

AGREEMENT

THIS AGREEMENT is hereby made and entered into this ____ day of _____, by and between the City of Delray Beach, a Florida municipal corporation (“City”), whose address is 100 NW 1st Avenue, Delray Beach, Florida 33444, and 360 Energy Solutions, LLC, a Limited Liability Company, (hereafter referred to as “Contractor”), whose address is 8510 NW 68th Street, Miami, Fl 33166.

WHEREAS, the City of Delray Beach (“City”) is authorized to enter into agreements to provide services, programming, and products in accordance with its Charter; and

WHEREAS, the City requires generator maintenance, repair, and replacement services; and

WHEREAS, the City is a member of the Southeast Florida Governmental Purchasing Cooperative, a Cooperative formed in an effort to provide cost savings and cost avoidances to all entities by utilizing the buying power of combined requirements for common, basic items for its approximately 45 government entity members; and

WHEREAS, the City, operating as the lead agency for the benefit of the City and the Members of the Southeast Florida Governmental Purchasing Cooperative Group, issued Solicitation ITB 2026-010 for generator maintenance, repair, and replacement services; and

WHEREAS, the City desires to retain the services of the Contractor to provide generator maintenance, repair, and replacement services in accordance with the City’s Invitation to Bid No. ITB2026-010, and the Contractor’s response thereto, all of which are incorporated herein by reference.

NOW, THEREFORE, in consideration of the mutual covenants and promises hereafter set forth, the Contractor and the City agree as follows:

ARTICLE 1. INCORPORATION OF INVITATION TO BID

The terms and conditions of this Agreement shall include and incorporate the terms, conditions, and specifications set forth in the City’s Invitation to Bid No. 2026-010, and the Contractor’s response to the Invitation to Bid, including all documentation required thereunder.

ARTICLE 2. DESCRIPTION OF GOODS OR SCOPE OF SERVICES

The Contractor shall provide generator maintenance, repair, and replacement pursuant to the specifications accompanying the City’s Invitation to Bid, which are incorporated herein by reference.

ARTICLE 3. COMPENSATION

The City shall pay to the Contractor, in compliance with the Pricing Schedule attached hereto and incorporated herein, according to the terms and specifications of the referenced Invitation to Bid.

ARTICLE 4. MISCELLANEOUS PROVISIONS

a. Notice Format. All notices or other written communications required, contemplated, or permitted under this Agreement shall be in writing and shall be hand delivered, telecommunicated, or mailed by registered or certified mail (postage prepaid), return receipt requested, to the following addresses:

- i. As to the City: City of Delray Beach
100 N.W. 1st Avenue
Delray Beach, Florida 33444
Attn: City Manager
- ii. with a copy to: City of Delray Beach
200 N.W. 1st Avenue
Delray Beach, Florida 33444
Attn: City Attorney
- iii. As to the Contractor: 360 Energy Solutions, LLC
8510 NW 68th Street
Miami, FL 33166
Attn.: Antonio Noa
Email: tony.noa@360energysolutions.net

b. Headings. The headings contained in this Agreement are for convenience of reference only and shall not limit or otherwise affect in any way the meaning or interpretation of this Agreement.

c. Effective Date. The effective date of this Agreement shall be as of the date it has been executed by both the parties hereto.

ARTICLE 5. E-VERIFY

By entering into this Agreement, Contractor acknowledges its obligation to comply with the provisions of Section 448.095, Fla. Stat., "Employment Eligibility." Contractor affirms and represents it is registered with the E-Verify system, utilizing same, and will continue to utilize same as required by law. Compliance with this section includes, but is not limited to, utilization of the E-Verify System to verify the work authorization status of all newly hired employees and requiring all subcontractors to provide an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Failure to comply with this section will result in the termination of this Agreement, or if your subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than 20 calendar days after the date of termination. If terminated for a violation of the statute by Contractor, the Contractor may be prohibited from conducting future business with the City or awarded a solicitation or contract for

a period of 1 year after the date of termination. All costs incurred to initiate and sustain the aforementioned programs shall be the responsibility of the Contractor.

ARTICLE 6. DISCRIMINATORY VENDOR LIST

Pursuant to Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity. By execution of this Agreement, Contractor represents that it has not been placed on the discriminatory vendor list as provided in Section 287.134, Florida Statutes.

ARTICLE 7. SCRUTINIZED COMPANIES THAT BOYCOTT ISRAEL

Pursuant to Section 287.135, Contractor is ineligible to enter into, or renew, this Agreement if Contractor is on the Scrutinized Companies that Boycott Israel List (as identified in Section 215.4725, Florida Statutes), or is engaged in a boycott of Israel.

a. By entering into this Agreement, Contractor certifies that Contractor is not on the Scrutinized Companies that Boycott Israel List, and that Contractor is not engaged in a boycott of Israel.

b. Contractor shall notify the City if, at any time during the term of this Agreement, Contractor is placed on the Scrutinized Companies that Boycott Israel List, or that Contractor is engaged in a boycott of Israel. Such notification shall be in writing and provided by Contractor to the City within ten (10) days of the date of such occurrence.

c. In the event the City determines, using credible information available to the public, that Contractor has submitted a false certification or Contractor is found to have been placed on the Scrutinized Companies that Boycott Israel List or engaged in a boycott of Israel, the City may, in its sole discretion, terminate this Agreement and seek a civil penalty, and other damages and relief, against Contractor, pursuant to Section 287.135, Florida Statutes. In addition, the City may pursue any and all other legal remedies against Contractor.

d. Contractor shall not seek damages, fees, or costs against the City in the event the City terminates the Agreement pursuant to this provision.

ARTICLE 8. CONVICTED VENDOR LIST

By its execution of this Agreement, Contractor acknowledges that it has been informed by City of, and is in compliance with the terms of Section 287.133(2)(a) of the Florida Statutes which reads as follows:

"A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list."

ARTICLE 9. COMPLIANCE WITH ALL APPLICABLE LAW

The Contractor and its services under this Agreement must comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations including, without limitation, American with Disabilities Act, 42 U.S.C. § 12101, Section 504 of the Rehabilitation Act of 1973, and any related federal, state, or local laws, rules, and regulations. The Contractor agrees to provide to the City all necessary certifications required by any federal, state, and local laws, ordinances, codes, rules and regulations. The Contractor's obligations under this Section shall survive termination, cancellation or expiration of this Agreement.

ARTICLE 10. DISCLOSURE OF INTERESTS OF COUNTRY OF FOREIGN CONCERN

Pursuant to Fla. Stat. §286.101(3), where the amount of the Agreement is \$100,000.00 or more, Contractor shall disclose any current or prior interest of, any contract with, or any grant or gift received from a country of foreign concern with a value of \$50,000 or more that was received or in force during the previous five (5) years. Definitions, disclosure requirements and exceptions are found in Fla. Stat. §268.101. Contractor represents and warrants it has complied with Fla. Stat. §286 .101, it has properly disclosed such interests, contracts, grants or gifts to the City before execution of this Agreement, and it will remain in compliance with Fla. Stat. §286.101 for the duration of this Agreement.

ARTICLE 11. FOREIGN COUNTRY OF CONCERN AND PERSONAL IDENTIFYING INFORMATION

Section 287.138, Florida Statutes, prohibits the City from entering into a contract which would give access to an individual's personal identifying information with an entity with; a Controlling Interest (as that term is defined in sub-section 287.138(1)(a)), or full ownership, held by a Foreign Country of Concern (as that term is defined in sub-section 287.138(1)(c)), or with a principal place of business in a Foreign Country of Concern, unless the entity provides the City with an affidavit signed by an officer or representative of the entity under penalty of perjury attesting that the entity does not meet any of the criteria in paragraphs (2)(a)-(c) of the statute. Upon submitting its Work Order, Contractor shall certify compliance with section 287.138, Florida Statutes, by executing the Proposer Certification regarding Entities of Foreign Countries of Concern, which is included in Attachment 2. The City reserves the right to terminate any

agreement in which a CONTRACTOR provides a false certification or otherwise violates Section 287.138, Florida Statutes.

ARTICLE 12. COMPLIANCE WITH FLORIDA STATUTE §787.06(13)

Contractor has fully complied with Florida Statute §787.06(13) by providing an affidavit to the City signed by an officer or representative of Contractor under penalty of perjury that Contractor does not use coercion for labor or services as defined in that statute.

ARTICLE 13. CONTRACT TERM

The term of this Agreement shall remain in effect for a term of three (3) years and may be renewed for (2) two additional (1) one-year period(s), unless terminated earlier in accordance with terms set forth in the ITB.

[Remainder of this page is intentionally left blank]

IN WITNESS WHEREOF, the City and the Contractor executed this Agreement as of the day and year first above written.

ATTEST:

CITY OF DELRAY BEACH

Alexis Givings, City Clerk

By: _____
Thomas F. Carney, Jr. Mayor

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney

CONTRACTOR

By: _____

Print Name: _____

Title: _____

(SEAL)

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this ___ day of _____, 20__, by _____ (name of person), as _____ (type of authority) for _____ (name of party on behalf of whom instrument was executed).

Personally known ___ OR Produced Identification ___
Type of Identification Produced _____

Notary Public –State of _____

EXHIBIT "A"
PRICING SCHEDULE

PUBLIC WORKS

GROUP 1 – PREVENTIVE MAINTENANCE							
Line	Location	Address	Manufacturer	kW	Transfer Switch	Services	Total Cost Per Year
1	City Hall	100 NW 1st Ave	Kohler	125	Kohler	3 Quarterly	\$ <u>1,029.58</u>
						1 Annual	
2	City Hall - IT	150 NW 1st Ave	Kohler	200	Kohler	3 Quarterly	\$ <u>1,089.73</u>
						1 Annual	
3	Fire Station #1	501 W Atlantic Ave	Kohler	180	Kohler	3 Quarterly	\$ <u>900.88</u>
						1 Annual	
4	Fire Station #2	35 Andrews Ave	Winco	75	Manual	3 Quarterly	\$ <u>929.78</u>
						1 Annual	
5	Fire Station #3	651 Linton Blvd	Kohler	350	Kohler	3 Quarterly	\$ <u>1,232.94</u>
						1 Annual	
6	Fire Station #4	4321 Lake Ida Rd.	Kohler	125	Lakeshore Electric		\$ <u>901.00</u>
7	Fire Station #5	4000 Old Germantown Rd.	Generac	100	ASCO		\$ <u>882.34</u>
8	Police Department		Perkins				\$ <u>1,537.54</u>

		300 W. Atlantic Ave.			Thompson Technology	
9	Old School Square Parking Garage	95 NE 1st Ave.	Cummings	230	Kohler	\$ 1,170.58
ESTIMATED ANNUAL TOTAL (GROUP 1)						\$ 9,674.37

GROUP 2 – ADDITIONAL SERVICES					
Item	Description	Estimated Total Annual Hours		Hourly Rate	Estimated Annual
1	Technician – Standard Hours	200	x	\$ 125.00	= \$ 25,000.00
2	Technician – Non-Standard Hours	40	x	\$ 195.00	= \$ 7,800.00
ESTIMATED ANNUAL TOTAL (GROUP 2)					\$ 32,800.00

GROUP 3– MATERIAL & MARK-UP					
Item	Description	Estimated Total Annual		Mark-up /Mark down	Estimated Annual Total
1	Parts/Materials (actual cost + percentage of mark-up or mark-down on actual cost) <i>For example, if mark-up is 10%, the calculation should be \$200,000 + 10% = \$220,000</i>	\$20,000.00	+	10%	= \$ 22,000.00
ESTIMATED ANNUAL TOTAL (GROUP 3)					\$ 22,000.00

TOTAL ESTIMATED COST PER YEAR					
GROUP 1	+	GROUP 2	+	GROUP 3	= \$ 64,474.37

TOTAL ESTIMATED BID (CITY OF DELRAY BEACH – PUBLIC WORKS) \$ 64,474.37

UTILITES

GROUP 1 – PREVENTIVE MAINTENANCE							
Line	Location	Serial #	Manufacturer	kW	Transfer Switch	Services	Total Cost Per Year
1		CAT00C71JMRP00823	CAT	175kW		3 Quarterly	\$ <u>1040.15</u>
						1 Annual	
2		CAT00C71JMRP00877	CAT	175kW		3 Quarterly	\$ <u>1040.15</u>
						1 Annual	
3		CAT00C71JMRP08832	CAT	175kW		3 Quarterly	\$ <u>1040.15</u>
						1 Annual	
4		CAT00C71AMRP00768	CAT	175kW		3 Quarterly	\$ <u>1040.15</u>
						1 Annual	
5		CAT00C71TMRP00888	CAT	175kW		3 Quarterly	\$ <u>1040.15</u>
						1 Annual	
6		CAT00C71CMRP00887	CAT	175kW		3 Quarterly	\$ <u>1040.15</u>
						1 Annual	
7		CAT00C71EMRP00885	CAT	175kW		3 Quarterly	\$ <u>1040.15</u>
						1 Annual	
8		CAT00C71EMRP00807	CAT	175kW		3 Quarterly	\$ <u>1040.15</u>
						1 Annual	
9		CAT00C71VMRP08817	CAT	175kW		3 Quarterly	\$ <u>1040.15</u>
						1 Annual	
10		CAT00C71PMRP00875	CAT	175kW		3 Quarterly	\$ <u>1040.15</u>
						1 Annual	
11		CAT00C71LMRP00903	CAT	175kW		3 Quarterly	\$ <u>1040.15</u>

						1 Annual	
12		CAT00CTILMRP00853	CAT	175kW		3 Quarterly	\$ 1040.15
						1 Annual	
13		L309864	JCB	140kW		3 Quarterly	\$ 1071.33
						1 Annual	
14		L309863	JCB	140kW		3 Quarterly	\$ 1071.33
						1 Annual	
15		8673/1215	SWPQP	175kW		3 Quarterly	\$ 1009.38
						1 Annual	
16		8674/1215	SWPQP	175kW		3 Quarterly	\$ 1009.38
						1 Annual	
17		7526/1015	SWPQP	175kW		3 Quarterly	\$ 1009.38
						1 Annual	
17		8642/0617	SWPQP	175kW		3 Quarterly	\$ 1009.38
						1 Annual	
19		7445/0115	SWPQP	175kW		3 Quarterly	\$ 1009.38
						1 Annual	
20		L309161	TRITON	145kW		3 Quarterly	\$ 1003.61
						1 Annual	
21		L309164	TRITON	145kW		3 Quarterly	\$ 1003.61
						1 Annual	
22		L280275	TRITON	145kW		3 Quarterly	\$ 1003.61
						1 Annual	
23		84502120	JCB	225kW		3 Quarterly	\$ 1164.96
						1 Annual	

ESTIMATED ANNUAL TOTAL (GROUP 1)	\$ <u>24,887.31</u>
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GROUP 2 – ADDITIONAL SERVICES					
Item	Description	Estimated Total Annual Hours		Hourly Rate	Estimated Annual
1	Technician – Standard Hours	200	x	\$ <u>125.00</u>	= \$ <u>25,000.00</u>
2	Technician – Non-Standard Hours	40	x	\$ <u>195.00</u>	= \$ <u>7,800.00</u>
ESTIMATED ANNUAL TOTAL (GROUP 2)					\$ <u>32,800.00</u>

GROUP 3– MATERIAL & MARK-UP					
Item	Description	Estimated Total Annual		Mark-up /Mark down	Estimated Annual Total
1	Parts/Materials (actual cost + percentage of mark-up or mark-down on actual cost) <i>For example, if mark-up is 10%, the calculation should be \$200,000 + 10% = \$220,000</i>	\$20,000.00	+	<u>10%</u>	= \$ <u>22,000.00</u>
ESTIMATED ANNUAL TOTAL (GROUP 3)					\$ <u>22,000.00</u>

TOTAL ESTIMATED COST PER YEAR					
GROUP 1	+	GROUP 2	+	GROUP 3	= \$ <u>79,687.31</u>

TOTAL ESTIMATED BID (CITY OF DELRAY BEACH UTILITIES DEPARTMENT) \$ 79,687.31