

LEE COUNTY BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

BLUE SHEET NO: 20040927

1 REQUESTED MOTION:

ACTION REQUESTED: Approve for acceptance and filing with the Clerks Office, Minutes Department, an after-the-fact emergency under E-03-08, GES Resolution No. 03-07-08 for Contract Number 2816, Waterway Estates Wastewater Treatment Plant to USFilter Daveco Products in the total not-to-exceed amount of \$323,972.00. Also approve Transfer of Funds from Reserve for Contingencies GC5890148713.509910 in the amount of \$376,000.00 to cover this contract and other related materials needed.
 Amend the FY03/04-FY07/08 CIP accordingly. ☺☺

WHY ACTION IS NECESSARY: Board approval required.

WHAT ACTION ACCOMPLISHES: Provides after-the-fact approval under the emergency GES Resolution to furnish labor, supervision, expandable materials, equipment and new materials to perform rehabilitation work to the Waterway Estates Wastewater Treatment Plant.

2. DEPARTMENTAL CATEGORY: 10
COMMISSION DISTRICT #: 5

C10D

3. MEETING DATE:

08-03-2004

4. AGENDA:

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:

5. REQUIREMENT/PURPOSE:

- (Specify)*
- STATUTE
 - ORDINANCE
 - ADMIN. CODE *AC-44*
 - OTHER

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER:
- B. DEPARTMENT: *Lee County-Public Works*
- C. DIVISION/SECTION: *Utilities Division*
- BY: *Rick Diaz, P.E., Utilities Director*

DATE: *7/20/04*

7. BACKGROUND: On July 1, 2003, the Lee County Board of Commissioners approved Resolution No. 03-07-08, Blue Sheet No. 20030669, declaring a limited, temporary, emergency due to the acquisition of the Gulf Utilities System (GES) in South Fort Myers for the purposes of allowing the County to expedite the procurement of vendors and materials required for certain immediate improvements needed to the water and wastewater system in the public's interest and the customer's convenience.

On May 11, 2004, the Lee County Board of Commissioners approved BS No. 20040441, amending the Lee County Board of Commissioners Resolution No. 03-07-08, adding certain additional Lee County Utilities projects and extending the term of the Resolution an additional six (6) months to December 31, 2004.

Funds are available in account string: 20713848713.506510

Attachments: BS No. 20040441

Contract No. 2816

Transfer of Funds

MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL

(A) DEPARTMENT DIRECTOR	(B) PURCH. OR CONTRACTS	(C) HUMAN RESOURCES	(D) OTHER	(E) COUNTY ATTORNEY	(F) BUDGET SERVICES				(G) COUNTY MANAGER
					OA	OM	Risk	GC	
<i>J. Lavender</i> Date: <i>7-20-04</i>	<i>C. Logan</i> Date: <i>7/20/04</i>	N/A Date:	<i>B. Dearborn</i> Date: <i>7/20/04</i>	<i>D. Owen</i> Date: <i>7/21/04</i>	<i>7/22/04</i>	<i>7/22/04</i>	<i>7/22/04</i>	<i>7/22/04</i>	<i>J. Lavender</i> Date: <i>7-20-04</i>

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by CoAtty
 Date: *7/20/04*
 Time: *3:25 pm*
 Forwarded To: *Budget*
7/20/04 9:17a

RECEIVED BY
 COUNTY ADMIN: *[Signature]*
7/21/04
 10:15 AM
 COUNTY ADMIN
 FORWARDED TO: *[Signature]*
7/20/04
3:50 pm

REQUEST FOR TRANSFER OF FUNDS

FUND NAME: LCU Capital Improvements DATE: 07/19/04 BATCH NO. _____

FISCAL YEAR: 03/04 FUND #: 48713 DOC TYPE: YB LEDGER TYPE: BA

TO: Lee County Utilities CIP Budget
 (DIVISION NAME) (PROGRAM NAME)

NOTE: PLEASE LIST THE ACCOUNT NUMBER BELOW IN THE FOLLOWING ORDER:
 FUND #-DEPT/DIV #-PROGRAM #-OBJECT CODE #-SUBFUND #-PROJECT#-COST CENTER #.
 (EXAMPLE: BB5120100100.503450)

ACCOUNT NUMBER	OBJECT NAME	DEBIT
20713848713.506540	Improvements Construction	\$ 376,000
TOTAL TO:		\$ 376,000

FROM: Lee County Utilities CIP Budget
 (DIVISION NAME) (PROGRAM NAME)

ACCOUNT NUMBER	OBJECT NAME	CREDIT
GC5890148713.509910	Reserve for Contingencies	376,000
TOTAL FROM:		\$ 376,000

EXPLANATION: Transfer funds from reserves for contingencies, to the Wastewater Treatment Plants Improvements project.

 7/20/04
 DIVISION DIRECTOR SIGNATURE DATE

 7.20.04
 DEPARTMENT DIRECTOR SIGNATURE DATE

DBS: APPROVAL DENIAL

 7/22/04
 OPERATIONS ANALYST SIGNATURE DATE

APPROVAL DENIAL

 7/22/04
 BUDGET OPERATIONS MANAGER SIGNATURE DATE

CO. ADMIN.: APPROVAL DENIAL

CO. ADMIN. SIGNATURE DATE

BCC APPROVAL DATE _____

BCC CHAIRMAN SIGNATURE _____

BA NO: _____ AUTH CODE: _____ TRANS DATE: _____

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

Blue Sheet No. 20040441

1. REQUESTED MOTION:

ACTION REQUESTED: Amend Lee County Resolution No. 03-07-08, adopted on July 1, 2003, declaring a limited, temporary, emergency for the GES System acquisition which required certain, immediate and necessary improvements for the protection and convenience of the GES assets and customers; adding certain additional Lee County Utilities projects and extending the term of the Resolution.

WHY ACTION IS NECESSARY: Board of County Commissioners' approval is required for amendments to Resolutions.

WHAT ACTION ACCOMPLISHES: Allows the County to proceed with certain, immediate improvements to the GES Utility, and other necessary projects for an additional six months to December 31, 2004.

**2. DEPARTMENTAL CATEGORY:
COMMISSION DISTRICT #**

A10A

3. MEETING DATE:

05-11-2004

4. AGENDA:

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:

**5. REQUIREMENT/PURPOSE:
(Specify)**

- STATUTE
- ORDINANCE
- ADMIN. CODE
- OTHER

6. REQUESTOR OF INFORMATION:

A. COMMISSIONER _____
 B. DEPARTMENT _____
 C. DIVISION Lee County Utilities
 BY: Rick Diaz, P.E.
 Director *[Signature]* 4/22/04

7. BACKGROUND:

On July 1, 2003, the Board of County Commissioners adopted Lee County Resolution No. 03-07-08, declaring a limited, temporary emergency for the GES transition.

The adoption of an amendment to the Temporary, Limited Emergency Resolution for the Utilities Division's procurement purposes will assist in the expeditious implementation of the needed improvements at GES and other identified Lee County Utilities projects.

The proposed Resolution amending Resolution No. 03-07-08 is for the purposes of extending the time for the emergency by six (6) months to December 31, 2004, and adding additional projects in order to expedite the procurement of vendors and materials in order to fully transition the GES System and perform some emergency work on additional, identified portions of the Lee County Utilities System.

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
<i>[Signature]</i>	N/A	N/A	N/A	<i>[Signature]</i> 4/19/04	OA 4/27/04	QM 4/27/04	RISK 4/27/04	GC 4/27/04	<i>[Signature]</i> 4-22-04

10. COMMISSION ACTION:

- _____ APPROVED
- _____ DENIED
- _____ DEFERRED
- _____ OTHER

RECEIVED BY
 COUNTY ADMIN *[Signature]*
 04/27/04
 9:20 a.m. SGT
 COUNTY ADMIN
 FORWARDED TO *[Signature]*
 4-28-04
 7am

CO. A. 4/27/04
 FORWARDED
 TO CO. ADMIN.
 S. G. P. [Signature]



LEE COUNTY
SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

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

Bob Janes
District One

July 2, 2004

Douglas R. St. Cerny
District Two

Ray Judah
District Three

USFilter Daveco Products
1828 Metcalf Avenue
Thomasville, GA 31792
Attn: Wandell Hobbs

Andrew W. Coy
District Four

John E. Albion
District Five

SUBJECT: WATERWAY ESTATES WWTP REHABILITATION

Donald D. Stilwell
County Manager

ENCLOSURE: Executed Copy of Construction Contract

James G. Yaeger
County Attorney

Dear Mr. Hobbs:

Diana M. Parker
County Hearing
Examiner

Enclosed please find your executed copy of the Contract for the project known as Waterway Estates WWTP Rehabilitation.

This letter will act as your Notice To Proceed effective July 2, 2004, pursuant to Article 5 of that certain Contract No. 2816 with Lee County. This contract number will also serve as your Purchase Order Number for this project and must be on all invoice statements. The project is to reach completion within 6 months from the Notice To Proceed date.

Sincerely,

Cindy Logan, Contracts Management Supervisor
Contracts Management

cc: Rick Diaz, Division Director
Ivan Velez, Project Manager
Kris Miller, Fiscal
Finance Department

2816

LEE COUNTY CONSTRUCTION CONTRACT
AGREEMENT FORM

Contract No. _____
Board Award Date: 5/25/2004

AGREEMENT

made as of the 25th day of MAY in year of 2004
BETWEEN the COUNTY: Board of County Commissioners, Lee County, Florida
and the CONTRACTOR:

USFilter Daveco Products
1828 Metcalf Ave
Thomasville, GA 31792

Check Appropriate Line:
Individual
Partnership
Incorporated in the
State of _____

Name and Address

in consideration of the mutual covenants herein set forth, agree as follows:

ARTICLE 1. WORK

The CONTRACTOR shall perform all the work required by the Contract Documents:

SCOPE OF WORK: Furnish labor, supervision, expandable materials, equipment and new materials to perform rehabilitation work to the Waterway Estates Wastewater Treatment Plant.

in full accordance with the drawings and as elaborated in the specifications.

PROJECT NAME: WATERWAY ESTATES WASTEWATER TREATMENT PLANT - REHAB

LOCATION: Lee County, Florida

ARTICLE 2. AMOUNT OF CONTRACT

2.1 The COUNTY shall pay the CONTRACTOR in current funds for the performance of the work, subject to additions and deductions by Change Order as provided in the Contract Documents, the sum of: (express in words and numerals) Three Hundred Twenty Three Thousand Nine Hundred Seventy Two Dollars (\$323,972.00) plus 2% Public Payment and Performance Bond cost of \$6,479.44.

CONSTRUCTION CONTRACT
ARTICLE 3. PROGRESS PAYMENTS

Based upon Applications for payment submitted to the OWNER'S Representative by the CONTRACTOR, and Certificates for Payment issued by the OWNER'S Representative, the COUNTY shall make progress payments on account of the Contract Price to the CONTRACTOR as provided in the Contract Documents as follows:

3.1 Not later than fifteen (15) calendar days following the approval of an Application for payment, ninety percent (90%) of the portion of the Contract Price properly allocated to labor, materials and equipment incorporated in the work and ninety percent (90%) of the portion of the Contract Price properly allocated to materials and equipment suitably stored at the site or at some other location agreed upon in writing, for the period covered by the application for payment, less the aggregate of previous payments made by the COUNTY.

3.1.1 At the discretion of the project manager, department director and final authorization by the Public works Director, once the project reaches 50% completion and the County is holding 5% of the total contract amount, no further retainage may be withheld from the subsequent monthly invoices, provided however, that the project is on schedule. At any time the project falls behind schedule, the County retains the exclusive right to revert back to the original contract terms, by withholding the full 10% retainage, until the project is back on schedule or the project is completed.

3.2 Upon final completion of the work and acceptance of the project, a sum sufficient to increase the total payments to one hundred percent (100%) of the Contract Price, less such amounts as the COUNTY shall determine for all incomplete work, unsettled claims or unused units as provided in the Contract Documents.

ARTICLE 4. CONTRACT DOCUMENTS

This Contract entered into this date by the Lee County Board of County Commissioners and the CONTRACTOR. WITNESSETH that the parties hereto do mutually agree as follows:

4.1.1 Contractors Proposal Dated 2/02/04 Exhibit A

4.2 Project Drawings consisting of the following sheets listed by title and date:

SHEET NO.	DESCRIPTION	DATE
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NOT APPLICABLE

CONSTRUCTION CONTRACT

4.3 Public Construction Bond

4.4 Certificate of Insurance

4.5 Notice of Award

4.6 Addenda

4.7 Documentation submitted by the CONTRACTOR prior to the Notice of Award: N/A

4.8 The following which may be delivered or issued after the effective date of the Agreement and are not attached hereto: All written amendments and other documents amending, modifying or supplementing the Contract Documents.

ARTICLE 5. TIME OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

5.1 Work to be started on the date specified in the Official Notice to Proceed.

5.2 Substantial completion shall be achieved not later than the number of days agreed to through the County's Project Manager. It is agreed that completion of the contract will be (6) six months from Notice to Proceed.

5.3 Final completion shall be achieved not later than the number of days agreed to through the County's Project Manager. It is agreed that completion of the contract will be (6) six months from Notice to Proceed.

Liquidated Damages:

5.4 The COUNTY and CONTRACTOR recognize that time is of the essence of this agreement and that the COUNTY will suffer financial loss if the work is not completed within the times specified, plus any extensions thereof allowed by Change Order. They also recognize the delays, expense, and difficulties involved in proving in a legal proceeding the actual loss suffered by the COUNTY if the work is not completed on time. Accordingly, instead of requiring any such proof, COUNTY and CONTRACTOR agree that as Liquidated Damages for delay (but not as a penalty) the sum of \$1,000.00 per day shall be deducted from monies due the CONTRACTOR or paid by the CONTRACTOR to the COUNTY for each calendar day that expires after the time specified for Substantial Completion and the project fails to reach Substantial Completion.

5.5 The CONTRACTOR shall also be liable for any Actual Damages sustained by the COUNTY due to the CONTRACTOR'S failure to fully complete the work by the time agreed upon for Final Completion in the Contract Documents. Actual Damages may include, but not be limited to: costs related to supervision, inspection, rentals, testing, consulting fees, or lost productivity. The COUNTY shall have the right to deduct all damages due from the final payment request as well as retainage. However, prior to deducting liquidated damages, the COUNTY shall give the CONTRACTOR seven (7) calendar days notice prior to submitting the adjusted amount due to the Clerk for payment.

CONSTRUCTION CONTRACT
ARTICLE 6. MISCELLANEOUS PROVISIONS

6.1 Final payments, constituting the entire unpaid balance of the Contract Price shall be paid by the COUNTY to the CONTRACTOR when the work has been completed, the Contract fully performed, and a final Certificate for Payment, form No. CMO:013, has been approved by the COUNTY.

6.2 The COUNTY and CONTRACTOR each binds himself, his partners, successors, assigns and legal representatives to the other party hereto, his partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

6.3 The CONTRACTOR shall not assign or transfer any of its rights, benefits, or obligations, except for transfer that result from transfer or consolidation with a third party, without the prior written approval of the COUNTY. The CONTRACTOR shall have the right to employ other persons and/or firms to serve as sub-contractors in connection with the requirements of the Contract Documents.

6.4 The CONTRACTOR agrees through the signing of this agreement by an authorized party or agent that he shall hold harmless and defend the County of Lee and its agents and employees from all suits and action, including attorney's fees, and all cost of litigation and judgements of every name and description arising out of and incidental to the performance of this Contract Document or work performed thereunder, whether or not due to or caused by negligence of the COUNTY, excluding only the sole negligence of the COUNTY. This provision shall also pertain to any claims brought against the COUNTY by any employee of the CONTRACTOR, or sub-contractor(s), or anyone directly or indirectly employed by any of them.

Indemnity: Contractor shall indemnify, defend and hold Owner harmless from any claim, cause of action or liability incurred by Owner as a result of third party claims for personal injury, death or damage to tangible property, to the extent caused by Contractor's negligence. Contractor shall have the sole authority to direct the defense of and settle any indemnified claim. Contractor's indemnification is conditioned on Owner (a) promptly, within the Warranty Period, notifying Contractor of any claim, and (b) providing reasonable cooperation in the defense of any claim.

Limitation of Liability: Notwithstanding anything else to the contrary, Contractor shall not be liable for any consequential, incidental, special, punitive or any other indirect damages. Seller's total liability arising at any time from the sale or use of the equipment shall not exceed 3 times the contract value.

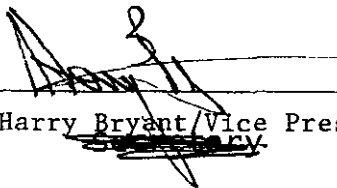
Warranty: Contractor warrants to Owner that the equipment shall materially conform to the description in Contractor's Documentation and shall be free from defects in material workmanship. If Owner gives Contractor written notice of breach of this warranty within 18 months from delivery or 1 year from acceptance, whichever occurs first (the "Warranty Period"), Contractor shall, as its sole option and as Owner's sole remedy, repair or replace the subject parts or refund the purchase price. If Contractor determines that any claimed breach is not, in fact, covered by this warranty, Owner shall pay Contractor its then customary charges for any repair or replacement if made by Contractor at Owners election. Contractor's warranty is conditioned on Owner's (a) operating

CONSTRUCTION CONTRACT
ARTICLE 6. MISCELLANEOUS PROVISIONS Continued)

and maintaining the Equipment in accordance with Contractor's instructions, (b) not making any unauthorized repairs or alterations, and (c) not being in default of any payment obligation to Contractor. Contractor's warranty does not cover damage caused by chemical action or abrasive material, misuse or improper installation (unless installed by Contractor). THE WARRANTY SET FORTH IN THIS SECTION ARE CONTRACTOR'S SOLE AND EXCLUSIVE WARRANTIES AND ARE SUBJECT TO SECTION 6.4 OF THIS CONTRACT. CONTRACTOR MAKES NO OTHER WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR PURCHASE.

In witness whereof, the COUNTY and CONTRACTOR have signed this agreement in quadruple. One counterpart has been retained by the Clerk of the Board of County Commissioners; one to the Project Sponsoring Department, one has been delivered to Lee County Contracts Management, and to the CONTRACTOR. All portions of the Contract Document have been signed or identified by COUNTY and CONTRACTOR, or by COUNTY'S CONSULTANT on their behalf.

signed, sealed, and delivered in the presence of:



Harry Bryant/Vice President of Operations

U.S. Filter/Davco Products

(Correct Name of Business)

BY: 

Wandell Hobbs
Contracts Officer

Title

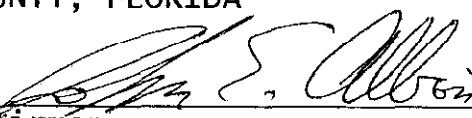
Date: 06/14/04

(Corporate Seal)

BOARD OF COUNTY COMMISSIONERS OF
LEE COUNTY, FLORIDA

ATTEST: Clerk of the Board

BY: 
Deputy Clerk

BY: 
Chairman

Date: 6/28/04

APPROVED AS TO FORM

BY: 



LEE COUNTY CONSTRUCTION CONTRACT
PUBLIC PAYMENT & CONSTRUCTION

Bond No.: 29-10-30
Premium: \$5,287.00
Executed in 2 counterparts

INSTR # 6331965
OR BK 04345 Pgs 3480 - 3484; (5pgs)
RECORDED 06/24/2004 01:37:43 PM
CHARLIE GREEN, CLERK OF COURT
LEE COUNTY, FLORIDA
DEPUTY CLERK X Lopez

1. Know all men by these presents, that USFilter Davco Products, 1828 Metcalf Ave., Thomasville, GA 31799, (229) 226-5733 hereinafter referred to as the CONTRACTOR, as Principal, and The Insurance Company of the State of *, a corporation, hereinafter called Surety, located at: 8144 Walnut Hill Ln., Suite 1600, Dallas, Texas 75231, are held and firmly bound unto Lee County Board of County Commissioners, P O Box 398, Fort Myers, FL 33901, (239) 335-2183, a Political Subdivision of the State of Florida as obligee, in the full and just sum of Three Hundred Thirty Thousand Four Hundred Fifty One Dollars and Forty-Four Cents (\$330,451.44), lawful money of the United States of America, to the payment of which sum, will and truly to be made, the CONTRACTOR and Surety bind themselves, their representatives, and each of their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

2. WHEREAS, the CONTRACTOR has entered into a certain written Contract with the COUNTY, also referred to herein as the OWNER, dated the 25th day of MAY, 2004, for: Legal Description - STRAP #: 16 44 24 03 0030B.00A0 WATERWAY ESTATES WASTEWATER TREATMENT PLANT whose address is 1667 Inlet Dr. Fort Myers, FL 33903 for the project known as WATERWAY ESTATES WASTEWATER TREATMENT PLANT REHABILITATION, with conditions and provisions as are further described in the aforementioned Contract, which Contract is by reference made a part hereof for the purpose of explaining this bond.

3. NOW, THEREFORE, the conditions of this obligation are such that if CONTRACTOR shall fully, promptly and faithfully perform said Contract and all obligations thereunder, including all obligations imposed by the Contract Documents, to include, Form(s) of Contract Bond(s), Change Orders, and such alterations thereof as may be made as provided for therein), and shall promptly make payments to all claimants for any and all labor and materials used or reasonably required for use or furnished in connection with the performance of said Contract, and shall perform all other covenants and obligations of this bond, then this obligation shall be void; otherwise it shall remain in full force and effect.

3.1 The undersigned shall indemnify and save harmless said OWNER against and from all costs, expenses and damages, including litigation cost and attorneys fees arising out of, or in connection with the neglect, default or want of care or skill, including patent infringement on the part of said CONTRACTOR, his agents, servants or employees in the execution or performance of said Contract.

3.2 The undersigned shall promptly make payment to all persons supplying services, labor, material or supplies used directly or indirectly by said CONTRACTOR, or any SubContractor or Sub-SubContractor, in the prosecution of the work provided for in said Contract.

*Pennsylvania

CONSTRUCTION CONTRACT
PUBLIC CONSTRUCTION BOND (CONTINUED)

3.3 The undersigned agree to promptly pay to the OWNER any difference between the sum to which the CONTRACTOR would be entitled on the completion of the contract, and the sum which the OWNER may be or was obligated to pay for the completion of said Work by the CONTRACTOR or otherwise, including any damages, liquidated or delay, direct or indirect, or consequential, which the OWNER may sustain by reason of failure of the CONTRACTOR to properly and promptly perform and abide by all of the provisions of said Contract.

3.4 The undersigned surety covenants and agrees that change orders, extensions of time, alterations or additions to the terms of the Contract or the Work to be performed thereunder, or the specifications accompanying the same shall in no way affect their obligation on this Bond, and the Surety does hereby expressly waive Notice of any such changes, extensions of time, alteration or addition, so long as the fundamental nature of the work on the project is not changed.

3.5 Subject to the OWNER'S priority, claimants covered by Section 713.01 of the Florida Statutes shall have a direct right of action against the Principal and Surety under this obligation, after written notice of the performance of labor or delivery of materials or supplies, and non-payment thereof. Any claimant who seeks to recover against the Principal or Surety under this obligation must also satisfy the notice requirement and time limitations of Section 255.05 of the Florida Statutes.

3.6 The CONTRACTOR and the Surety shall save the County harmless from any and all damages, expenses and cost, or lawsuits, which may arise by virtue of any defects in said work or materials within a period of one (1) year from the date of express acceptance of the project by the owner providing, however, that upon completion of the Work, the amount of this bond shall automatically be reduced to 100%.

3.7 This public construction bond shall be governed by the laws, rules, and regulations of the State of Florida. Any claims or suits instituted under this bond shall be governed by the law of the State of Florida.


SIGNED and sealed this, the 11th day of June, 2004

CONTRACTOR, As Principal:

WITNESS

USFilter Davco Products

Firm Name



Signature

By:  (SEAL)

Signature

Harry Bryant, Vice President of Operaitons
Type Name and Title

Wandell Hobbs/Contracts Officer
Type Name and Title

CONSTRUCTION CONTRACT
PUBLIC CONSTRUCTION BOND (CONTINUED)

COUNTERSIGNED

Juli A Russell

Title Juli A. Russell - Resident Agent

STATE OF California)
COUNTY OF Orange) SS
CITY OF Newport Beach)

The Insurance Company of the State of Pennsylvania
Name

8144 Walnut Hill Lane - St#1600
Address

Dallas, TX 75231
City, State, Zip Code

Irene Lau Irene Lau, Attorney-in-fact
Power-of-Attorney Signature

BEFORE me, a Notary Public, duly commissioned, qualified and acting personally, appeared:

Irene Lau

to me well-known, who being by me first duly sworn upon oath says that he is Attorney-in-Fact for The Insurance Company of the State of Pennsylvania, as Surety, and that he has been authorized by said Surety to execute the foregoing Public Construction Bond on behalf of the (CONTRACTOR) Principal named therein in favor of the OWNER.

The foregoing instrument was signed and acknowledged before me this 11th day of June, 2004, by Irene Lau
(Print or Type Name)

who has produced Personally known
(Type of Identification and Number)

as identification.
Kathy R. Mair
Notary Public Signature

Kathy R. Mair
Printed Name of Notary Public

May 22, 2005
Notary Commission Number/Expiration



CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Orange

On _____ before me, Kathy R. Mair, Notary Public,
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC

personally appeared Irene Lau,
NAME(S) OF SIGNER(S)

personally know to me - OR - proved to me on the basic of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Kathy R. Mair
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

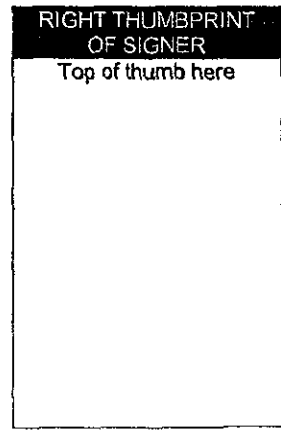
Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: Irene Lau

- Individual
- Corporate Officer - Title(s): _____
- Partner - Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

The Insurance Company of the State of Pennsylvania

Principal Bond Office: 70 Pine Street, New York, N.Y. 10270

POWER OF ATTORNEY

No. 05-B-34748

KNOW ALL MEN BY THESE PRESENTS:

That The Insurance Company of the State of Pennsylvania, a Pennsylvania corporation, does hereby appoint

---Irene Lau, Kathy R. Mair, Betty Walker: of Newport Beach, California---

its true and lawful Attorney(s)-in-Fact, with full authority to execute on its behalf bonds, undertakings, recognizances and other contracts of indemnity and writings obligatory in the nature thereof, issued in the course of its business, and to bind the company thereby.

IN WITNESS WHEREOF, The Insurance Company of the State of Pennsylvania has executed these presents



this 11th day of July, 2003.

Michael C. Fay
Michael C. Fay, Vice President

STATE OF NEW YORK }
COUNTY OF NEW YORK}ss.

On this 11th day of July, 2003 before me came the above named officer of The Insurance Company of the State of Pennsylvania, to me personally known to be the individual and officer described herein, and acknowledged that he executed the foregoing instrument and affixed the seal of said corporation thereto by authority of his office.

Dorothy L. Parker

DOROTHY L. PARKER
Notary Public, State of New York
No. 01PA6060631
Qualified in Richmond County
Commission Expires June 25, 2007

CERTIFICATE

Excerpts of Resolution adopted by the Board of Directors of The Insurance Company of the State of Pennsylvania. on May 18, 1976:

"RESOLVED, that the Chairman of the Board, the President, or any Vice President be, and hereby is, authorized to appoint Attorneys-in-Fact to represent and act for and on behalf of the Company to execute bonds, undertakings, recognizances and other contracts of indemnity and writings obligatory in the nature thereof, and to attach thereto the corporate seal of the Company, in the transaction of its surety business;

"RESOLVED, that the signatures and attestations of such officers and the seal of the Company may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company when so affixed with respect to any bond, undertaking, recognizance or other contract of indemnity or writing obligatory in the nature thereof;

"RESOLVED, that any such Attorney-in-Fact delivering a secretarial certification that the foregoing resolutions still be in effect may insert in such certification the date thereof, said date to be not later than the date of delivery thereof by such Attorney-in-Fact."

I, Elizabeth M. Tuck, Secretary of The Insurance Company of the State of Pennsylvania, do hereby certify that the foregoing excerpts of Resolution adopted by the Board of Directors of this corporation, and the Power of Attorney issued pursuant thereto, are true and correct, and that both the Resolution and the Power of Attorney are in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the facsimile seal of the corporation

this _____ day of JUN 11 2004

Elizabeth M. Tuck
Elizabeth M. Tuck, Secretary



Exhibit A

USFilter

From the office of: Earl Griner

DAVCO PRODUCTS	TELEPHONE	229-227-8779
1828 METCALF AVE	FACSIMILE	229-228-0312
THOMASVILLE, GA 31792		

February 02, 2004

Lee County
Department of Public Works
7402 College Parkway
Fort Myers, FL 33907

Attn.: Larry Clifford
Ref.: Waterway Estates Walkways

Dear Larry,

Please find the attached proposal for the scope of work that is outlined for Lee County, rehab proposal number 040034-A1.

If you should have any questions please feel free to give me a call at 1-800-841-1550.

Sincerely,
USFilter
Davco Products

Earl Griner

Earl Griner
Rehab/Retrofit Sales Representative



A COMPLETE LINE OF SEWAGE HANDLING AND TREATMENT EQUIPMENT

**DAVCO PRODUCTS, a division of
UNITED STATES FILTER CORPORATION
P.O. BOX 2100 - 1828 METCALF AVE.
THOMASVILLE, GEORGIA 31799
PHONE: (229-226-5733)**

EQUIPMENT PROPOSAL AND PURCHASE ORDER

**TO: Lee County
7401 College Parkway
Fort Myers, FL 33907**

Attn.: Larry Clifford

DATE: February 02, 2004

PROPOSAL NUMBER: 040034-A1

PROJECT NAME: Waterway Estates Walkways

ENGINEER: USFilter Davco Products

Davco Products, an organizational unit of United States Filter Corporation, a Delaware Corporation, (hereinafter called "Davco Products") is pleased to propose that you make an offer to buy by completing, signing, and sending to us the attached purchase order. Upon our written acceptance of the purchase order it will constitute a contract between us.

Submitted by: *Earl Griner*
USFilter Davco Products Representative

DATE: February 2, 2004
PROPOSAL NO: 040034-A1
PROJECT NAME: Waterway Estates Walkways

USFilter Davco Products proposes to furnish labor, supervision, expandable materials, equipment and new materials to perform the scope of work listed below:

I. Scope of work on existing Waste Water Treatment Plants.

- A. Furnish and install a walkway and stairway assembly to connect BTU #2 AND EQ Tank. The walkway structure assembly will be aluminum with 1-1/2" diameter anodized aluminum pipe handrails on both sides with one intermediate rail, anodized aluminum toeplate and 1" x 3/16" aluminum grating.
- B. Furnish and install a walkway and stairway assembly to connect Filters and UV Basin. The walkway structure assembly will be aluminum with 1-1/2" diameter anodized aluminum pipe handrails on both sides with one intermediate rail, anodized aluminum toeplate and 1" x 3/16" aluminum grating.
- C. Replace walkway and stairway assembly at Hycor drum screen that connects EQ Tank with Filters. The walkway structure assembly will be aluminum with 1-1/2" diameter anodized aluminum pipe handrails on both sides with one intermediate rail, anodized aluminum toeplate and 1" x 3/16" aluminum grating.
- D. All hardware such as bolts, nuts, washers, anchors etc to be stainless steel.

II. Price

- A. Price to perform the scope of work listed above = **\$64,149.00**
TAXES NOT INCLUDED

III. Terms and Conditions

- A. The attached terms and conditions are a part of this proposal.

USFilter

From the office of: **Earl Griner**

DAVCO PRODUCTS	TELEPHONE	229-227-8779
1828 METCALF AVE	FACSIMILE	229-228-0312
THOMASVILLE, GA 31792		

January 28, 2004

Lee County
Department of Public Works
7402 College Parkway
Fort Myers, FL 33907

Attn.: Larry Clifford
Ref.: Waterway Estates WWTP Rehab on BTU #1

Dear Larry,

Please find the attached proposal for the scope of work that is outlined for Lee County, rehab proposal number 040034-AO.

If you should have any questions please feel free to give me a call at 1-800-841-1550.

Sincerely,
USFilter

Davco Products

Earl Griner

Earl Griner
Rehab/Retrofit Sales Representative



A COMPLETE LINE OF SEWAGE HANDLING AND TREATMENT EQUIPMENT

**DAVCO PRODUCTS, a division of
UNITED STATES FILTER CORPORATION**
P.O. BOX 2100 - 1828 METCALF AVE.
THOMASVILLE, GEORGIA 31799
PHONE: (229-226-5733)

EQUIPMENT PROPOSAL AND PURCHASE ORDER

TO: Lee County
7401 College Parkway
Fort Myers, FL 33907

Attn.: Larry Clifford

DATE: January 28, 2004

PROPOSAL NUMBER: 040034-AO

PROJECT NAME: Waterway Estates Rehab BTU #1

ENGINEER: USFilter Davco Products

Davco Products, an organizational unit of United States Filter Corporation, a Delaware Corporation, (hereinafter called "Davco Products") is pleased to propose that you make an offer to buy by completing, signing, and sending to us the attached purchase order. Upon our written acceptance of the purchase order it will constitute a contract between us.

Submitted by: *Earl Griner*
USFilter Davco Products Representative

DATE: January 28, 2004

PROPOSAL NO: 040034-AO

PROJECT NAME: Waterway Estates Rehab BTU #1

USFilter Davco Products proposes to furnish labor, supervision, expandable materials, equipment and new materials to perform the scope of work listed below:

- I. Scope of work on existing Waste Water Treatment Plant with a 44' 8" diameter clarifier inner wall and a 83' diameter outer wall. Old Davco Job # 5559**
 - A. Remove and replace the main access bridge assembly. The main bridge assembly structural will be carbon steel with 1-1/2" diameter anodized aluminum pipe handrails on both sides with one intermediate rail, anodized aluminum toeplate and 1" x 3/16" aluminum grating.**
 - B. Remove and replace the peripheral walkway around the clarifier. The support brackets will be carbon steel with 1-1/2" diameter anodized aluminum pipe handrails on both sides with one intermediate rail, anodized aluminum toeplate and 1" x 3/16" aluminum grating.**
 - C. Furnish and install a new clarifier collector drive with shear pin torque overload protection. The drive motor is 1/2 hp, TEFC, 115/230 volts, 1 phase, 60 hertz, 1800 RPM.**
 - D. Furnish and install new stainless steel control panel for clarifier drive.**
 - E. Remove and replace the top 2' of clarifier wall plate and the clarifier wall trim channel.**
 - F. Furnish and install new center drive shaft assembly, carbon steel construction.**
 - G. Furnish and install new clarifier scraper arm assembly fabricated from structural steel members with PVC belting blades.**
 - H. Furnish and install new clarifier weir trough assembly, scum baffle, adjustable stainless steel weir plates and necessary brackets.**
 - I. Furnish and install new stainless steel skimmer arm assemblies.**
 - J. Furnish and install new stainless steel scum trough and piping assembly. Automatic scum operation with manual bypass.**
 - K. Furnish and install new stainless steel scum strainer discharge box.**
 - L. Furnish and install new carbon steel stilling well assembly.**
 - M. Furnish and install new clarifier influent pipe assembly.**

- N. Furnish and install new stainless steel sludge return box, stainless steel airlift piping and airline pipe.
- O. Furnish and install piping, fittings and valves to relocate the existing 6" air header to above the tank water level
- P. Replace all angle iron supports supporting 3" piping that is supporting main airline header circling clarifier.
- Q. Replace plug valves to anoxic zone and aeration basin drains.
- R. Brush blast the interior of the existing tank and components with the rusted areas being blasted to near white and then coated with 8-10 mils of coal tar epoxy.
- S. Shop cleaning and coating. All new steel surfaces will receive a near white blast to remove rust, mill scale and weld slag. After surface preparation prime coat with 3 mils of copoxy paint.
- T. All hardware such as bolts, nuts, washers, anchors etc to be stainless steel.

II. Price

- A. Price to perform the scope of work listed above = **\$259,823.00**
TAXES NOT INCLUDED

III. Terms and Conditions

- A. The attached terms and conditions are a part of this proposal.
- B. Customer is responsible for having tank drained and cleaned out before USFilter crew arrives on site.
- C. Customer will do removal and replacement of all conduit and electrical lines.
- D. Customer will do removal and replacement of all chemical lines.
- E. Customer is responsible for replacing plant lighting.



NOTICE OF COMMENCEMENT

INSTR # 6331966
OR BK 04345 Pgs 3485 - 3486; (2pgs)
RECORDED 06/24/2004 01:37:43 PM
CHARLIE GREEN, CLERK OF COURT
LEE COUNTY, FLORIDA
DEPUTY CLERK X Lopez

TO WHOM IT MAY CONCERN:

THE UNDERSIGNED HEREBY INFORMS YOU THAT IMPROVEMENTS WILL BE MADE TO CERTAIN REAL PROPERTY, AND IN ACCORDANCE WITH CHAPTER 713.13 OF THE FLORIDA STATUTES, THE FOLLOWING INFORMATION IS STATED IN THIS NOTICE OF COMMENCEMENT.

DESCRIPTION OF THE PROPERTY: STRAP #: 16 44 24 03 0030B.00A0 WATERWAY ESTATES WASTEWATER TREATMENT PLANT WHOSE ADDRESS IS 1667 INLET DR. FORT MYERS, FL 33903 FOR THE PROJECT KNOWN AS WATERWAY ESTATES WASTEWATER TREATMENT PLANT REHABILITATION

GENERAL DESCRIPTION OF IMPROVEMENTS: FURNISH LABOR, SUPERVISION, EXPANDABLE MATERIALS, EQUIPMENT AND NEW MATERIALS TO PERFORM REHABILITATION WORK TO THE WATERWAY ESTATES WASTEWATER TREATMENT PLANT.

OWNER - LEE COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA
ADDRESS - P.O. BOX 398, LEE COUNTY COURTHOUSE, FORT MYERS, FLORIDA
OWNER'S INTEREST IN SITE OF THE IMPROVEMENT - SOLE OWNER AND THE FEE SIMPLE TITLE HOLDER

NAME AND ADDRESS OF THE CONTRACTOR: usFILTER Daveco Products - 1828 Metcalf Avenue, Thomasville, GA 31792


NAME AND ADDRESS OF THE SURETY ON THE PAYMENT BOND, IF ANY: The Insurance Company of the State of Pennsylvania, 8144 Walnut Hill Ln., Suite 1600, Dallas, TX 75231

AMOUNT OF BOND: \$330,451.44

NAME AND ADDRESS OF PERSON WITHIN THE STATE OF FLORIDA DESIGNED BY OWNER UPON WHOM NOTICES OR OTHER DOCUMENTS MAY BE SERVED AS PROVIDED IN CHAPTER 713.13, FLORIDA STATUTES:

NAME - LEE COUNTY CONTRACTS MANAGEMENT

ADDRESS - P.O. BOX 398, FORT MYERS, FL 33902



LEE COUNTY BY THE BOARD OF COUNTY COMMISSIONERS, OWNER
Cindy Logan, Contracts Manager

STATE OF Florida
COUNTY OF Lee

The foregoing instrument was signed and acknowledged before me this 24th day of JUNE, 2004, by Cindy Logan
(Print or Type Name)

who has produced Personally Known as identification.
(Type of Identification and Number)



Notary Public Signature

GAIL M. ORIO

Printed Name of Notary Public

DD327810/06/08

Notary Commission Number/Expiration

