

CONTRACTOR PRODUCTS AGREEMENT

THIS AGREEMENT is made by and between the City of Delray Beach, a Florida municipal corporation (hereinafter referred to as "City"), whose address is 100 NW 1st Avenue, Delray Beach, FL 33444 and CDW Government LLC, an Illinois Corporation, (hereinafter referred to as "Contractor"), authorized to do business in Florida, whose address is 230 N. Milwaukee Avenue, Vernon Hills, IL, this 27th day of March, 2018.

WHEREAS, the City desires to procure these items from Contractor, utilizing existing contract prices provided to National Joint Powers Alliance, pursuant to its solicitation number RFP #100614, for Technology solutions with related equipment and accessories; and

WHEREAS, in accordance with solicitation number RFP #100614, National Joint Powers Alliance, entered into a four (4) years agreement with CDW Government LLC for services effective December 1, 2014 through November 30, 2018, with the option to renew for an additional one (1) year; and

WHEREAS, the City desires to purchase goods from Contractor on the same terms, conditions, and pricing provided under solicitation number RFP #100614, subject to the terms and conditions of this Agreement, the City's Purchasing ordinance, and Florida law; and

WHEREAS, the Contractor agrees to extend the terms, conditions, and pricing of solicitation number RFP#100614 to the City, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration of which the parties hereto acknowledge, the parties agree as follows:

1. The above recitals are true and correct and are incorporated herein by reference.
2. The Contractor shall provide to the City in car video systems, related peripherals, and any other needed technology products specified in Contractors Quote, in accordance with and pursuant to the same terms, conditions, and pricing of National Joint Powers Alliance Contract #100614-CDW procured by the National Joint Powers Alliance. The terms and conditions of the National Joint Powers Alliance, Contract#: 100614-CDW ("NJPA Agreement") are hereby incorporated by reference into this Agreement, but only to the extent not otherwise superseded by the terms of this Agreement.
3. This Agreement is in full force and effect upon full execution by the City for a not-to-exceed amount of three hundred thousand and 00/100 Dollars (\$300,000) subject to the budget appropriations and availability of funds.
4. This Agreement shall terminate on November 30, 2018.

5. The City, at its sole discretion, reserves the right to terminate this Agreement with or without cause upon providing 30 (thirty) day written notice to Contractor. Upon receipt of such notice, the Contractor shall not incur any additional costs under the Agreement. The City shall be liable only - costs incurred by Contractor prior to the date of the notice of termination.

6. Contractor 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 City, 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, Contractor, 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 proceeding is brought against City by reason of any such claim, cause of action, or demand, Contractor shall, upon written notice from City, resist and defend such lawsuit or proceeding. The obligations of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the Contract Administrator and the City Attorney, any disputed amounts due Contractor under this Agreement may be retained by City until all of 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. Nothing set forth herein above shall constitute an agreement by Contractor to indemnify the City, its officers, agents, and employees for its/their willful or negligent acts or omissions.

7. Whenever either Party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail, postage prepaid, return receipt requested, or sent by commercial express carrier with acknowledgement of delivery, or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the Parties designate the following:

For CITY:
City of Delray Beach
100 N.W. 1st Avenue
Delray Beach, Florida 33444
Attn: City Manager

WITH COPY TO:
City of Delray Beach
100 N.W. 1st Avenue
Delray Beach, Florida 33444
Attn: City Attorney

For CONTRACTOR:
CDW Government, LLC
230 N. Milwaukee Avenue,
Vernon Hills, IL Attn: General Counsel

With a copy to:
2 Corporate Drive, Suite 800
Shelton, CT 06484
Attn: Program Sales

8. Neither this Agreement nor any right or interest herein shall be assigned, transferred, or encumbered without the written consent of the other Party.

9. This Agreement shall be construed in accordance with the City of Delray Beach's Code of Ordinances and the laws of the State of Florida. Any dispute relating to this Agreement shall only be filed in a court of competent jurisdiction in Palm Beach County, Florida, and each of the parties to this Agreement submits itself to the jurisdiction of such court.

10. IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT CITY OF DELRAY BEACH, CITY CLERK, 100 N.W. 1ST AVE., DELRAY BEACH FLORIDA. THE CITY CLERK'S OFFICE MAY BE CONTACTED BY PHONE AT 561-243-7050 OR VIA EMAIL AT

CITYCLERK@MYDELRAYBEACH.COM.

a. Contractor shall comply with public records laws, specifically to:

- i. Keep and maintain public records required by the City to perform the service.
- ii. Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Florida Statute or as otherwise provided by law.
- iii. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the Contractor does not transfer the records to the City.
- iv. Upon completion of the Agreement, transfer, at no cost, to the City all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all

public records to the City upon completion of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

- v. If the Contractor does not comply with this section, the City shall enforce the contract provisions in accordance with the contract and may unilaterally cancel this contract in accordance with state law.

11. Contractor 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 Contractor and its subcontractors and lower tier subcontractors. Contractor understands and agrees that in addition to all other remedies and consequences provided by law, the failure of Contractor or its subcontractors and lower tier subcontractors to fully cooperate with the Inspector General when requested may be deemed by the City to be a material breach of this Agreement justifying its termination.

12. The continuation of this Agreement beyond the end of any fiscal year shall be subject to both the appropriation and the availability of funds in accordance with Florida law.

13. The documents listed below are a part of this Agreement and are hereby incorporated by reference. In the event of inconsistency between the documents, unless otherwise provided herein, the terms of the following documents will govern in the following order of precedence:

- a. Terms and conditions as contained in this Agreement.
- b. Terms and Conditions of National Joint Powers Alliance Contract number 100614-CDW.

[Remainder of page 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

Katerri Johnson, City Clerk

By: _____
Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

R. Max Lohman, City Attorney

CDW GOVERNMENT LLC

By: Tara K. Barbieri

Print Name: Tara K. Barbieri
Title: Director, Capture

Title: _____

(SEAL)

STATE OF Connecticut

COUNTY OF Fairfield

The foregoing instrument was acknowledged before me this 27 day of March, 2018, by Tara Barbieri as Director, Capture (name of officer or agent, title of officer or agent), of CDW (name of corporation acknowledging), a Illinois (state or place of incorporation) corporation, on behalf of the corporation. He / ~~She~~ is personally known to me or has produced _____ (type of identification) as identification.

Jill A. Guip
Notary Public - State of <state>

Revised
by
JT