual 4GB Controllers  
 Remote Replication

**Quantity:** 2

2016-113L ITB DOCUMENT, FORM 6, SCHEDULE OF PRICING

<i>ITEM</i>	<i>QTY</i>	<i>DESCRIPTION</i>	<i>UNIT PRICE</i>	<i>EXTENDED PRICE</i>
1	2	Dell PowerVault	\$ 37,374.00	\$ 54,748.00
2	1	Dell Pro Support	\$ 20,000.00	\$ 20,000.00
<b>TOTAL</b>				\$ 74,748.00

[Remainder of page intentionally left blank]

Addendum No. 1  
 ITB No. 2016-113L  
 Data Storage Unit with Maintenance



**Add:**

2016-113L ITB DOCUMENT, SECTION 3.B.b.

Item 2

Product: Dell Pro Support

Specifications: 5 year, 24x7 Next Business Day Support

Quantity: 1

**End of Addendum****INSTRUCTIONS:**

Receipt of this addendum must be acknowledged as instructed in the solicitation document. Failure to acknowledge receipt of this Addendum may result in the disqualification of Respondent's response.



CITY OF DELRAY BEACH  
100 N.W. 1<sup>ST</sup> AVENUE, DELRAY BEACH, FL 33444

## Solicitation Addendum

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**Addendum No.:** 2  
**Solicitation No.:** 2016-113L  
**Solicitation Title:** Data Storage Unit with Maintenance  
**Addendum Date:** May 24, 2016  
**Purchasing Contact:** Ryan Lingholm; [lingholmr@mydelraybeach.com](mailto:lingholmr@mydelraybeach.com)

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**THE FOLLOWING ITEMS ARE MADE AND HEREBY BECOME A PART OF THIS SOLICITATION:**

### QUESTIONS AND RESPONSES:

**Q1. Can you please tell the delivery address and Notified Party?**

R1. As stated on Bidsync, the delivery location is;  
City of Delray Beach  
Information Technology  
150 N.W. 1<sup>st</sup> Avenue  
Delray Beach, FL 33444

You may list Jennifer Reynolds as the notified party.

**Q2. Can you please tell the requirements of the Packing and Packing List?**

R2. The units shall be delivered in the same packaging provided by the manufacturer. The packing list shall be the same as provided by the manufacturer.

**Q3. Regarding MD1200 Expansion, is it separated Power Vault MD 1200 or is it port to connect MD 1200?**

R3. The expansion is a separate unit which connects to the MD3800i by port. If ordered correctly from the manufacturer, the expansion will be provided as a package.

[Remainder of page intentionally left blank]

**Q4. Regarding Remote Replication, do you have specific software requirements or just a required function?**

R4. Remote replication is a required function that is provided as a feature set.

**Q5. Can we quote Dell Pro Support together with Powervault instead separated unit price?**

R5. Yes. However, you must indicate that line item 1 pricing includes line item 2.

**Q6. Just to clarify, no alternatives are allowed even if they have a better price point and offer guaranteed file integrity along with all the other features and functionality?**

R6. This is correct, no alternatives will be considered.

### **End of Addendum**

#### **INSTRUCTIONS:**

Receipt of this addendum must be acknowledged as instructed in the solicitation document. Failure to acknowledge receipt of this Addendum may result in the disqualification of Respondent's response.



## The Jasper Group Maintenance References

United States Air Force **(HP) (Dell)**  
2721 Sacramento St. Bldg. 271 Area A  
Wright-Patterson AFB, OH 45433

Lt. Gage Parrott  
(937)522-4326  
david.armentrout.ctr@us.af.mil

Enertron, LLC **(IBM) (Dell) (Oracle) (HP)**  
24705 Mound Rd.  
Warren, MI 48091

Joe La France  
(586)757-1200  
joe@enertronllc.com

South Carolina Dept. of Natural Resources **(EMC) (Dell)**  
1000 Assembly St. Suite 123  
Columbia, SC 29201

Peihua Cheng  
(803)734-9490  
chengp@dnr.sc.gov

Broward County Office of State Atty. **(Dell) (Unisys)**  
201 SE Sixth St. Rm. 1001  
Ft. Lauderdale, FL 33301

Dave Stewart  
(954)831-8020

Henry Ford Community College **(Oracle)**  
5101 Evergreen Rd. Bldg. ASCC  
Dearborn, MI 48128

Sandro Silvestri  
(313)845-9769  
sandro@hfcc.edu

AAA-Ohio Motorists Association **(IBM) (Unisys)**  
5700 Brecksville Rd.  
Cleveland, OH 44131

Mike Gladish  
(216)606-6363

City of Livonia **(HP) (Dell)**  
15050 Farmington Rd.  
Livonia, MI 48154

Brian Carpenter  
(734)466-2389

Orchard Supply Hardware (Div. of Sears) **(IBM) (Unisys)**  
6450 Via Del Oro  
San Jose, CA 95119

Homer Corpuz  
(408)365-2450  
homer.corpuz@ash.com

City of Detroit **(IBM) (Unisys)**  
2 Woodward Ave. Room 810  
Detroit, MI 48226

Jim Davenport  
(313)224-7498  
devenpoj@detroitmi.gov

Illinois Secretary of State **(Unisys)**  
501 S. 2nd St. Rm. 588  
Springfield, IL 62756

Ashley Stewart  
(217)782-0443  
astewart@ilsos.net

Monroe County Community College **(IBM)**  
1555 South Raisinville Rd.  
Monroe, MI 48161

Jim Ross  
(734)242-7300  
jross@monroeccc.edu

Franchise Tax Board **(HP Integrity Series)**  
9646 Butterfield Way  
Sacramento, CA 95827

Tracie Zamora  
(916)845-3937  
rod.duff@ftb.ca.gov

U.S. Navy SPAWAR **(HP)**  
1008 Trident St.  
Hanahan, SC 29410

Melanie Carter  
(843)218-2689

National Oceanic & Atmospheric Admin. (NOAA) **(IBM)**  
151 Patton Ave.  
Asheville, NC 28801

Jody Klein  
(828)271-4109  
jody.klein@noaa.gov

Eastern Illinois University **(Oracle)**  
University Drive & Hayes  
Charleston, IL 61920

David Miller  
(217)581-1928  
dmiller@eiu.edu

MIT Lincoln Laboratory **(EMC)**  
244 Wood St.  
Lexington, MA 02420

Steve Wingert  
(781)981-0725  
steven.wingert@ll.mit.edu

United Automotive Supply Company **(Dell)**  
2637 East 10 Mile Rd.  
Warren, MI 48091

Shawn Morrow  
(586)825-9601

Pension Benefit Guaranty Corporation **(HP)**  
1200 K St. NW  
Washington DC 20005

Alan Woodward  
(202)326-4000  
x3159

Superior Court of California (Riverside County) **(Oracle)**  
Larson Justice Center  
46-200 Oasis St.  
Indio, CA 92201

Ray Pegis  
(951)777-3389  
luana.eutsler@riverside.court.ca.gov

Naval Undersea Warfare Center **(HP)**  
610 Dowell St.  
Bldg. 1003  
Keyport, WA 98345

Allen de Leon  
(360)315-3437  
allen.deleon@navy.mil

Naval Surface Warfare Center **(Dell)**  
9500 MacArthur Blvd.  
West Bethesda, MD 20817

Ying Huske  
(301)227-4769  
ying.huske@navy.mil

Seminole County Public Schools **(HP) (Dell)**  
400 East Lake Mary Blvd.  
Sanford, FL 32773

Thomas Condo  
(407)320-0132  
tom\_condo@scps.k12.fl.us

State of Vermont **(IBM)**  
10 Baldwin St.  
Montpelier, VT 05633

Joe Ng  
(802)479-5005  
joe.ng@vermont.gov

Supplier: The Jasper Group International, Inc.

**City of Delray Beach  
Purchase Order Terms and Conditions**

1. **ACCEPTANCE:** This order is for the purchase of goods ("the Goods"). The Buyer's offer to the Seller and the Seller's acknowledgement to the Buyer shall constitute Seller's acceptance of such order including all of the terms and conditions herein set out. In the absence of such acknowledgement, commencement of delivery of the Goods and acceptance of such deliveries by Buyer shall constitute a firm contract on the terms and conditions hereof. This order is subject to the following terms and conditions and no others unless there is a signed agreement between the parties providing otherwise.
2. **WARRANTY-PRODUCT:** The Seller expressly warrants that the Goods shall be merchantable within the meaning of Article 2-314(2) of the Uniform Commercial Code as provided by Florida Law and in effect on the date of this order. In addition to all warranties which may be prescribed by law, the Goods shall conform to specifications, drawing, and description and shall be free from defects in materials and workmanship. Seller also warrants that to the extent the Goods are not manufactured pursuant to detailed designs furnished by Buyer they will be free from defects in design. Such warranties, including warranties prescribed by law shall run to Buyer, its successor, assigns, and customers, and to users of the Goods for a period of one (1) year after delivery unless otherwise stated.
3. **INDEMNITY:** Seller shall at all times hereafter indemnify, hold harmless and, at the City Attorney's option, defend or pay for an attorney selected by the City Attorney to defend Buyer, its officers, agents, servants, and employees from and against any and all causes of action, demands, claims, losses, liabilities and expenditures of any kind, including attorney fees, court costs, and expenses, caused or alleged to be caused by any intentional, negligent, or reckless act of, or omission of, Seller, its employees, agents, servants, or officers, or accruing, resulting from, or related to the subject matter of this order including, without limitation, any and all claims, losses, liabilities, expenditures, demands or causes of action of any nature whatsoever resulting from injuries or damages sustained by any person or property. In the event any lawsuit or other proceeding is brought against Buyer by reason of any such claim, cause of action, or demand, Seller shall, upon written notice from Buyer, resist and defend such lawsuit or proceeding by counsel satisfactory to Buyer or, at Buyer's option, pay for an attorney selected by the City Attorney to defend Buyer. The obligations of this section shall survive the expiration or earlier termination of this order. To the extent considered necessary by the Chief Purchasing Officer and the City Attorney, any sums due Seller under this order may be retained by Buyer until all of Buyer's claims for indemnification pursuant to this order have been settled or otherwise resolved. Any amount withheld shall not be subject to payment of interest by the Buyer.
4. **INSURANCE:** Seller shall procure and maintain liability insurance, including contractual liability coverage, with minimum limits of \$300,000 combined single limits to be effective during period of warranty with such higher limits as Buyer shall reasonably request of Seller. Seller shall furnish to Buyer upon request a Certificate of Insurance evidencing the foregoing coverage and limits.
5. **COMPLIANCE WITH LAWS:** Seller shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this order.
6. **LAW, JURISDICTION, VENUE, WAIVER OF JURY TRIAL:** This order shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. All Parties agree and accept that jurisdiction of any controversies or legal problems arising out of this Order, and any action involving the enforcement or interpretation of any rights hereunder, shall be exclusively in the state courts of the Fifteenth Judicial Circuit in Palm Beach County, Florida, and venue for litigation arising out of this Order shall be exclusively in such state courts, forsaking any other jurisdiction which either party may claim by virtue of its



residency or other jurisdictional device. **BY ACCEPTING THIS ORDER, SELLER AND BUYER HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS ORDER. IF A PARTY FAILS TO WITHDRAW A REQUEST FOR A JURY TRIAL IN A LAWSUIT ARISING OUT OF THIS ORDER AFTER WRITTEN NOTICE BY THE OTHER PARTY OF VIOLATION OF THIS SECTION, THE PARTY MAKING THE REQUEST FOR JURY TRIAL SHALL BE LIABLE FOR THE REASONABLE ATTORNEYS' FEES AND COSTS OF THE OTHER PARTY IN CONTESTING THE REQUEST FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION.**

7. **MATERIALITY AND WAIVER OF BREACH:** Each requirement, duty, and obligation set forth herein was bargained for at arm's-length and is agreed to by the parties. Each requirement, duty, and obligation set forth herein is substantial and important to the formation of this order and that each is, therefore, a material term hereof. Buyer's failure to enforce any provision of this order shall not be deemed a waiver of such provision or modification of this order. A waiver of any breach of a provision of this order shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this order.
8. **ALLOCATION OF RISK:** This risk for any damage to or destruction of the goods shall be borne by the Seller at all times until delivery to the control of the Buyer, which shall be the point at which the Buyer actually receives the goods for use and has accepted such.
9. **REPAIRS - NON ACCEPTANCE:** If any of the goods are delivered in a defective or non-working condition, efforts of the Buyer to correct such defect shall not constitute an acceptance where commercially reasonable in extent and cost, so that the Buyer may still reject the goods where the attempt to repair has proved unsuccessful.
10. **PLACE OF DELIVERY:** The goods shall be delivered to the City of Delray Beach, Florida, at address stated on the order.
11. **INSPECTION GOODS:** The Buyer shall have the right to inspect all goods before accepting delivery or making payment therefore. If rejected, the goods will be returned at Seller's risk, and all handling and transportation expenses, both ways, will be borne by and assumed by Seller. When material has been rejected by Buyer and returned for replacement, it is essential that Seller receive new shipping instructions from Buyer before making the replacement. Inspection and approval for acceptance shall be made by the appropriate user department. The expense of inspection shall be borne by the Buyer except as to goods which are properly rejected as non-conforming. Inspection shall be made within fourteen (14) calendar days of the delivery of goods.
12. **NOTICE OF DEFECTS:** It is expressly agreed that all claims for alleged damages or defective goods, shortage, or other cause shall be deemed waived unless made in writing and sent by Buyer within twenty (20) calendar days after Buyer learns of the alleged defect, damage, shortage, or other cause giving rise to the claim. However, any defects incapable of discovery shall not be deemed waived by the provisions herein, and this provision shall not be deemed a waiver of any warranties set forth herein or in any modification of this Order.
13. **FITNESS FOR PARTICULAR PURPOSE:** Buyer makes no warranties except as set forth herein provided that notwithstanding any other provisions to the contrary herein, Buyer may have sought the expertise of Seller with respect to the use of such goods. In that event, Seller hereby agrees that any document exhibiting a request by Buyer for goods for a particular purpose, a reliance by Buyer upon the expertise of Seller with respect to the use of the goods, or any other similar such request or reliance shall constitute a modification to the terms of this Order which shall effect a warranty of fitness for a particular purpose.
14. **TAX EXEMPTION:** The City of Delray Beach is exempt from State Sales Tax and Federal Excise Taxes. Where tax applies, the invoice must show gross, price, amount of tax, and net price. Exception certificate will be provided upon request.
15. **INDEPENDENT CONTRACTOR:** Seller is an independent contractor under this Order. Services provided by Seller pursuant to this Order shall be subject to the supervision of Seller. In providing such services, neither Seller nor its agents shall act as officers, employees, or agents of Buyer. No partnership, joint venture, or other joint relationship is created hereby. Buyer does not extend to Seller or Seller's agents any authority of any kind

to bind Buyer in any respect whatsoever.

- 16. PUBLIC ENTITY CRIME ACT:** Seller represents that the acceptance of this order will not violate the Public Entity Crime Act, Section 287.133, Florida Statutes, which essentially provides that a person or affiliate who is a contractor, consultant, or other provider and who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to Buyer, may not submit a bid on a contract with Buyer for the construction or repair of a public building or public work, may not submit bids on leases of real property to Buyer, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with Buyer, and may not transact any business with Buyer in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this order and recovery of all monies paid by Buyer pursuant to this Order, and may result in debarment from Buyer's competitive procurement activities.

In addition to the foregoing, Seller further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether Seller has been placed on the convicted vendor list.

- 17. THIRD PARTY BENEFICIARIES:** Neither Seller nor Buyer intends to directly or substantially benefit a third party by this Order. Therefore, the parties agree that there are no third party beneficiaries to this Order and that no third party shall be entitled to assert a right or claim against either of them based upon this Order.
- 18. ASSIGNMENT AND PERFORMANCE:** Neither this Order nor any right or interest herein shall be assigned, transferred, or encumbered without the written consent of the other party. Buyer may terminate this Order, effective immediately, if there is any assignment, or attempted assignment, transfer, or encumbrance, by Seller of this Order or any right or interest herein without Buyer's written consent. Seller shall perform its duties, obligations, and services under this Order in a skillful and respectable manner. The quality of Seller's performance and all interim and final product(s) provided to or on behalf of Buyer shall be comparable to the best local and national standards.
- 19. SEVERANCE:** In the event a portion of this Order is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless Buyer or Seller elects to terminate this Order. An election to terminate this Order based upon this provision shall be made within seven (7) days of final court action, including all available appeals.
- 20. AMENDMENTS:** No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Order and executed by the Buyer and Seller or others delegated authority to or otherwise authorized to execute same on their behalf.
- 21. PRIOR ORDERS:** This document represents the final and complete understanding of the parties and incorporates or supersedes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein. The parties agree that there is no commitment, agreement, or understanding concerning the subject matter of this Order that is not contained in this written document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representation or agreement, whether oral or written.
- 22. PAYABLE INTEREST:** Payment of Interest. Buyer shall not be liable for interest for any reason, whether as prejudgment interest or for any other purpose, and in furtherance thereof Seller waives, rejects, disclaims and surrenders any and all entitlement it has or may have to receive interest in connection with a dispute or claim based on or related to this Order. Rate of Interest. In any instance where the prohibition or limitations of this Section are determined to be invalid or unenforceable, the annual rate of interest payable by Buyer under this Order, whether as prejudgment interest or for any other purpose, shall be .025 percent simple

interest (uncompounded).

**23. PUBLIC RECORDS:** Seller shall comply with all public records laws in accordance with Chapter 119, Fla. Stat. In accordance with state law, Seller agrees to:

- a. Keep and maintain all records that ordinarily and necessarily would be required by the Buyer.
- b. Provide the public with access to public records on the same terms and conditions that the Buyer would provide for the records and at a cost that does not exceed the costs provided in Chapter 119, Fla. Stat. or as otherwise provided by law.
- c. Ensure that public records that are exempt or confidential and exempt from public records disclosure are not disclosed except as authorized by law.
- d. Meet all requirements for retaining public records and transfer, at no cost, to the Buyer all records in possession of the Seller at the termination of the contract and destroy any public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the Buyer in a format that is compatible with the information technology systems of the Buyer. All records shall be transferred to the Buyer prior to final payment being made to the Seller.
- e. If Seller does not comply with this section, the Buyer shall enforce the contract provisions in accordance with the contract and may unilaterally cancel this contract in accordance with state law.

**24. INSPECTOR GENERAL:** Seller is aware that the Inspector General of Palm Beach County has the authority to investigate and audit matters relating to the negotiation and performance of this contract, and may demand and obtain records and testimony from Seller and its sub licensees and lower tier sub licensees. Seller understands and agrees that in addition to all other remedies and consequences provided by law, the failure of Seller or its sub licensee or lower tier sub licensees to fully cooperate with the Inspector General when requested may be deemed by the Buyer to be a material breach of this Order.