

**Lee County Board Of County Commissioners  
Agenda Item Summary**

Blue Sheet No. 20050819

**1. ACTION REQUESTED/PURPOSE:** Waive a minor informality and award B-05-12 ESTERO PARKWAY AND IRRIGATION to the second lowest responsive, responsible bidder, Big Tree, Inc., for a total not-to-exceed Base Bid amount of \$452,507.60, plus Alternates A, B and C in a total not-to-exceed amount of \$23,121.20, for a project total of \$475,628.80, with a final project completion time of 455 calendar days. This project was anticipated and funds are available within the budget.

**2. WHAT ACTION ACCOMPLISHES:** Provides Lee County with a Contractor for the installation of plant material and underground irrigation system, including wells, pumps, electrical, directional boring and landscape and irrigation maintenance.

**3. MANAGEMENT RECOMMENDATION:** Approval Recommended.

**4. Departmental Category:** 09 *C9D* **5. Meeting Date:** *06-28-2005*

<b>6. Agenda:</b> <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Administrative <input type="checkbox"/> Appeals <input type="checkbox"/> Public <input type="checkbox"/> Walk-On	<b>7. Requirement/Purpose: (specify)</b> <input type="checkbox"/> Statute <input type="checkbox"/> Ordinance <input checked="" type="checkbox"/> Admin. Code <u>AC-4-4</u> <input type="checkbox"/> Other	<b>8. Request Initiated:</b> Commissioner _____ Department <u>Transportation</u> Division _____ By: <u>Scott Gilbertson, Director</u>
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**9. Background:**  
 The Department of Transportation submitted a request to Contracts Management to obtain bids for the Estero Parkway Landscape and Irrigation project. The expected cost of the project required the use of the formal sealed bid procedure.

On the bidding deadline of February 23, 2005, Contracts received three (3) bids. Upon initial review of all bids, the apparent low bidder was J.W. Conner & Sons, Inc. However, Lee County Contracts was informed on April 29, 2005 that the company was involved in negotiations to finalize the sale of J.W. Conner Inc. to APAC-Southeast, Inc. Lee County bid documents state that a bidder may not assign or otherwise transfer its bid prior to or after the bid opening time; therefore the contract could not be awarded to the low bidder. Lee County received a recommendation from the project's consultant, Johnson Engineering, recommending the third low bidder, Vila & Sons Landscaping Corp. However, after further review, staff recommends the board waive a minor informality and award the bid to the second low bidder, Big Tree, Inc. (a local bidder).

Funds are available in the following account string: 20602430100.506540.

- Attachments:**
- (1) Bid Tabulation
  - (2) Department Recommendation
  - (3) Consultant Recommendation
  - (4) Request From J.W. Conner & Sons, Inc. to Transfer Bid
  - (5) Lee County's Response To Transfer Request

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
<i>[Signature]</i> <i>6/9/05</i>		N/A	<i>[Signature]</i>	<i>[Signature]</i>	Analyst <i>[Signature]</i> <i>6/16/05</i>	Risk <i>[Signature]</i>	Grants <i>[Signature]</i> <i>6/16/05</i>	Mgr. <i>[Signature]</i> <i>6/16/05</i>	<i>[Signature]</i> <i>6-9-05</i>

- 11. Commission Action:**
- Approved
  - Deferred
  - Denied
  - Other

Rec. by CoAtty  
 Date: *6/16/05*  
 Time: *5:45*  
 Forwarded To:  
 Co. Mgr.  
*6/16/05 9:00 AM*

RECEIVED BY  
 COUNTY ADMIN: *[Signature]*  
*6-16-05*  
*9-15*  
 COUNTY ADMIN  
 FORWARDED TO:  
*6/20/05*  
*7:50 PM*

LEE COUNTY BID TABULATION SHEET  
FOR  
ESTERO PARKWAY LANDSCAPE AND  
IRRIGATION

BID NO.: B-05-12 DATE: 02/23/05

CONTRACTOR	BID BOND	TOTAL NOT-TO-EXCEED AMOUNT
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Jose Quintero  
Vila & Son Landscaping Corp.  
13901 NW 118 Avenue  
Medley, FL 33178  
PHONE 305-805-0066  
FAX 305-805-4270

BASE BID - \$451,932.00  
ALT'S A, B & C - \$ 32,772.00

Bob Mulroy  
Big Tree, Inc.  
5175 Country Lakes Drive  
Ft. Myers, FL 33905  
PHONE 239-694-9700  
FAX 239-694-1755

\*BASE BID - \$452,507.60  
\*ALT'S A, B & C - \$ 23,121.20

J. Floyd Knecht  
J.W. Conner & Sons, Inc.  
P.O. Box 2522  
Tampa, FL 33601  
PHONE 813-247-4441  
FAX 813-248-5689

BASE BID - \$383,874.14  
ALT'S A, B & C - \$ 19,391.52

\*CORRECTED BID AMOUNT

**Lisa Crone - Estero Parkway Landscape Project**

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**From:** Paul Wingard  
**To:** Logan, Cindy  
**Date:** 6/7/2005 4:41 PM  
**Subject:** Estero Parkway Landscape Project  
**CC:** Chamblee, Donald; Crone, Lisa; Moore, Pat

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Cindy,

This is to confirm our verbal conversation that we want to proceed with the award of the landscape project for Estero Parkway to the second low bidder, Big Tree Landscape. We have received a recommendation from the design consultant but we are not going to accept his recommendation. Further, we realize that we are waiving the minor informality with the bid.

Paul W. Wingard, P.E.  
Deputy Director, DOT  
wingarpw@leegov.com  
Phone 239-694-3334  
or 239-479-8545  
cell phone 239-707-6981  
Fax 239-694-3332



March 31, 2005

Pat Moore  
Lee County Transportation Department  
5560 Zip Drive  
Billy Creek Commerce Center  
Fort Myers, Fl. 33905

Re: Johnson Engineering, Inc.'s Landscape and Irrigation Contractor Recommendation for the Estero Parkway Landscape and Irrigation Project from US 41 to Three Oaks Parkway

Pat,

Upon review of the three lowest bid contractors for the Estero Parkway Landscape and Irrigation Project from US 41 to Three Oaks Parkway, Johnson Engineering, Inc.'s findings are as follows:

**J.W. Connor & Sons, Inc. (lowest bidder)**

1. **Constructions Operations:** minimally adequate to complete the job. They had two positive references and two negative references. The negative references included an individual (wishing to stay anonymous) who is employed by FDOT in the Gainesville District Office. The company uses unskilled day labor to install the jobs. This results in quality inconsistency and unqualified personnel on site when supervision is not present. This is not accordance with Sec. 3.1.05 of the Project Manual for Estero Parkway Landscape and Irrigation Project from US 41 to Three Oaks Parkway requiring qualified, competent, English speaking representatives during all working hours.
2. **Quality Control:** materials may or may not meet specifications (based on two sources). The two positive construction recommendations were for projects that they did not maintain after installation. Several occasions there materials did not meet standards and required FDOT to spend numerous hours of inspection time on projects. The higher the quality of plant materials increases its success rate according to the International Society of Arboriculture.
3. **Maintenance and Warranty:** inadequate in all aspects in maintaining and replacing warranty issues (based on two sources). Contractor told FDOT that they do not bid maintenance and warranty items in their price to get the job. They rely on "mother nature" and "rolling the dice" according to the contractor. The do not remove weeds, and have caused projects to fail due to maintenance issues.

MEMO TO:

DATE: June 6, 2005

PAGE: -2-

**Vila & Son Landscaping Corporation (Second Lowest Bidder)**

1. **Constructions Operations:** High quality work in a timely manner. All references would use company again. Said by many to be the best they have worked with on similar projects.
2. **Quality Control: No issues.** All projects met or exceeded client expectations.
3. **Maintenance and Warranty:** Projects properly maintained and warranty items replaced in an acceptable timeframe.

**Big Tree, Inc (Third lowest bidder)**

1. Qualification questionnaire is incomplete and does not contain enough information for consideration for this project.

**Johnson Engineering, Inc.'s Recommendation:**

The lowest bidder, J. W. Connor and Sons, Inc. has failed to demonstrate that they will be able to perform the scope of this project according to the project manual. Their bid is suspiciously low comparable (\$70,000.00+/- less) to the other two lowest bids (within \$700.00 of each other). This confirms the statement for FDOT that they do not bid in maintenance and replacement contingency. Using this contractor would require that LCDOT hires a construction manager to ensure that the contract is being fulfilled. This additional expense would most probably negate any savings.

We recommend that LCDOT utilize the services of Vila and Son Landscaping Corporation, the second lowest bidder. The quality of workmanship, materials, and maintenance are impeccable from their past project performance. Their bid is in line with the other contractors and seems to be a valid one. We feel that Vila and Son Landscaping Corporation is the **lowest qualified bidder.**

Johnson Engineering, Inc. hopes that our recommendation assists LCDOT in their choice of a contractor for the Estero Parkway Landscape and Irrigation Project from US 41 to Three Oaks Parkway. Should you have any questions or need further clarifications on our recommendation, please feel free to contact us.

James M. McCord

Johnson Engineering, Inc.  
2158 Johnson Street  
Ft. Myers, FL 33901

Tel: (239) 334-0046  
Fax: (239) 334-3661

[jmm@johnsoneng.com](mailto:jmm@johnsoneng.com)  
[www.johnsoneng.com](http://www.johnsoneng.com)

*"Peace of Mind by Design"*

# J.W. CONNER & SONS, INC.

GENERAL CONTRACTORS  
POST OFFICE BOX 2522  
TAMPA, FLORIDA 33601-2522

PHONE (813) 247-4441  
FAX (813) 248-5689

4100 E. 7th AVENUE  
TAMPA, FLORIDA 33605  
LEE COUNTY  
RECEIVED  
05 MAY 16 PM 2:41  
J.W. CONNER & SONS, INC.  
POST OFFICE BOX 2522  
TAMPA, FLORIDA 33601-2522

May 14, 2005

Ms. Cindy Logan  
Community Development,  
Public Works Center  
1500 Monroe Street, 4<sup>th</sup> FL  
Fort Myers, Florida 33901

RE: Contract-Proposal No. 418785-1-52-01/Contract # E7C77, for the project commonly known as Lee County Estero Parkway Landscaping (Additive Alternate 19,391.52) (the "Contract")

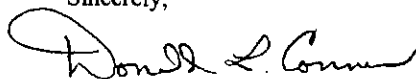
Dear Ms Logan:

We are presently negotiating the sale of our road construction business to APAC-Southeast, Inc., a Georgia corporation ("APAC"), which is an affiliate of Ashland Paving and Construction. We understand we may be the low bidder on the Contract. In connection with the possible sale, J.W. Conner & Sons, Inc. ("Conner") may assign all of its rights in and duties and obligations under the Contract to APAC or otherwise subcontract to APAC Conner's duties and obligations under the Contract.

The Contract requires us to obtain your prior written consent to an assignment or subcontract of the Contract. We request that you provide us with your consent to both an assignment and subcontract of the Contract to APAC to it may perform the work bid by Conner. After the closing of the possible sale to APAC, we will provide you with an assignment and assumption of the Contract between Conner and APAC or the agreement by APAC to complete the work as a subcontractor of Conner.

If this arrangement is satisfactory to you, please acknowledge this letter below.

Sincerely,



Donald L. Conner  
President

Acknowledged and Agreed:

[Lee County]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_



**LEE COUNTY**  
SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

Writer's Direct Dial Number: (239) 335-2183

Bob Janes  
*District One*

Douglas R. St. Cerny  
*District Two*

Ray Judah  
*District Three*

May 20, 2005

Tammy Hall  
*District Four*

John E. Albion  
*District Five*

**BID NO.: B-05-12**

Donald D. Stilwell  
*County Manager*

Mr. Donald L. Conner, President  
J.W. Conner & Sons, Inc.  
P.O. Box 2522  
Tampa, FL 33601-2522

Diana M. Parker  
*County Hearing Examiner*

**SUBJECT: ESTERO PARKWAY LANDSCAPE & IRRIGATION**

Dear Mr. Conner:

We are in receipt of your notification of the sale of your road construction business to APAC-Southeast, Inc., which would effect Lee County's project B-05-12 Estero Parkway Landscape & Irrigation.

In accordance with the Bid Documents, Instructions to Bidders, Page C-6, Section 10, item 10.4 states "*Bidder may not assign or otherwise transfer its bid prior to or after the bid opening time*"; therefore, we cannot award the bid to APAC.

If you have any questions or need additional information, please contact me at 239-335-2183.

Sincerely,  
CONTRACTS MANAGEMENT

  
Cindy Logan  
Contracts Manager

cc: Ms. Andrea Fraser, Assistant County Attorney, Lee County  
Mr. Pat Moore, Project Manager, Lee County, DOT  
Mr. Scott Gilbertson, Director, Lee County DOT  
Mr. Hunter Brownley, Esquire via fax #813-229-8313