

**AGREEMENT FOR GOODS AND SERVICES  
(138kV Switches)**

**THIS AGREEMENT** ("Agreement") is made this \_\_\_\_\_ day, between the **City of Lake Worth Beach**, a Florida municipal corporation ("CITY"), with its office located at 7 North Dixie Highway, Lake Worth Beach, Florida 33460, and **Southern States LLC** with its principal office located at 30 Georgia Ave, GA. 30228, ("CONTRACTOR").

**RECITALS**

WHEREAS, the CITY is a municipal corporation organized and existing pursuant to the Charter and the Constitution of the State of Florida; and

WHEREAS, the CITY issued Invitation for Bid #22-101 for 138kV Switches ("IFB"), which IFB is not attached but incorporated by the reference into this Agreement; and

WHEREAS, the City received four (4) responses to the IFB; and

WHEREAS, the CONTRACTOR was found to be the lowest, responsive and responsible bidder and was recommended for the award; and

WHEREAS, the CITY desires to accept the CONTRACTOR's bid prices in order for CONTRACTOR to provide the goods and services to the CITY as set forth herein pursuant to the terms and conditions of this Agreement; and

WHEREAS, the CONTRACTOR further warrants that it is experienced and capable of performing the tasks hereunder in a professional and competent manner; and

WHEREAS, the CITY finds entering this Agreement with the CONTRACTOR as described herein serves a valid public purpose.

NOW THEREFORE, the CITY hereby engages the CONTRACTOR, and in consideration of the mutual promises herein contained, the sufficiency of which is hereby acknowledged by both parties, the parties agree as follows:

**1. TERM**

1.1 The term shall commence upon the approval of this Agreement by the City Commission. The CONTRACTOR agrees to provide all goods and services required under this Agreement for the period of up to three (3) consecutive years for the delivery of the 138kV Switches as further described in the IFB. The City reserves the right if agreed to with CONTRACTOR to renew this Agreement for two (2) additional one (1) year periods dependent on annual appropriation of the funds by the City Commission. During the renewal option(s), the CITY may utilize this Agreement to purchase additional 138kV Switches. The CONTRACTOR agrees to provide all goods and services required under this Agreement as per the terms and timelines provided in the IFB.

## **2. SCOPE OF SERVICES/WORK**

2.1 The scope of services/work (specifications) set forth in the IFB details the supply and delivery of 138kV Switches City of Lake Worth Beach. All goods shall be delivered in accordance with this Agreement and the IFB. Quantities of the materials are indicated in the IFB (including the IFB's "Scope of Services/Work") and shall be used for the furnishing and delivery of 138kV Switches. The CITY may request additional units and modifications to additional units the CITY desires to purchase and the CITY will seek a proposal from the CONTRACTOR based on such modifications.

2.2 The CONTRACTOR represents to the CITY that all goods provided and services performed under this Agreement shall be in accordance with accepted and established trade practices and procedures recognized in the CONTRACTOR's trade in general and that the materials shall conform to the highest standards and in accordance with this Agreement.

2.3 The CONTRACTOR represents that it is licensed to do business in the State of Florida and holds and will maintain all applicable licenses required for the goods and services to be completed under this Agreement. The CONTRACTOR further warrants its capability and experience to perform the services provided for herein in a professional and competent manner.

2.4 The services shall be performed by the CONTRACTOR or under its supervision and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under the state and local law to perform such services. All of the CONTRACTOR's personnel (and all subcontractors), while on CITY premises, shall comply with all CITY requirements governing safety, conduct and security.

2.5 The goods shall be provided and the services shall be completed in accordance with the terms and conditions set forth in this Agreement.

## **3. INDEPENDENT CONTRACTOR; USE OF AGENTS OR ASSISTANTS**

3.1 The CONTRACTOR is and shall be, in the performance of the services under this Agreement, an independent contractor, and not an employee, agent, or servant of the CITY. All persons engaged in any of the services performed pursuant to this Agreement shall at all times, and in all places, be subject to the CONTRACTOR's sole direction, supervision, and control. The CONTRACTOR shall exercise control over the means and manner in which it and its employees perform the services.

3.2 To the extent reasonably necessary to enable the CONTRACTOR to perform the scope of services/work, the CONTRACTOR shall be authorized to engage the services of any agents or assistants which it may deem proper, and may further employ, engage, or retain the services of such other persons or corporations to aid or assist in the proper performance of its duties. All costs of the services of, or expenses incurred by, such agents or assistants shall be paid by the CONTRACTOR.

## **4. MATERIALS**

4.1 The CONTRACTOR shall provide all materials as more specifically set forth in the Scope of Services/Work or as reasonably necessary to accomplish the services unless otherwise specified in writing by the CITY.

## **5. FEE AND ORDERING MECHANISM**

5.1 The CITY shall utilize a City Purchase Order for the ordering of the 138kV Switches under this Agreement; however, the terms and conditions of the City Purchase Order shall not apply.

5.2 Should the CITY require additional 138kV Switches, the CITY and CONTRACTOR will prepare and execute a written amendment to this Agreement setting forth the additional materials and/or services and the total cost for the same prior to any such additional materials or services being provided by the CONTRACTOR.

5.3 CONTRACTOR shall not exceed amounts expressed in any CITY issued Purchase Order or amendment to this Agreement for the purchase of the 138kV Switches. The CITY's Fiscal Year ends on September 30th of each calendar year. Except for purchases authorized in a prior fiscal year and fully appropriated and funded, the CITY cannot authorize the purchase of additional goods or services beyond September 30th of each calendar year, prior to the annual budget being approved by the CITY's City Commission.

## **6. MAXIMUM COSTS**

6.1 The CITY shall compensate the CONTRACTOR in accordance with the CONTRACTOR's bid prices, which are attached hereto as **Exhibit "A"**. The total cost to be paid by the CITY to the CONTRACTOR for the 138kV Switches shall not exceed \$403,097 (Four Hundred Three Thousand Ninety-Seven Dollars). If the CITY purchases any additional unit(s) from the CONTRACTOR, the not to exceed amount for those additional units shall be by an amendment(s) to this Agreement.

## **7. INVOICE**

7.1 The CONTRACTOR shall submit an itemized invoice to the CITY upon delivery and final acceptance of the 138kV Switches unit(s). Final acceptance occurs when all goods and services have been provided and completed by the CONTRACTOR and accepted by the CITY. The CONTRACTOR shall be paid by the CITY within thirty (30) days of receipt of an approved invoice for all goods and services for the 138kV Switches unit(s). Invoicing for additional units shall be addressed for each additional unit(s) in the amendment to this Agreement.

7.2 If the CITY disputes any invoice or part of an invoice, CITY shall notify the CONTRACTOR within a reasonable time after receipt of the invoice. CITY reserves the right to off-set, reduce or withhold any payment to the CONTRACTOR until the dispute is resolved.

**8. AUDIT BY CITY**

8.1 The CONTRACTOR shall permit the CITY, or any authorized representatives of the CITY, at all reasonable times, access to and the right to examine all records, books, papers or documents related to the CONTRACTOR's performance under this Agreement including, but not limited to, expenses for sub-contractors, agents or assistants, direct and indirect charges for services performed and detailed documentation for all such services performed or to be performed under this Agreement.

**9. COPIES OF DATA/DOCUMENTS**

9.1 Copies or original documents prepared by the CONTRACTOR in relation to services associated with this Agreement shall be provided to the CITY. Data collected, stored, and/or provided shall be in a form acceptable to the CITY and agreed upon by the CITY.

**10. OWNERSHIP**

10.1 Each and every report, draft, work product, map, record, and other document reproduced, prepared, or caused to be prepared by the CONTRACTOR pursuant to or in connection with this Agreement shall be the exclusive property of the CITY.

**11. WRITTEN AUTHORIZATION REQUIRED**

11.1 The CONTRACTOR shall not make changes in the Scope of Services/Work or good or services to be provided or perform any additional services or provide any additional goods under this Agreement without first obtaining written authorization from the CITY for such additional services or goods. Additional services or goods provided without written authorization shall be done at the CONTRACTOR's sole risk and without payment from the CITY.

**12. DEFAULTS, TERMINATION OF AGREEMENT**

12.1 If the CONTRACTOR fails to timely provide the goods and/or perform the services or has failed in any other respect to satisfactorily perform in accordance with this Agreement; or, is in material breach of a term or condition of this Agreement, the City Manager or designee may give written notice to the CONTRACTOR specifying the default(s) to be remedied. Such notice shall set forth a reasonable timeframe for correcting the default(s) and any suggested corrective measures. If the CONTRACTOR does not remedy the default(s) within the timeframe provided in the CITY's notice or commence good faith steps to remedy the default to the reasonable satisfaction of the CITY, the CITY may take such action to remedy the default and all expenses related thereto shall be borne by the CONTRACTOR including, without limitation, utilization of another contractor to provide for such services and all of the CITY's legal fees; and/or, the CITY may withhold any money due or which may become due to the CONTRACTOR

for such expense and/or services related to the claimed default. Alternatively, or in addition to the foregoing, if after ten (10) business days the CONTRACTOR has not remedied defaults or commenced good faith steps to remedy defaults to the satisfaction of the CITY, the CITY may elect to terminate this Agreement. No cancellation fee or other compensation shall be paid by the CITY for de-mobilization, take-down, disengagement, wind-down, lost profits, or other costs incurred due to termination of this Agreement under this paragraph.

12.2 Notwithstanding paragraph 12.1, the CITY reserves the right and may elect to terminate this Agreement at any time, with or without cause. At such time, the CONTRACTOR would be compensated only for the goods and/or services which have been satisfactorily completed to the date of termination. No compensation shall be paid for de-mobilization, take-down, disengagement, wind-down, lost profits, or other costs incurred due to termination of this Agreement under this paragraph.

12.3 If the CITY fails to timely perform in accordance with this Agreement; or, is in material breach of a term or condition of this Agreement, the CONTRACTOR may give written notice to the CITY specifying the default(s) to be remedied. Such notice shall set forth a reasonable timeframe for correcting the default(s) and any suggested corrective measures. If the CITY does not remedy the default(s) within the timeframe provided in the CONTRACTOR's notice or commence good faith steps to remedy the default to the reasonable satisfaction of the CONTRACTOR, the CONTRACTOR may take such action to remedy the default and all expenses related thereto shall be borne by the CITY; and/or, the CONTRACTOR may withhold any services. Alternatively, or in addition to the foregoing, if after three (3) business days the CITY has not remedied defaults or commenced good faith steps to remedy defaults to the satisfaction of the CONTRACTOR, the CONTRACTOR may elect to terminate this Agreement.

### **13. INSURANCE**

13.1. Prior to commencing any services, the CONTRACTOR shall provide certificates evidencing insurance coverage as required hereunder. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The Certificates shall clearly indicate that the CONTRACTOR has obtained insurance of the type, amount, and classification as required for strict compliance with this Section and that no material change or cancellation of the insurance shall be effective without thirty (30) days' prior written notice to the CITY. Failure to comply with the foregoing requirements shall not relieve the CONTRACTOR of its liability and obligations under this Contract. All insurance, other than Workers' Compensation, required hereunder shall specifically include the "City of Lake Worth Beach" as an "Additional Insured" on a primary, non-contributing basis, and the CONTRACTOR shall provide additional insured endorsements section of Certificates of Insurance.

13.2. The CONTRACTOR shall maintain, during the life of this Contract, commercial general liability, including contractual liability insurance in the amount of \$1,000,000 per occurrence (\$2,000,000 aggregate) to protect the CONTRACTOR from claims for

damages for bodily and personal injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this Contract, whether such operations be by the CONTRACTOR or by anyone directly employed by or contracting with the CONTRACTOR.

13.3. The CONTRACTOR shall maintain, during the life of this Contract, comprehensive automobile liability insurance in the minimum amount of \$1,000,000 combined single limit for bodily injury and property damages liability to protect the CONTRACTOR from claims for damages for bodily and personal injury, including death, as well as from claims for property damage, which may arise from the ownership, use, or maintenance of owned and non-owned automobiles, including rented automobiles whether such operations be by the CONTRACTOR or by anyone directly or indirectly employed by the CONTRACTOR.

13.4. The CONTRACTOR shall maintain, during the life of this Contract, Workers' Compensation Insurance and Employer's Liability Insurance for all employees as required by Florida Statutes.

#### **14. WAIVER OF BREACH**

14.1 The waiver by either party of any breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach of that same or any other provision.

#### **15. INDEMNITY**

15.1 The CONTRACTOR shall indemnify, defend and hold harmless, to the maximum extent permitted by law, the CITY and its officers, agents, employees and representatives, from and against any and all liability, suit, actions, proceedings, judgments, claims, losses, liens, damages, injuries (whether in contract or in tort, including personal injury, accidental death, patent infringement or property damage, and regardless, of whether the allegations are false, fraudulent or groundless), costs and expenses (including attorney's fees, litigation, arbitration, mediation, appeal expenses) to the extent arising out of or alleged to have arisen out of the acts, omissions or neglect of the CONTRACTOR or any of its agents, employees, subcontractors or by anyone the CONTRACTOR directly or indirectly employed.

15.2 The CONTRACTOR's obligation to indemnify, defend and hold harmless shall remain in effect and shall be binding upon the CONTRACTOR whether such injury or damage shall accrue, or may be discovered, before or after termination of this Agreement.

15.3 Compliance with any insurance requirements required elsewhere in this Agreement shall not relieve CONTRACTOR of its liability and obligation to defend, hold harmless and indemnify the CITY as set forth in this section.

15.4 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the CITY or CONTRACTOR. Further, nothing contained in this Agreement shall be construed or interpreted as consent by the CITY to be sued, nor as a waiver of sovereign immunity beyond the waiver provided in section 768.28, Florida Statutes, as amended from time to time.

15.5 The CONTRACTOR's failure to comply with this section's provisions shall constitute a material breach upon which the CITY may immediately terminate or suspend this Agreement.

## **16. ENTIRE AGREEMENT AND ORDER OF PRECEDENCE**

16.1 This Agreement consists of the terms and conditions provided herein; the IFB (including all specifications, exhibits and addenda attached thereto or referenced therein); and, the CONTRACTOR's bid prices (Exhibit "A"). To the extent that there exists a conflict between this Agreement and the remaining documents, the terms, conditions, covenants, and/or provisions of this Agreement shall prevail with the IFB (including all specifications, exhibits and addenda attached thereto) next taking precedence; however, the CONTRACTOR's bid prices (Exhibit "A") shall take precedence over the IFB. Wherever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents.

16.2 This Agreement supersedes any and all other Agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof, and no other Agreement, statement, or promise relating to the subject matter of this Agreement which is not contained herein shall be valid or binding. This Agreement may be executed electronically.

## **17. ASSIGNMENT**

17.1 Nothing under this Agreement shall be construed to give any rights or benefits to any party other than the CITY and the CONTRACTOR. All duties and responsibilities under this Agreement shall be for the sole and exclusive benefit of the CITY and the CONTRACTOR and not for the benefit of any other party. The CONTRACTOR shall not assign any right or interest in this Agreement, and shall not delegate any duty owned, without the CITY's prior written consent. Any attempted assignment or delegation shall be void and totally ineffective for all purposes and shall constitute a material breach upon which the CITY may immediately terminate or suspend this Agreement.

17.2 In the event the CITY consents to an assignment or delegation, the assignee, delegate, or its legal representative shall agree in writing to personally assume, perform, and be bound by this Agreement's covenants, conditions, obligations and provisions.

## **18. SUCCESSORS AND ASSIGNS**

18.1 Subject to the provision regarding assignment, this Agreement shall be binding on the heirs, executors, administrators, successors, and assigns of the respective parties.

**19. WAIVER OF TRIAL BY JURY**

19.1 TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT.

**20. GOVERNING LAW AND REMEDIES**

20.1 The validity of this Agreement and of any of its terms or provisions, as well as the rights and duties of the parties hereunder, shall be governed by the laws of the State of Florida and venue shall be in Palm Beach County, Florida.

20.2 No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

**21. TIME IS OF THE ESSENCE**

21.1 Time is of the essence in the completion of the Scope of Services/Work as specified herein.

**22. NOTICES**

22.1 All notices hereunder must be in writing and, unless otherwise provided herein, shall be deemed validly given on the date when personally delivered to the address indicated below; or on the third (3<sup>rd</sup>) business day following deposit, postage prepaid, using certified mail, return receipt requested, in any U.S. postal mailbox or at any U.S. Post Office; or when sent via nationally recognized overnight courier to the address indicated below. Should the CITY or the CONTRACTOR have a change of address, the other party shall immediately be notified in writing of such change, provided, however, that each address for notice must include a street address and not merely a post office box. All notices, demands or requests from the CONTRACTOR to the CITY shall be given to the CITY address as follows:

City Manager  
City of Lake Worth Beach  
7 North Dixie Highway  
Lake Worth Beach, Florida 33460

All notices, demands or requests from the CITY to the CONTRACTOR shall be given to the CONTRACTOR address as follows:



Southern States, LLC  
Attn: Even Bruce  
30 Georgia Ave  
GA, 30228

## **23. SEVERABILITY**

23.1 Should any part, term or provision of this Agreement or any document required herein to be executed be declared invalid, void or unenforceable, all remaining parts, terms and provisions hereof shall remain in full force and effect and shall in no way be invalidated, impaired or affected thereby.

## **24. DELAYS AND FORCES OF NATURE**

24.1 The CONTRACTOR shall not be considered in default by reason of a delay in timely performance if such delay and failure arises out of causes reasonably beyond the control of the CONTRACTOR or its subcontractors and without their fault or negligence. Upon the CONTRACTOR's request, the CITY shall consider the facts and extent of any such delay and failure to timely perform the services for reason beyond the control of the CONTRACTOR and, if the CONTRACTOR's delay and failure to timely perform was without it or its subcontractors' fault or negligence, as determined by the CITY in its sole discretion, the time of completion shall be extended for any reasonable time that the CITY, in its sole discretion, may decide; subject to the CITY'S rights to change, terminate, or stop any or all of the services at any time. If the CONTRACTOR is delayed at any time in the progress of the services by any act or neglect of the CITY or its employees, or by any other contractor employed by the CITY, or by changes ordered by the CITY or in an unusual delay in transportation, unavoidable casualties, or any causes beyond the CONTRACTOR'S control, or by delay authorized by the CITY pending negotiation or by any cause which the CITY, in its sole discretion, shall decide justifies the delay, then the time of completion shall be extended for any reasonable time the CITY, in its sole discretion, may decide. No extension of time shall be made for any delay occurring more than five (5) days before a claim therefore is made in writing to the CITY. In the case of continuing cause of delay, only one (1) claim is necessary. The CONTRACTOR's sole remedy for a delay in completion of the services for any reason will be an extension of time to complete the services and CONTRACTOR specifically waives any right to seek any monetary damages or losses for a delay in completion of the services, including, but not limited to, waiving any right to seek monetary amounts for lost profits, additional overhead, salaries, lost productivity, efficiency losses, or any other alleged monetary losses which may be allegedly suffered by CONTRACTOR due to a delay in completion of the services.

24.2 Neither party shall be considered in default in the performance of its obligations hereunder or any of them, if such obligations were prevented or delayed by any cause, existing or future beyond the reasonable control of such party which include but are not limited to acts of God, labor disputes or civil unrest.

## **25. COUNTERPARTS**

25.1 This Agreement may be executed in counterparts, each of which shall be an original, but all of which shall constitute one and the same document. Each of the parties shall sign a sufficient number of counterparts, so that each party will receive a fully executed original of this Agreement.

## **26. LIMITATIONS OF LIABILITY**

26.1 Notwithstanding anything to the contrary in this Agreement, under no circumstances, whether based on contract, indemnity, warranty, tort (including negligence), strict liability or otherwise, shall either party be liable to the other for any consequential, incidental, special, punitive, or any other form of indirect or non-compensatory damages.

26.2 In no event shall CONTRACTOR's aggregate liability hereunder exceed the greater of \$1,000,000.00 or the total of City issued Purchase Orders under this Agreement; provided that, the foregoing limitation of liability shall exclude any liability out of any acts of gross negligence or willful misconduct (including omissions) or any insured losses (up to the insurance limits required herein).

## **27. PUBLIC ENTITY CRIMES**

27.1 CONTRACTOR acknowledges and agrees that 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 services; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform services as a contractor, supplier or sub-contractor under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list. CONTRACTOR will advise the CITY immediately if it becomes aware of any violation of this statute.

## **28. PREPARATION**

28.1 This Agreement shall not be construed more strongly against either party regardless of who was more responsible for its preparation.

## **29. PALM BEACH COUNTY INSPECTOR GENERAL**

29.1 In accordance with Palm Beach County ordinance number 2011-009, the CONTRACTOR acknowledges that this Agreement may be subject to investigation and/or

audit by the Palm Beach County Inspector General. The CONTRACTOR has reviewed Palm Beach County ordinance number 2011-009 and is aware of its rights and/or obligations under such ordinance.

### **30. ENFORCEMENT COSTS**

30.1 All parties shall be responsible for their own attorneys' fees, court costs and expenses if any legal action or other proceeding is brought for any dispute, disagreement, or issue of construction or interpretation arising hereunder whether relating to the Contract's execution, validity, the obligations provided therein, or performance of this Contract, or because of an alleged breach, default or misrepresentation in connection with any provisions of this Contract.

### **31. PUBLIC RECORDS**

CONTRACTOR shall comply with Florida's Public Records Laws, Chapter 119, Florida Statutes, and, if it is acting on behalf of the CITY as provided under section 119.011(2), the CONTRACTOR specifically agrees to:

- (a) Keep and maintain public records required by the CITY to perform the services under this Agreement.
- (b) 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 this Chapter 119, Florida Statutes, or as otherwise provided by law.
- (c) Ensure that said 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.
- (d) Upon the 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 services. 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.

**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 CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (561) 586-1660, CITYCLERK@LAKEWORTHBEACHFL.GOV, OR 7 NORTH DIXIE HIGHWAY, LAKE WORTH BEACH, FLORIDA 33460.**

**32. COPYRIGHTS AND/OR PATENT RIGHTS**

32.1 CONTRACTOR warrants that there has been no violation of copyrights and/or patent rights in the manufacturing, producing or selling of the goods, shipped or ordered, as a result of this Agreement and the CONTRACTOR agrees to hold the City harmless from any and all liability, loss, or expense occasioned by any such violation.

**33. COMPLIANCE WITH OCCUPATIONAL SAFETY AND HEALTH**

33.1 CONTRACTOR certifies that all material, equipment, etc., contained in this bid meets all OSHA requirements. CONTRACTOR further certifies that, if the material, equipment, etc., delivered is subsequently found to be deficient in any OSHA requirements in effect on date of delivery, all costs necessary to bring the material, equipment, etc. into compliance with the aforementioned requirements shall be borne by the CONTRACTOR.

**34. FEDERAL AND STATE TAX**

34.1 The CITY is exempt from Federal Tax and State Tax for Tangible Personal Property. The Procurement Official will provide the CONTRACTOR with a signed exemption certificate submitted by the CONTRACTOR. CONTRACTOR shall not be exempted from paying sales tax to their suppliers for materials to fulfill contractual obligations with the CITY, nor shall CONTRACTOR be authorized to use the City's Tax Exemption Number in securing such materials.

**35. PROTECTION OF PROPERTY**

35.1 The CONTRACTOR shall at all times guard against damage or loss to the property of the CITY or of other vendors or contractors and shall be held responsible for replacing or repairing any such loss or damage. The CITY may withhold payment or make such deductions as deemed necessary to insure reimbursement or replacement for loss or damage to property through negligence of the successful CONTRACTOR or its agents. The CONTRACTOR shall be responsible to safeguard all of their property such as tools and equipment while on site. The CITY will not be held responsible for any loss of CONTRACTOR property due to theft or vandalism.

**36. DAMAGE TO PERSONS OR PROPERTY**

36.1 The responsibility for all damage to person or property arising out of or on account of services done under this Contract shall rest upon the CONTRACTOR, and he/she shall

save the CITY and political unit thereof harmless from all claims made on account of such damages.

### **37. WARRANTY**

37.1 CONTRACTOR warrants and guarantees to the CITY that goods provided and services performed under this Agreement shall be in accordance with the Agreement and the other documents specifically included in this Agreement. CONTRACTOR warrants that all goods, materials, and parts supplied under this Agreement shall be free from defects for a minimum of 18 months from the final acceptance of the services. CONTRACTOR guarantees that all services performed under this Agreement will be free from defects for a minimum of 18 months from the final acceptance of the services. CONTRACTOR shall provide to the CITY any and all manufacturers' warranties for the goods and services being provided under this Agreement. CONTRACTOR agrees to pay for all transportation and handling costs of returning any equipment or the unit(s), if required, for repair or replacement. If a unit(s) must be returned, CONTRACTOR, shall provide a replacement unit(s) for the duration.

### **38. SCRUTINIZED COMPANIES**

38.1 Contractor certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List and are not engaged in the boycott of Israel. Pursuant to section 287.135, Florida Statutes, the City may immediately terminate this Agreement at its sole option if the Contractor or any of its subcontractors are found to have submitted a false certification; or if the Contractor or any of its subcontractors, are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of this Agreement.

38.2 If this Agreement is for one million dollars or more, the Contractor certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged in business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes. Pursuant to Section 287.135, the City may immediately terminate this Agreement at its sole option if the Contractor, or any of its subcontractors are found to have submitted a false certification; or if the Contractor or any of its subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or are or have been engaged with business operations in Cuba or Syria during the term of this Agreement.

38.3 The Contractor agrees to observe the above requirements for applicable subcontracts entered into for the performance of services under this Agreement.

38.4 The Contractor agrees that the certifications in this section shall be effective and relied upon by the City for the term of this Agreement, including any and all renewals.

38.5 The Contractor agrees that if it or any of its subcontractors' status changes in regards to any certification herein, the Contractor shall immediately notify the City of the same.

38.6 As provided in Subsection 287.135(8), Florida Statutes, if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

**39. E-VERIFY**

Pursuant to Section 448.095(2), Florida Statutes, beginning on January 1, 2021, CONTRACTOR shall:

39.1 Register with and use the E-Verify system to verify the work authorization status of all newly hired employees and require all subcontractors (providing services or receiving funding under this Agreement) to register with and use the E-Verify system to verify the work authorization status of all the subcontractors' newly hired employees;

39.2 Secure an affidavit from all subcontractors (providing services or receiving funding under this Agreement) stating that the subcontractor does not employ, contract with, or subcontract with an "unauthorized alien" as defined in Section 448.095(1)(k), Florida Statutes;

39.3 Maintain copies of all subcontractor affidavits for the duration of this Agreement and provide the same to the City upon request;

39.4 Comply fully, and ensure all of its subcontractors comply fully, with Section 448.095, Florida Statutes;

39.5 Be aware that a violation of Section 448.09, Florida Statutes (Unauthorized aliens; employment prohibited) shall be grounds for termination of this Agreement; and,

39.6 Be aware that if the City terminates this Agreement under Section 448.095(2)(c), Florida Statutes, CONTRACTOR may not be awarded a contract for at least one (1) year after the date on which the Agreement is terminated and will be liable for any additional costs incurred by the City as a result of the termination of the Agreement.

**40. SURVIVABILITY**

40.1 Any provision of this Agreement which is of a continuing nature or imposes an obligation which extends beyond the term of this Agreement shall survive its expiration or earlier termination.

**REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK**  
**SIGNATURE PAGE FOLLOWS**

IN WITNESS WHEREOF the parties hereto have made and executed this Agreement for Goods and Services (138kV Switches) on the day and year first above written.

**CITY OF LAKE WORTH BEACH, FLORIDA**

By: \_\_\_\_\_  
Betty Resch, Mayor

ATTEST:

By: \_\_\_\_\_  
Melissa Ann Coyne, City Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL  
SUFFICIENCY

By: \_\_\_\_\_  
Glen J. Torcivia, City Attorney

By: \_\_\_\_\_  
Bruce T. Miller, Financial Services Director

CONTRACTOR: **Southern States LLC**

By: Evan Bruce

[Corporate Seal]

Print Name: Evan Bruce

Title: Sr. Account Manager

STATE OF Georgia )  
COUNTY OF Henry )

THE FOREGOING instrument was acknowledged before me by means of • physical presence or • online notarization on this 17<sup>th</sup> day of December 2021, by Evan Bruce, as the Sr. Account Manager **Southern States LLC**, who is personally known to me or who has produced \_\_\_\_\_ as identification, and who did take an oath that he or she is duly authorized to execute the foregoing instrument and bind the CONTRACTOR to the same.



Susan H. Brown  
Notary Public Signature

Susan H Brown  
Notary Public, Henry County, Georgia  
My Commission Expires 05/18/2023

**Exhibit "A"**  
**Contractor's Bid Prices**

**(B4 – 1 of 3)**

**IFB#22-101 138kV SWITCHES**

**SCHEDULE OF UNIT PRICES**

In order to evaluate the total bid amount, each Bidder must identify the unit prices for the materials set forth in the Scope of Services. The quantities below are estimated quantities. City does not guarantee a minimum order and reserves the right to adjust these quantities as considered in the best interest of the City. Prices shall be delivered FOB destination, City of Lake Worth Beach. The Bidder shall maintain fixed pricing for the initial period of the contract. The cannot guarantee minimum or estimated annual quantities. The City will not accept bids that have no shipping prices included in their unit price. The bidder acknowledges that no additional cost increase will be made for adjustments in the quantities.

Unit firm price as specified, (F.O.B. destination, freight allowed and prepaid):

Description	Qty	Unit Price	Total
138kV, 2000A 3-pole, group operated, motor, horizontally mounted, vertical load break disconnect switch, with insulators, with LLS-11 Vacuum bottles	2	43,136	86,272
138kV, 2000A 3-pole, group operated, manual, vertically mounted, center break disconnect switch, with insulators	10	10,735	107,350
138kV, 2000A 3-pole, group operated, manual, horizontally mounted, vertical break disconnect switch, with insulators	10	11,534	115,340
138kV, 2000A 3-pole, group operated, motor, horizontally mounted, vertical break disconnect switch, with insulators	5	18,827	94,135

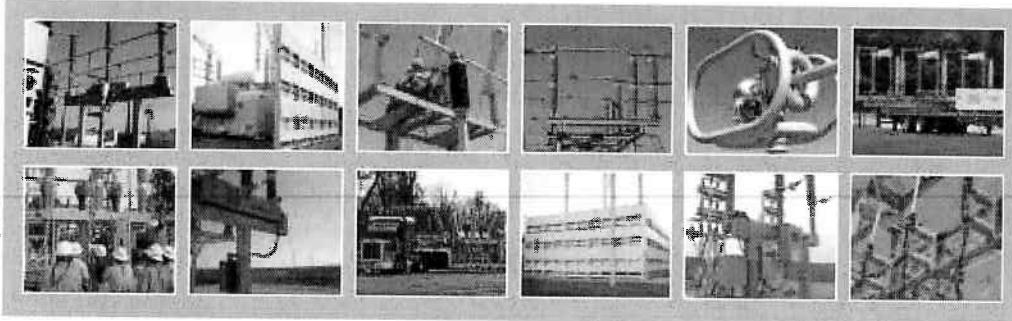
**Additional Prices:**

Contractor' Installation Oversight Field Services. Bidder shall provide the below prices as an option for the City to award. Theses process will not be used in determining the lowest responsive and responsible bidder. The City reserves the right to negotiate additional pricing and award it as considered to be in the best interest of the City.

<u>Equipment</u>	<u>Per Diem at Erection Site</u>	<u>Per Round Trip</u>
Canal Transmission Substation Disconnect Switch	Please see attached Field Service rates.	
Canal Distribution Substation Disconnect Switch	Please see attached Field Service rates.	



**RATES AND BILLING PRACTICES**



Southern States, LLC (SSL) maintains factory trained and experienced Field Service Technicians that provide technical guidance and assistance for installation, upgrade, and repair and maintenance of equipment manufactured by SSL and others. A four (4) week notice is recommended to ensure availability on the desired service date. Expedite scheduling maybe available. Request if needed.

**Standard Rates** (on-site) up to 8 hours + travel per diem expenses

- \$243 X 1.00 = Monday through Friday rate per hour
- \$243 X 1.50 = Saturday rate per hour
- \$243 X 2.00 = Sunday or holiday rate per hour

**Premium Rates** (on-site) over 8 hours + travel & per diem expenses

- \$243 X 1.50 = Over Time - 9 to 12 hours rate per hour
- \$243 X 2.00 = Double Time - over 12 hours rate per hour
- \$243 X 2.30 = Non-Standard - 10pm to 6am rate per hour

**Standby Rates** (on-site) unable to perform work scope due to circumstances beyond the control of SSL including, but not limited to weather conditions are invoiced at the appropriate standard or premium hourly rates

**Expenses**

- Airfare - Invoiced at actual cost + 20%
- Lodging - Invoiced at actual cost + 20%
- Meal & Incidentals - Invoiced per:  
<http://www.defensetravel.dod.mil/site/perdiemcalc.cfm>
- Rental Vehicle - Invoiced at \$190 per day, inclusive of tax, insurance, fuel, and parking as needed
- Privately Owned Vehicle - Invoiced at POV mileage rates per [www.irs.gov](http://www.irs.gov), current as of date(s) service was performed

**Holidays**

- Defined by days observed by SSL

**Minimum Charge**

- The minimum charge, excluding travel time and expenses, shall be one 8-hour day
- Cancellation / opportunity loss fee of 4-hours per daily rate for each day once on site may apply

**Currency**

- All rates are stated in U.S. dollars

**Employee Drug Screening**

- Drug screening and/or background check costs, as required by the customer - Invoiced at actual cost + 20%. All travel time to complete screenings are invoiced at the appropriate standard or premium hourly rates plus expenses

**All Time To Complete Site Specific Training**

- Shall be invoiced at the appropriate standard or premium hourly rate plus expenses

**Order Placement**

- Thank you for including your quote number with your order.
- Email / fax purchase order or credit card to:  
[PO@SouthernStatesLLC.com](mailto:PO@SouthernStatesLLC.com)

Cc: Mr. Erik Jordan  
[E.Jordan@SouthernStatesLLC.com](mailto:E.Jordan@SouthernStatesLLC.com)  
678.674.1661 (Desk)  
678.902.9374 (Fax)