CITY OF FAYETTEVILLE REQUEST FOR PROPOSALS

SIX HVAC UNITS FOR E.E. MILLER RECREATION CENTER

COF1516784

ISSUED: MARCH 15, 2023

DUE: APRIL 18, 2023

The City of Fayetteville is soliciting proposals for six HVAC units for E.E. Miller Recreation Center.

ISSUED BY:
CITY OF FAYETTEVILLE

PRIMARY CONTACT:
KIMBERLY TOON,
PROCUREMENT MANAGER
kimberlytoon@fayettevillenc.gov

(910) 433-1942

OFFERORS ARE NOT REQUIRED TO RETURN THIS FORM.

FAYETTEVILLE NC
AMERICA'S CAN DO CITY

A message from the City of Fayetteville City Manager, Douglas J. Hewett, ICMA-CM

The City of Fayetteville is fully committed to provide Small Local Business Enterprises (SLBE's) an equal opportunity to participate in all aspects of City contracting including, but not limited to participation in the procurement of contracts relating to the construction of and improvements to facilities throughout the City. It is also the policy of the City to prohibit discrimination against any person or business in pursuit of these opportunities on the basis of race, sex, color, religion or national origin and to conduct its contracting and purchasing programs so as to prevent such discrimination. The City is also committed to follow all applicable State and Federal law as they relate to procurement practices.

The City will actively seek and identify qualified SLBE's and offer them the opportunity to participate in the procurement of contracts for all City purchasing and service contracts as well as construction and repair contracts.

The City aspires to spend 40% of its eligible contract dollars with small local suppliers and contractors. Towards this end the City's Charter has been amended by the General Assembly (H.B. 198) to allow the City to establish a race and gender neutral small business enterprise program to promote the development of small local businesses. The City is authorized to establish bid and proposal specifications that include subcontracting goals and good-faith effort requirements to enhance participation by small business enterprises located in Cumberland and Hoke Counties.

For more information or questions about the SLBE policy, please contact the Purchasing Division at 910-433-1942.

CITY OF FAYETTEVILLE

Douglas J. Hewett, ICMA-CM
City Manager

NOTICE TO BIDDERS

Pursuant to N.C.G.S. 143-129 sealed proposals will be received by the City of Fayetteville, until **2:00 p.m., April 18, 2023** at City Hall, 433 Hay Street, Fayetteville, North Carolina, at which time they will be considered for the purchase of the following:

Six HVAC Units for E.E. Miller Recreation Center

Bids may be mailed to the City Purchasing Office, Attn: Kimberly Toon, 433 Hay Street Fayetteville, NC 28301, or may be delivered in person or by express mail to 433 Hay Street, Fayetteville, NC 28301

The bid opening will be held at **2:00 p.m. on April 18, 2023** at City Hall, 433 Hay Street, Fayetteville, NC 28301, for the project entitled, **"Six HVAC Units for E.E. Miller Recreation Center."**

Plans, specifications and bid documents may be obtained in the Purchasing Office of the City of Fayetteville, 2nd floor, City Hall, 433 Hay Street, Fayetteville, North Carolina, between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday or by email request to kimberlytoon@fayettevillenc.gov

The right is reserved to reject any or all bids and to waive all informalities concerning bid or award bid to the lowest, responsible bidder or bidders, taking into consideration quality, performance and the time specified in the proposals for the performance of the contract.

City of Fayetteville

Kimberly Toon, CLGPO
Purchasing Manager

SCOPE OF WORK

TABLE OF CONTENTS

Introduction/Background	1
Scope of Work	1
Period of Performance	2
Place of Performance	2
Other Requirements	2

INTRODUCTION/BACKGROUND

The City of Fayetteville is requesting proposals to replace six HVAC units at E. E. Miller Recreation Center.

SCOPE OF WORK

- Removal of existing (2)12.5 ton 208/ 230 volt 3 phase package heat pumps, (1) 10 ton split heat pump, (1) 5.0 ton split system heat pump, (2) 3.0 ton split system heat pump
- Install (2)12.5 ton package heat pumps,(1) 10 ton split system heat pump, (1) 5.0 ton split system heat pump and (2) 3.0 ton split system heat pumps
- New programmable thermostats
- Reconnect to supply and return duct system with modifications
- Reconnect to existing Freon lines, condensate drains, low voltage control wiring, electrical wiring and disconnects
- System startup and job completion check to be performed
- Mechanical and Electrical permits
- 5-year registered compressor and 5-year functional parts warranty from manufacturer
- 1-year labor warranty from contractor
- No warranty on existing Freon lines, electrical wiring, duct system and condensate piping

PERIOD OF PERFORMANCE

The period of performance will be 90 days and shall commence upon the issuance of the purchase order.

PLACE OF PERFORMANCE

E. E. Miller Recreation Center
1347 Rim Road
Fayetteville, NC 28314

OTHER REQUIREMENTS

Contractor to provide all tools, labor, materials, equipment, and supervision necessary to perform project. Employees shall wear personnel protective equipment (PPE) and exercise safety at all times. All work shall be in accordance with OSHA's law, regulations, and standards.

CITY OF FAYETTEVILLE
Six HVAC Units for E.E.
Miller Recreation Center
BID PROPOSAL PACKAGE

The undersigned hereby proposes to furnish materials and perform the work for this project per the items listed herein in strict accordance with the Standard Specifications, contained in the documents for the consideration of prices quoted for the enclosed contract items.

THE CITY RESERVES THE RIGHT TO ELIMINATE OR ADD TO THIS CONTRACT.

ALL PRICES ARE TO INCLUDE NC SALES AND USE TAXES

This Bid Package is executed by:

Name_____Title_____

Company Name _____

Address _____

Email _____

Signature_____Phone No. _____

License #_____ Bid Amount$_____

Written _____

ACKNOWLEDGEMENT OF ADDENDA

The Vendor has received, acknowledged, and used the following addenda in completing the Proposal. (Initial and Date as appropriate)

Addendum No. 1_____ Dated:_____
Addendum No. 2_____ Dated:_____
Addendum No. 3_____ Dated:_____
Addendum No. 4_____ Dated:_____

CITY OF FAYETTEVILLE
GENERAL CONTRACTING AGREEMENT

This agreement ("Agreement") is made this _____ day of _____, 2023 between _____henceforth known as "Contractor," and the **City of Fayetteville,** henceforth known as "City."

Pursuant to the work described in the **Proposal (Exhibit A)** provided by _____the Contractor and City agree to the following:

Section 1
The Work

The Contractor and City agree that the following scope of work will be done for**:**

Total Project Bid: _____

Section 2
Timeline

The Contractor and City agree that the work detailed above will be completed according to the following timeline:

Work Start: _____
Work Completion: _____

Any delays that arise during the course of the work must be discussed with City immediately.

Section 3
Payment

City agrees to pay the Contractor a total of _____ payable in the following manner:

Within thirty (30) days of receipt of invoice following completion and approval of the final product.

Section 4
Changes

Any changes made to plans, materials used, time needed, or any other portion of the work must be discussed with City prior to any decisions.

Section 5
Permits

Contractor agrees to secure any permits necessary so that this work will be done within the parameters of the laws of **North Carolina**. Contractor agrees that any fees for these permits are already included in the total amount charged to the City.

Section 6
Workers

Contractor agrees that any laborer, subContractor and/or employee that he/she hires for the purposes of this job is legally permitted to work in this function in this country.

Contractor is an independent contractor, and has no authority to act as an agent of City, nor enter into any contract or agreement for or on behalf of City. Contractor is not an employee of City and is not entitled to any benefits provided employees of City, including, but not limited to, workers' compensation, medical care, leave benefits and retirement. Contractor shall be responsible for the payment of all federal, state, and local taxes that may be due as a result of this Agreement.

Section 7
SubContractors

City agrees that the Contractor may hire subContractors at his/her discretion, provided that Contractor agrees that the payment for said subContractor is entirely the Contractor's responsibility. City is not in any way liable for a subContractor's missed payment.

Section 8
Insurance Requirements

The Contractor shall not commence work under this Agreement until he has obtained all insurance required under this paragraph, and such insurance has been approved by the City Attorney, nor shall the Contractor allow any subContractor to commence work on his subcontract until all similar insurance has been so obtained and approved. See Other Provisions Section (2) (c) below titled "SubContractor."

The insurance required for this Agreement is as follows:

(a) Commercial General Liability: The Contractor shall take out and maintain during the life of this Agreement commercial general liability insurance with limits of $1,000,000 per occurrence; $2,000,000 aggregate other than products/completed operations; $2,000,000 aggregate for products/completed.

(b) Commercial Automobile Liability: The Contractor shall take out and maintain during the life of this Agreement commercial automobile liability insurance with limits of no less than $250,000 per person, $500,000 per occurrence for bodily injury and $1,000,000 for property damage for owned, non-owned, and hired automobiles.

(c) Workers' Compensation and Employers' Liability Insurance: If the Contractor employs three or more employees, the Contractor shall take out and maintain during the life of this Agreement workers' compensation insurance with limits for Coverage A Statutory – State of North Carolina, as required by the laws of the State of North Carolina, and Coverage B Employers' Liability with limits of $500,000 each accident and policy limit, including occupational disease coverage with limits of $500,000 for each employee, for all employees employed on the project. In case any employee(s) engaged in work under this Agreement is or are not protected under the Workers' Compensation Statute, the Contractor shall provide adequate coverage for the protection of employees not otherwise protected.

Acceptability of Insurance

All insurance policies shall be written by insurers licensed to do business in North Carolina. It is realized that certain business activities may not be readily insurable by admitted carriers. If insurance is written by non-admitted carriers whose names appear on the current listing of approved and non-admitted carriers prepared by the North Carolina Department of Insurance, such carriers will be favorably considered assuming they meet all other requirements. Non-admitted carriers should be so identified on the Certificate of Insurance form. The City reserves the right to reject any and all certificates or policies issued by insurers with an A.M. Best's Financial Strength Credit Rating less than A.

Indemnity Provision

To the extent permitted by law, the Contractor agrees to defend, indemnify and hold harmless the City, its elected officials, employees, agents, successors, and assigns, from any and all liability and claims for any injury or damage caused by any act, omission or negligence of the Contractor, its agents, servants, employees, contractors, licensees, or invitees. Indemnification of the City by the Contractor does not constitute a waiver of the City's governmental immunity in any respects under North Carolina law. Contractor assumes entire responsibility and liability for losses, expenses, demands and claims in connection with or arising out of any injury, or alleged injury (including death) to any person, or damage, or alleged damage, to property of the City or others sustained or alleged to have been sustained in connection with or to have arisen out of or resulting from the negligence of the Contractor, his subContractor, agents, and employees, in the performance of the work/service set forth in the Standard Specifications and Special Provisions, and any changes, addenda, or modifications including losses, expenses or damages sustained by the City, and agrees to indemnify and hold harmless the City, its officials, employees or volunteers from any and all such losses, expenses, damages, demands and claims and agrees to defend any suit or action brought against them, or any of them, based on any such alleged injury or damage, and to pay all damages, cost and expenses in connection therewith or resulting therefrom. As an integral part of this Agreement, Contractor agrees to purchase and maintain during the life of this Agreement contractual liability insurance in the amount required in the general liability insurance requirements and to furnish proper evidence thereof.

Other Provisions:

(1) Any deductible or self-insured retention must be declared to and approved by the City.

(2) The policies are to contain, or be endorsed to contain, the following provisions:

(a) Commercial General Liability Coverage

1) The City, its officials, employees and volunteers are to be covered as additional insureds with respect to the following: liability arising out of activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; premises owned, leased or used by the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officials, employees or volunteers.

2) The Contractor's insurance coverage shall be primary insurance covering the City, its officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officials, employees or volunteers shall be excess of Contractor's insurance and shall not contribute with it.

3) Coverage shall state that Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

(b) All Coverages

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either Contractor, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to:

City Purchasing Office
P.O. Box 1089
Fayetteville, NC 28301

Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its officials, employees, and volunteers. In the event the City is damaged by the failure of the Contractor to maintain such insurance and to so notify the City, the Contractor shall bear all reasonable costs properly attributable thereto.

(c) SubContractors

Contractor shall include all subContractors as insurers under its policies OR shall furnish separate certificates and endorsements for each subContractor. All coverages for subContractors shall be subject to all of the requirements stated

herein.

(d) No Waiver of Immunity

Any insurance coverage required by the terms of this Agreement shall not be deemed a contract of insurance purchased by the City nor a waiver of the City's immunity pursuant to NCGS 160A-485.

Section 9
Cleanup

Contractor agrees that any debris, equipment, etc. will be removed from the area upon completion of the job. The location will be returned to the state in which it was found prior to the work, excepting, of course, the changes made as a result of the work.

Section 10
Terms and Conditions

CITY'S TERMS SUPERSEDE: To the extent a conflict exists between the terms of this Agreement and the terms and conditions in any of the attachments to the Agreement, the terms of this Agreement shall govern.

Section 11
E-Verify

Contractor acknowledges that "E-Verify" is the federal E-Verify program operated by the US Department of Homeland Security and other federal agencies which is used to verify the work authorization of newly hired employees pursuant to federal law and in accordance with Article 2, Chapter 64 of the North Carolina General Statutes. Contractor further acknowledges that all employers, as defined by Article 2, Chapter 64 of the North Carolina General Statutes, must use E-Verify and after hiring an employee to work in the United States, shall verify the work authorization of the employee through E-Verify in accordance with NCGS §64-26(a). Contractor pledges, attests and warrants through execution of this contract that Contractor complies with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes and further pledges, attests and warrants that any subcontractors currently employed by or subsequently hired by Contractor shall comply with any and all E-Verify requirements. Failure to comply with the above requirements shall be considered a breach of this contract.

Section 12
Other Provisions

Binding Effect - This Agreement shall be binding on and inure to the benefit of the parties hereto, their successors and assigns.

Nondiscrimination - The Contractor agrees not to discriminate by reason of age, race, religion, color, sex, national origin, disability or other applicable law while performing the services required herein. The Contractor further agrees not to discriminate in accordance with federal and state laws

while performing the services required herein.

Morality Clause - If, in the sole opinion of the City, at any time Contractor or any of its owner(s) or employee(s) or agent(s) (collectively referenced as an "Actor") engages in any one or more actions that bring disrepute, contempt, scandal, or public ridicule to the Actor or subject the Actor to prosecution or offend the community or public morals or decency or denigrate individuals or groups in the community served by the City or are scandalous or inconsistent with community standards or good citizenship or may adversely affect the City's finances, public standing, image, or reputation or are embarrassing or offensive to the City or may reflect unfavorably on the City or are derogatory or offensive to one or more employee(s) or customer(s) of the City, the City may immediately upon written notice to Contractor terminate this Agreement, in addition to any other rights and remedies that the City may have hereunder or at law or in equity.

Assignment - It is the intent of this Contract to secure the personal services of Contractor and failure of Contractor for any reason to make the personal services available to the City of Fayetteville for the purposes described in this contract shall be cause for termination of this contract. Contractor shall not assign this contract without prior written consent of the City of Fayetteville.

Governing Law - The validity, interpretation and execution of this Agreement and the performance of and right accruing under this Agreement are all to be governed by the laws of North Carolina.

Venue and Forum Selection - The Parties expressly agree that if litigation is brought in connection with this contract and (1) the litigation proceeds in the Courts of the State of North Carolina, the parties agree that the appropriate venue shall be in Cumberland County (Twelfth Judicial District of North Carolina); or (2) the litigation proceeds in a federal court, the parties agree that the appropriate venue shall be the United States District Court for the Eastern District of North Carolina.

Compliance with Laws – Contractor agrees to comply with all applicable statutes, ordinances, and regulations of the United States, the State of North Carolina, the City and units of local government.

Entire Agreement - This Agreement constitutes the entire agreement between the parties. Any proposed change to this Agreement shall be submitted to the City for its prior approval. No modification, addition, deletion, etc., to this Agreement shall be effective unless and until such changes are reduced to writing and executed by the authorized officers of each Contractor.

Severability - The parties agree that if any provision of this Agreement shall be held invalid for any reason, the remaining provisions shall not be affected if they may continue to conform to the purposes of this Agreement and the requirements of applicable law.

Non-Appropriation Clause - Notwithstanding any other provisions of this contract, the parties agree that payments due hereunder from the City are from appropriations and monies from the City Council and any other governmental entities. In the event sufficient appropriations or monies are not made available to the City to pay the terms of this agreement for any fiscal year, this

contract shall terminate immediately without further obligation of City of Fayetteville.

Force Majeure - Neither Party shall be deemed to be in default of its obligations hereunder if and *so long as* it is prevented from performing such obligations by an act of war, hostile foreign actions, adverse governmental actions, nuclear explosion, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.

Termination for Cause - In the event of substantial failure by Contractor to perform in accordance with the terms of this contract, City of Fayetteville shall have the right to terminate Contractor upon ten calendar (10) days written notice in which event Contractor shall have neither the obligation nor the right to perform further services under this contract nor shall the City of Fayetteville be obligated to make any further payment for work that has not been performed.

Termination for Convenience - Upon thirty (30) calendar days' written notice to Contractor, the City of Fayetteville may, without cause and without prejudice to any other right or remedy legally available to the City of Fayetteville, terminate this Contract. Upon such notice, Contractor shall have neither the obligation nor the right to perform services under this contract nor shall the City of Fayetteville be obligated to make any further payment for work that has not been performed in accordance with the terms stated herein. In such case of termination, Contractor shall be paid for the completed and accepted work executed in accordance with this Contract prior to the written notice of termination. Additionally, upon mutual agreement, Contractor may be paid for any completed and accepted work which takes place in order to achieve a specifically identified item in the scope of services or a milestone of the Contract, between the written notice of termination and the effective date of termination. Unless otherwise stated or agreed upon, the effective date of termination shall automatically occur 30 days' after the written notice is sent by the City of Fayetteville.

Protest – Protest related to this procurement must be addressed to the Purchasing Manager for City of Fayetteville, 433 Hay St, Fayetteville, NC 28301 and shall be received, in writing, within 2 calendar days of bid award. Responses will be in writing by email and first-class mail not later than (7) calendar days following receipt of said protest by the Purchasing Manager.

Iran Divestment Act Certification - As mandated by N.C.G.S. 147-86.59(a), Contractor hereby certifies that it is not listed on the Final Divestment List created by the North Carolina State Treasurer pursuant to N.C.G.S. 147-86.58. Vendor further certifies that in accordance with N.C.G.S. 147-86.59(b) that it shall not utilize any subcontractor found on the State Treasurer's Final Divestment List. Contractor certifies that the signatory to this Request for Proposals is authorized by the Contractor to make the foregoingstatement.

Survival of Terms - All warranties, covenants, and representations contained within this contact and all applicable work authorizations, if any, shall continue in full force and effect for three (3) years after the execution and delivery of the final product, act, or service taken in furtherance of this contract. Survivability shall not be impacted, or otherwise shall not be rendered null or void, by the termination or natural expiration of this contract or other applicable work undertaken in furtherance of this contract.

Attest:

CITY OF FAYETTEVILLE:

_____
PAMELA MEGILL
City Clerk

_____
ADAM J. LINDSAY
Assistant City Manager

_____
Date

VENDOR

By: _____

Title: _____

Address: _____

Phone: _____

Date: _____

_____
Vendor Signature

This instrument has been pre-audited in the manner Required by the Local Government Budget and Fiscal Control Act.

_____
JODY PICARELLA
Chief Financial Officer

EXHIBIT A