

B230548WCD
Athletic Turf Maintenance and Reconstruction
JSM Services, Inc.

E1 Contract # _____

AGREEMENT FOR ATHLETIC TURF MAINTENANCE AND RECONSTRUCTION

THIS AGREEMENT ("Agreement") is made and entered into by and between Lee County, a political subdivision of the State of Florida, hereinafter referred to as the "County" and JSM Services, Inc., a Florida corporation, whose address is 414 Lake Millsite Rd., Bartow, FL 33830, and whose federal tax identification number is 59-3444761, hereinafter referred to as "Vendor."

WITNESSETH

WHEREAS, the County intends to purchase athletic turf maintenance and reconstruction services from the Vendor in connection with "Athletic Turf Maintenance and Reconstruction" (the "Purchase"); and,

WHEREAS, the County issued Solicitation No. B230548WCD on October 6, 2023 (the "Solicitation"); and,

WHEREAS, the County evaluated the responses received and found the Vendor qualified to provide the necessary products and services; and,

WHEREAS, the County posted a Notice of Intended Decision on November 28, 2023; and,

WHEREAS, the Vendor has reviewed the products and services to be supplied pursuant to this Agreement and is qualified, willing and able to provide all such products and services in accordance with its terms.

NOW, THEREFORE, the County and the Vendor, in consideration of the mutual covenants contained herein, do agree as follows:

I. PRODUCTS AND SERVICES

The Vendor agrees to diligently provide all products and services for the Purchase, a more specific description of the Project Scope of Services is set forth in Section 1 through 42 of the Scope of Work and Specifications section of B230548WCD, a photocopy of said section(s) being attached hereto and incorporated by reference as Exhibit A. Vendor shall comply strictly with all of the terms and conditions of the Solicitation No. B230548WCD as modified by its addenda, copies of which are on file with the County's Department of Procurement Management and are deemed incorporated into this agreement.

II. TERM AND DELIVERY

A. This Agreement shall commence immediately upon the effective date and shall continue through the delivery of the Purchase and the associated warranty period as further described in this Agreement, on an as needed

basis, for one (1) three (3) year periods. The Increments of the renewal shall be upon mutual written agreement of both parties, the parties may renew the Agreement, in whole or in part, for a renewal term or terms not to exceed (2) two additional years. The increments of renewal shall be at the sole discretion of the County as deemed in its best interest. The effective date shall be the date the Lee County Board of County Commissioners awarded the Solicitation to the Vendor.

- B. A purchase order must be issued by the County before commencement of any work or purchase of any goods related to this Agreement.

III. COMPENSATION AND PAYMENT

- A. The County shall pay the Vendor in accordance with the terms and conditions of this Agreement for providing all products and services as set forth in Exhibit A, and further described in Exhibit B, Fee Schedule, attached hereto and incorporated herein. Said total amount to be all inclusive of costs necessary to provide all products and services as outlined in this Agreement, and as supported by the Vendor's submittal in response to the Solicitation, a copy of which is on file with the County's Department of Procurement Management and is deemed incorporated into this Agreement.
- B. Notwithstanding the preceding, Vendor shall not make any deliveries or perform any services under this Agreement until receipt of written authorization from the County. Vendor acknowledges and agrees that no minimum order or amount of product or service is guaranteed under this Agreement and County may elect to request no products or services. If the County authorizes delivery of products or performance of services, the County reserves the right to amend, reduce, or cancel the authorization in its sole discretion.
- C. All funds for payment by the County under this Agreement are subject to the availability of an annual appropriation for this purpose by the County. In the event of non-appropriation of funds by the County for the services provided under this Agreement, the County will terminate the contract, without termination charge or other liability, on the last day of the then current fiscal year or when the appropriation made for the then-current year for the services covered by this Agreement is spent, whichever event occurs first. If at any time funds are not appropriated for the continuance of this Agreement, cancellation shall be accepted by the Vendor on thirty (30) days' prior written notice, but failure to give such notice shall be of no effect and the County shall not be obligated under this Agreement beyond the date of termination.

IV. METHOD OF PAYMENT

- A. The County shall pay the Vendor in accordance with the Local Government Prompt Payment Act, Section 218.70, Florida Statutes, upon receipt of the Vendor's invoice and written approval of same by the County indicating that the products and services have been provided in conformity with this Agreement.
- B. The Vendor shall submit an invoice for payment to the County on a monthly basis for those specific products and services as described in Exhibit A (and the corresponding fees as described in Exhibit B) that were provided during that invoicing period.
- C. For partial shipments or deliveries, progress payments shall be paid monthly in proportion to the percentage of products and services delivered on those specific line items as approved in writing by the County.

V. ADDITIONAL PURCHASES

- A. No changes to this Agreement or the performance contemplated hereunder shall be made unless the same are in writing and signed by both the Vendor and the County.
- B. If the County requires the Vendor to perform additional services or provide additional product(s) related to this Agreement, then the Vendor shall be entitled to additional compensation based on the Fee Schedule as amended to the extent necessary to accommodate such additional work or product(s). The additional compensation shall be agreed upon before commencement of any additional services or provision of additional product(s) and shall be incorporated into this Agreement by written amendment. The County shall not pay for any additional service, work performed or product provided before a written amendment to this Agreement.

Notwithstanding the preceding, in the event additional services are required as a result of error, omission or negligence of the Vendor, the Vendor shall not be entitled to additional compensation.

VI. LIABILITY OF VENDOR

- A. The Vendor shall save, defend, indemnify and hold harmless the County from and against any and all claims, actions, damages, fees, fines, penalties, defense costs, suits or liabilities which may arise out of any act, neglect, error, omission or default of the Vendor arising out of or in any way connected with the Vendor or subvendor's performance or failure to perform under the terms of this Agreement.
- B. This section shall survive the termination or expiration of this Agreement.

VII. VENDOR'S INSURANCE

- A. Vendor shall procure and maintain insurance as specified in Exhibit C Insurance Requirements, attached hereto and made a part of this Agreement.
- B. Vendor shall, on a primary basis and at its sole expense, maintain in full force and effect, at all times during the life of this Agreement, insurance coverage (including endorsements) and limits as described in Exhibit C. These requirements, as well as the County's review or acceptance of insurance maintained by Vendor, are not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by Vendor under this Agreement. Insurance carriers providing coverage required herein must be licensed to conduct business in the State of Florida and must possess a current A.M. Best's Financial Strength Rating of "B or better." No changes are to be made to these specifications without prior written specific approval by County Risk Management. To the extent multiple insurance coverages and/or County's self-insured retention may apply, any and all insurance coverage purchased by Vendor and its subvendors identifying the County as an additional named insured shall be primary.

VIII. RESPONSIBILITIES OF THE VENDOR

- A. The Vendor shall be responsible for the quality and functionality of all products supplied and services performed by or at the behest of the Vendor under this Agreement. The Vendor shall, without additional compensation, correct any errors or deficiencies in its products, or if directed by County, supply a comparable replacement product or service.
- B. The Vendor warrants that it has not employed or retained any company or person (other than a bona fide employee working solely for the Vendor), to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm other than a bona fide employee working solely for the Vendor, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award of this Agreement.
- C. The Vendor shall comply with all federal, state, and local laws, regulations and ordinances applicable to the work or payment for work thereof, and shall not discriminate on the grounds of race, color, religion, sex, or national origin in the performance of work under this Agreement.
- D. Vendor specifically acknowledges its obligations to comply with Section 119.0701, Florida Statutes, with regard to public records, and shall:
 - 1) keep and maintain public records that ordinarily and necessarily would be required by the County in order to perform the services required under this Agreement;

- 2) upon request from the County, provide the County 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 Chapter 119, Florida Statutes, or as otherwise provided by law;
- 3) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law; and
- 4) meet all requirements for retaining public records and transfer, at no cost to the County, all public records in possession of Vendor upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the County in a format that is compatible with the information technology system of the County.

IF THE VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE VENDOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 239-533-2221, 2115 SECOND STREET, FORT MYERS, FL 33901, PRRCustodian@leegov.com; <http://www.leegov.com/publicrecords>.

- E. The Vendor is, and shall be, in the performance of all work, services and activities under this Agreement, an independent vendor. Vendor is not an employee, agent or servant of the County and shall not represent itself as such. All persons engaged in any work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to the Vendor's sole direction, supervision and control. The Vendor shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the Vendor's relationship and the relationship of its employees to the County shall be that of an independent vendor and not as employees of the County. The Vendor shall be solely responsible for providing benefits and insurance to its employees.
- F. The Vendor shall comply with the Vendor Background Screening Affidavit attached hereto and incorporated herein as Exhibit E.
- G. In the event that construction services are involved in the Vendor's performance of this Agreement, the Vendor shall comply with the "Attachment A General Conditions" attached hereto and incorporated herein as Exhibit D.

IX. OWNERSHIP OF PRODUCTS

It is understood and agreed that all products provided under this Agreement shall become the property of the County upon acceptance by the County.

X. TIMELY DELIVERY OF PRODUCTS AND PERFORMANCE OF SERVICES

- A. The Vendor shall ensure that all of its staff, vendors and suppliers involved in the production or delivery of the products are fully qualified and capable to perform their assigned tasks.
- B. The personnel assigned by the Vendor to perform the services pursuant to this Agreement shall comply with the terms set forth in this Agreement. If the services provided require use of specific key personnel, the personnel shall be agreed to by the County and Vendor. If the Vendor's key personnel have been predetermined and approved, through the Solicitation process or otherwise, any subsequent change or substitution to the personnel must receive the County's written approval before said changes or substitution can become effective.
- C. The Vendor specifically agrees that all products shall be delivered within the time limits as set forth in this Agreement, subject only to delays caused by force majeure, or as otherwise defined herein. "Force majeure" shall be deemed to be any unforeseeable and unavoidable cause affecting the performance of this Agreement arising from or attributable to acts, events, omissions or accidents beyond the control of the parties.

XI. COMPLIANCE WITH APPLICABLE LAW

This Agreement shall be governed by the laws of the State of Florida. Vendor shall promptly comply with all applicable federal, state, county and municipal laws, ordinances, regulations, and rules relating to the services to be performed hereunder and in effect at the time of performance. Vendor shall conduct no activity or provide any service that is unlawful or offensive.

XII. TERMINATION

- A. The County shall have the right at any time upon thirty (30) days' written notice to the Vendor to terminate this Agreement in whole or in part for any reason whatsoever. In the event of such termination, the County shall be responsible to Vendor only for fees and compensation earned by the Vendor, in accordance with Section III, prior to the effective date of said termination. In no event shall the County be responsible for lost profits of Vendor or any other elements of breach of contract.
- B. After receipt of a notice of termination, except as otherwise directed, the Vendor shall stop work on the date of receipt of the notice of termination

or other date specified in the notice; place no further orders or sub-contracts for materials, services, or facilities except as necessary for completion of such portion of the work not terminated; terminate all vendors and subcontracts; and settle all outstanding liabilities and claims.

- C. The County's rights under this Agreement shall survive the termination or expiration of this Agreement and are not waived by final payment or acceptance and are in addition to the Vendor's obligations under this Agreement.

XIII. DISPUTE RESOLUTION

- A. In the event of a dispute or claim arising out of this Agreement, the parties agree first to try in good faith to settle the dispute by direct discussion. If this is unsuccessful, the parties may enter into mediation in Lee County, Florida, with the parties sharing equally in the cost of such mediation.
- B. In the event mediation, if attempted, is unsuccessful in resolving a dispute, the parties may proceed to litigation as set forth below.
- C. Any dispute, action or proceeding arising out of or related to this Agreement will be exclusively commenced in the state courts of Lee County, Florida, or where proper subject matter jurisdiction exists, in the United States District Court for the Middle District of Florida. Each party irrevocably submits and waives any objections to the exclusive personal jurisdiction and venue of such courts, including any objection based on forum non conveniens.
- D. This Agreement and the rights and obligations of the parties shall be governed by the laws of the State of Florida without regard to its conflict of laws principles.
- E. Unless otherwise agreed in writing, the Vendor shall be required to continue all obligations under this Agreement during the pendency of a claim or dispute including, but not limited to, actual periods of mediation or judicial proceedings.

XIV. STOP WORK ORDER

The County may, at any time, by written order to the Vendor, require the Vendor to stop all or any part of the work called for by this Agreement. Any order shall be identified specifically as a stop work order issued pursuant to this clause. This order shall be effective as of the date the order is delivered to the Vendor. Upon receipt of such an order, the Vendor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. The Vendor shall not resume work unless specifically so directed in writing by the County. The County may take one of the following actions:

1. Cancel the stop work order; or
2. Terminate the work covered by the order; or
3. Terminate the Agreement in accordance with provisions contained in Section XI.

In the event the County does not direct the Vendor to resume work, the stop work order may be converted into a notice of termination for convenience pursuant to Section XII. The notice period for such termination shall be deemed to commence on the date of issuance of the stop work order. In the event the County does not direct the Vendor to resume work within ninety (90) days, the Vendor may terminate this Agreement.

XV. VENDOR WARRANTY

- A. All products provided under this Agreement shall be new (unless specifically identified otherwise in Exhibit B and of the most suitable grade for the purpose intended.
- B. If any product delivered does not meet performance representations or other quality assurance representations as published by manufacturers, producers or distributors of the products or the specifications listed in this Agreement, the Vendor shall pick up the product from the County at no expense to the County. The County reserves the right to reject any or all materials if, in its judgment, the item reflects unsatisfactory workmanship or manufacturing or shipping damage. In such case, the Vendor shall refund to the County any money which has been paid for same.

XVI. MISCELLANEOUS

- A. This Agreement constitutes the sole and complete understanding between the parties and supersedes all other contracts between them, whether oral or written, with respect to the subject matter. No amendment, change or addendum to this Agreement is enforceable unless agreed to in writing by both parties and incorporated into this Agreement.
- B. The provisions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assignees of the parties hereto. A party to this Agreement shall not sell, transfer, assign, license, franchise, restructure, alter, or change its corporate structure or otherwise part with possession or mortgage, charge or encumber any right or obligation under this Agreement without the proposed assignee and/or party restructuring, altering or changing its corporate structure agreeing in writing with the non-assigning party to observe and perform the terms, conditions and restrictions on the part of the assigning party to this Agreement, whether express or implied, as if the proposed assignee and/or party restructuring, altering or changing its corporate structure was an original contracting

party to this Agreement. Notwithstanding the foregoing provision, the Vendor may assign its rights if given written authorization by the County and claims for the money due or to become due to the Vendor from the County under this Agreement may be assigned to a financial institution or to a trustee in bankruptcy without such approval from the County. Notice of any such transfer or assignment due to bankruptcy shall be promptly given to the County.

- C. The exercise by either party of any rights or remedies provided herein shall not constitute a waiver of any other rights or remedies available under this Agreement or any applicable law.
- D. The failure of the County to enforce one or more of the provisions of the Agreement shall not be construed to be and shall not be a waiver of any such provision or provisions or of its right thereafter to enforce each and every such provision.
- E. The parties covenant and agree that each is duly authorized to enter into and perform this Agreement and those executing this Agreement have all requisite power and authority to bind the parties.
- F. Neither the County's review, approval or acceptance of, nor payment for, the products and services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.
- G. If the Vendor is comprised of more than one legal entity, each entity shall be jointly and severally liable hereunder.
- H. When any period of time is referred to by days herein, it shall be computed to exclude the first day and include the last day of such period. When the period of time is fewer than three (3) days, it shall mean business days as defined by Lee County. If the period of time is greater than three (3) days, then it shall mean calendar days. For any period of time greater than seven (7) days, where the deadline falls on a Saturday, Sunday, or Lee County recognized holiday, the deadline will then fall to the next Monday or non-Lee County recognized holiday

[The remainder of this page intentionally left blank.]

- I. Any notices of default or termination shall be sufficient if sent by the parties via email, United States certified mail, postage paid, or via a nationally recognized delivery service, to the addresses listed below:

Vendor's Representative

Name: James W. Stamps III
Title: Vice President
Address: 6150 Federal Court
Fort Myers, FL 33905
Telephone: (239) 850-8025
Facsimile: (239) 693-9199
Email: jstamps3@jmservices.com

County's Representative

Name: Mary Tucker
Title: Procurement
Management Director
Address: P.O. Box 398
Fort Myers, FL 33902
Telephone: (239) 533-8881
Facsimile: (239) 485-8383
Email: mtucker@leegov.com

- J. Any change in the County's or the Vendor's Representative will be promptly communicated by the party making the change.
- K. Paragraph headings are for the convenience of the parties and for reference purposes only and shall be given no legal effect.
- L. In the event of conflicts or inconsistencies, the documents shall be given precedence in the following order:
1. Agreement
 2. County's Purchase Order
 3. Solicitation
 4. Vendor's Submittal in Response to the Solicitation

[The remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date last below written.

WITNESS:

JSM SERVICES, INC.

Signed By: Loretti Padilla

Signed By: [Signature]

Print Name: Loretti Padilla

Print Name: James Stamps

Title: President

Date: 1-11-2024

LEE COUNTY

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

DocuSigned by:
BY: Mike Greenwell
CHAIR

DATE: 2/13/2024 | 11:42 AM EST

ATTEST:
CLERK OF THE CIRCUIT COURT

DocuSigned by:
BY: Chris Jagodzinski
DEPUTY CLERK

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY:

DocuSigned by:
BY: Amanda L. Swindle
OFFICE OF THE COUNTY ATTORNEY



EXHIBIT A
SCOPE OF WORK AND SPECIFICATIONS
SCOPE OF WORK AND SPECIFICATIONS

1. GENERAL SCOPE OF WORK

- 1.1. The Lee County Board of County Commissioners seeks to contract with a qualified Vendor to provide Athletic Turf Maintenance and Reconstruction for Lee County Parks and Recreation.
- 1.2. Detailed services to be provided under this contract include, but may not be limited to fertilization, weed and vegetation control, pest control, aeration, verticutting, thatching, laser leveling for proper drainage, rotadairon, deep tine aerification, turf reconstruction as directed and the overall appearance of Lee County athletic turf at the locations detailed herein.
- 1.3. Vendor shall furnish all fertilizers and chemicals and equipment for the maintenance and reconstruction of Lee County athletic fields.
- 1.4. There will be no charge to Lee County Parks and Recreation for work that is completed by County staff.
- 1.5. The Vendor shall provide permits, materials, fabrication, labor, supervision, equipment, tools, travel, fuel costs, removal of refuse from Lee County property, silt fencing if required by permitting, safety fencing around materials and/or equipment, and site prep necessary to perform the services required in accordance with the solicitation documents.

2. VENDOR QUALIFICATIONS

- 2.1. The County desires to contract with a Vendor that holds the following license, education, and certifications that the County believes are necessary to complete the scope of work included in this solicitation. At least one person, either the Vendor, employee of the Vendor, or sub-contractor, should hold the following license, education, and certifications. Vendor should submit with bid package proof of license, education, and certifications held by company, employee or sub-contractor that meets the requested qualifications listed. The County, at its sole discretion, reserves the right to approve documentation submitted, request additional documentation, or waive any aspect of the qualification requirement. The County further reserves the right to reject a low bidder submission from a Vendor that does not adequately meet the desired qualifications listed, at the sole discretion of the County.
 - 2.1.1. Fertilizer Best Management Practices Registration and Certification (Lee County Ordinance No. 08-08.
 - 2.1.2. Fertilizer License
 - 2.1.3. Pesticide Certification
 - 2.1.4. Certified Sports Field Manager (CSFM) certified by Sports Turf Managers Association (STMA) or Certified Field Builder (CFB) in lieu or in addition to an STMA Certification.
 - 2.1.5. Degree from accredited school in one of the following fields:
 - 2.1.5.1. Associate of Science in Golf or Landscape Operations
 - 2.1.5.2. Bachelors of Science Turf Grass Science or Turf Management
 - 2.1.5.3. Bachelors of Science in Agronomy or Soil Science
 - 2.1.5.4. Bachelors of Science in Horticulture
 - 2.1.6. Vendor must have completed three (3) projects similar in size to the scope of work outlined in this solicitation and must be submitted on form 8 Minimum Qualifications.
 - 2.1.7. Vendor must also have a minimum of five (5) years of experience with similar size projects (see Form 8).

3. EXAMINATION OF SITES/FACILITIES

- 3.1. It is the Vendor's responsibility to become fully informed as to the nature and extent of the work required and its relation to any other work in the area, including possible interference from other site activities.
 - 3.1.1. Note: Failure to visually inspect the facilities may be cause for disqualification of your bid.

- 3.2. Lee County suggests that Vendors visit the sites of work and acquaint themselves with the conditions, as they exist and the operations to be carried out. Vendors shall make investigations as they may see fit so that they may fully understand the facilities, difficulties, and restrictions attending the execution of the work under this Invitation to Bid.
- 3.3. Prior to start up with Lee County the awarded Vendor will go on a site visit with a County representative to each location to clearly delineate sites to be treated, boundaries, etc.
- 3.4. Any questions that may arise during the course of the work should be addressed to the County representative.
 - 3.4.1. NOTE: Failure by the Vendor(s) to inspect all sites does not relieve the Vendor of the responsibilities as defined under this solicitation.
- 3.5. Vendor shall perform three (3) soil and three (3) tissue samples throughout the year and shall submit the results to Lee County staff. Vendor shall provide a schedule of when the samples will be collected to the County representative at the beginning of each contract year.

4. DESIGNATED CONTACT PERSON

- 4.1. The Vendor shall appoint a person or persons to act as a primary contact with Lee County. This person or backup shall be able to speak and understand English and readily available 24 X 7 by e-mail and telephone or in person and shall be knowledgeable of the terms and procedures involved.
- 4.2. The Vendor’s supervisors must be able to meet with County Representative at any time within a 2-hour time frame to discuss or view operations of the vendor’s staff.
- 4.3. In each district there may be a designee responsible for daily cooperation and signing of any documentation. Communication between the Vendor and the designated County representative must be acknowledged. Fax transmission and e-mail is acceptable, but only if acknowledgment of receipt is made. It will be the responsibility of the Vendor to ensure that such communication is made to the County representative in any case where coordination of efforts is required. Examples of such coordination is the application of materials by the Vendor. Areas requiring watering and/or other such materials. Activity may require a cessation of mowing activity by the County. It will also be the responsibility of the Vendor to notify the County in writing of any cultural practices of the County that is leading to problem situations for which the Vendor will ultimately be held responsible. Similarly, if the County wishes to engage in a practice that would affect the Vendor, such as seasonal overseeding, it is the responsibility of the County representative to notify the Vendor in writing. Other examples of County responsibility would include notifying the Vendor of disruption of such normal maintenance functions as mowing or irrigation. In every case in which a subjective judgment is required to determine whether a course of action is needed or not, the final arbiter will be the County representative.

5. TURF MAINTENANCE

- 5.1. The maintenance levels provided under this contract shall be "AVERAGE DEMAND", "HIGH DEMAND" and "PROFESSIONAL STADIUM FIELDS". A list of the locations and a designation of their acreage into "AVERAGE DEMAND", "HIGH DEMAND" and "PROFESSIONAL STADIUM FIELDS" maintenance shall be as follows:

	TURF MAINTENANCE LOCATIONS	AVERAGE DEMAND	HIGH DEMAND	PROFESSIONAL STADIUM FIELDS
1	ALVA COMMUNITY PARK	3		
2	BAYSHORE ELEMANTARY SOCCER		10	
3	BROOKS PARK		4.5	
4	BUCKINGHAM COMMUNITY PARK		11	
5	CYPRESS LAKEHIGH SCHOOL		3.5	
6	DUNBAR HIGH SCHOOL		2.5	

17 B230548WCD ATHLETIC TURF MAINTENANCE AND RECONSTRUCTION

7	ESTERO COMMUNITY PARK & HIGH SCHOOL FIELD	3	16	
8	FIVE PLEX		15	
9	HANCOCK COMMUNITY PARK		7.5	
10	FORT MYERS HIGH SCHOOL		3.5	
11	HARLEM HEIGHTS		1.5	
12	JETBLUE STADIUM		18	3
13	JETBLUE SOCCER EAST		12	
14	JETBLUE SOCCER WEST		9	
15	JUDD PARK		1	
16	KELLY ROAD		18.5	
17	LAKES PARK	3		
18	LEE COUNTY SPORTS COMPLEX		23.25	3
19	LEHIGH ACRES COMMUNITY PARK		16	
20	LEHIGH ACRES MIDDLE SCHOOL		9	
21	NORTH FORT MYERS PARK		10	
22	PHILLIPS PARK	1		
23	PINE ISLAND ELEMENTARY	2		
24	RIVERDALE HIGH SCHOOL		4.5	
25	RUTENBURG COMMUNITY PARK		9	
26	SAN CARLOS ELEMENTARY		3.5	
27	SHANDLER HALL		1.5	
28	SOUTH FORT MYERS HIGH SCHOOL		3.5	
29	TANGLEWOOD ELEMENTARY		4	
30	TERRY PARK		10	
31	THREE OAKS PARK		10	
32	VETERANS COMMUNITY PARK		11	
33	VETERANS MIDDLE SCHOOL		2	
34	VILLAS ELEMENTARY		4	
35	WA-KE HATCHEE SOCCER		2	
36	WA-KE HATCHEE PARK		1.5	
37	NORTH FORT MYERS ACADEMY OF THE ARTS		5	
	TOTAL	12	263.25	6

6. CATEGORY 1- SCHEDULED MAINTENANCE-ATTACHMENT A (AVERAGE DEMAND)

6.1 Average Demand" (Attachment A) minimum standards are:

- 6.1.1. A minimum of 12 monthly inspection visits by the Vendor and a site representative, if available, at each park within the districts, which includes written and signed inspection reports. Please check Attachment A for an "Average Demand" checklist. Please consult with site supervisor concerning the application of fertilizers, weed control, vegetation control and pest control.

6.2. FERTILIZATION

- 6.2.1. Fertilization visits will include application of at least 50% sulfur coated, dry, granular, balanced fertilizer see "Average Demand" list (Attachment A). The fertilizer applications are expected to follow the written application schedule furnished for each site as a minimum standard. The Vendor must specifically agree to follow the County worksheet; a copy of the application schedule is attached to this solicitation, Attachment A. All fertilizer must be accounted for prior to each application. Applications to all infields shall be made with a walk behind spreader and overlapping on baselines and aprons. Any fertilizer that gets on concrete or asphalt will be blown off.
- 6.2.2. Note: If fertilizer is delivered to the site make sure all fertilizer is applied within 72 hours or Vendor must remove from the site at no additional cost to the County.

6.3. WEED CONTROL (TURF AREAS)

- 6.3.1. A pre-emergent weed control herbicide shall be applied 2 times per year. All rates must be curative and follow up applications shall be made according to the label of approved herbicide used. Each application shall be documented with rates used and a follow-up schedule signed and turned over to site representative and copied to Lee County Representative. Each site will be core aerated by the Vendor prior to this application. Post emergent weed control shall be done at least three times with follow up applications as required; some areas may be wall to wall treatment. All liquid applications must have indicator dye when spot spraying. The Vendor must use a herbicide as listed on Attachment D and/or approved by the County representative. Fields should be 98 - 100% weed free at all times.
- 6.3.2. Note: No spraying of weeds on grass playing surfaces will be permitted using Round-Up or any other non-selective herbicide. Vendor must communicate with site supervisors about not cutting fields before or after spraying either by putting it on the schedule or via email. Vendor must also communicate with site supervisors if spraying must be rescheduled for some reason.

6.4. VEGETATION CONTROL

- 6.4.1. Vendor shall control weeds in such a manner as would be done by a County pesticide applicator in the entire site of the detailed list of athletic turf locations. Such weed control shall include, as a minimum, the application of an approved non-selective, post emergent herbicide in a mix with pre-emergent herbicide to a band 12 inches wide along the base of both sides of all chain link fences or any perimeter fencing located on site, a minimum of ten (10) times per year. Such herbicide application shall also be made to the ground areas under bleachers and also to such locations as would require "trim" mowing if the area does not receive a herbicide application. These areas include, but are not necessarily limited to, around poles, drinking fountains, tree wells, warning tracks, clay infields, unpaved roads, plaza, sidewalks including the cracks in the sidewalk and concrete areas.
- 6.4.2. Any exotic vegetation including but not limited to Palm shoots must be part of this control and treated as needed.
- 6.4.3. Note: Please note that weed control shall be applied to the entire site.

6.5. PEST CONTROL

- 6.5.1. Mole cricket control shall consist of a preventive application in approximately April and August, depending on testing and weather, covering the entire fields with approved pesticide (Top Choice) (Attachment D), including approximately 10' outside of playing surface, warning tracks, and clay areas. Further follow-up applications are the responsibility of the Vendor and shall be made as needed without hesitation. The need for treatment shall be determined by the results of a soap test, or at any time as requested by the County representative. Control of other insects will be as needed or as determined by the site representative and / or the Vendor (including periodic sod removal to test for white grubs). Disease and fungus control and detection are the responsibility of the Vendor and must be done immediately without hesitation as needed by the Vendor or as requested by the site representative.

- 6.5.2. The Vendor shall be responsible for correcting any damage resulting from insect or fungal activities during contract period up to and including removal and replacement of damaged turf with new turf at no additional charge upon notification by a Lee County representative or at the discretion of the site representative and the Parks and Recreation Director. (Note: Vendor will not be responsible for pre-existing damage.) The Vendor must use approved pesticides for mole cricket control, preventively and ongoing. All rates must be curative and documented. A copy of documentation and/or schedule shall be provided to the site representative and copied to the Lee County representative (Attachment E).
- 6.5.3. Vendor shall control fire ants in a preventive manner, so as to obviate the need for treatment of individual mounds. It is required that a broadcast treatment of "Top Choice" insect growth regulator be made 2 times per year (no substitutes unless approval is made by the County Representative). Amdro mound treatments are to be made at the request of the site representative. Other methods or products may be used that are equally efficient and acceptable to the County representative. The Vendor must state what methods will be used to assure fire ant control. Any change in chemicals requires Lee County Representative approval.

7. CATEGORY 1- SCHEDULED MAINTENANCE – ATTACHEMENT B (HIGH DEMAND)

7.1. "High Demand Maintenance" (Attachment B) minimum standards are:

- 7.1.1. Weekly inspection visits must be made by the Vendor and a site representative, if available, at each park within the districts, which includes written and signed inspection reports.
- 7.1.2. Please check Attachment B for a "High Demand Maintenance" checklist. Please consult with site supervisor concerning the application of fertilizers, weed control, vegetation control and pest control.

7.2. FERTILIZATION

- 7.2.1. At least 12 minimum fertilization visits, each of which will include application of a 50% sulfur coated, dry, granular, and balanced fertilizer see "High Demand Maintenance" list (Attachment B). The fertilizer applications are expected to follow the written application schedule furnished for each site as a minimum standard. All infield applications shall be made with a walk behind spreader and overlapping on baselines and aprons. All products must be accounted for before each application. Any fertilizer that gets on concrete or asphalt shall be blown off.
- 7.2.2. Note: If fertilizer is delivered to the site make sure all fertilizer is applied within 72 hours or it must be removed from the site at no additional cost to the County.

7.3. WEED CONTROL (TURF AREAS)

- 7.3.1. A pre-emergent weed control herbicide shall be applied 2 times per year. All rates must be curative and follow up applications shall be made according to the label of approved herbicide used. Each application shall be documented with rates used and a follow-up schedule signed and turned over to site representative and copied to Lee County Representative. Each site must be core aerated by the Vendor prior to this application. Post emergent weed control shall be done at least three times with follow up applications as required, some areas may be wall to wall treatment. All liquid applications must have indicator dye when spot spraying. The Vendor must use a herbicide as listed on Attachment D and/or approved by the County representative.
- 7.3.2. The Vendor must consult with the site supervisor before applying any pre-emergent herbicide to the Terry Park, Lee County Sports Complex, Player Development Complex and Jet Blue Park. All other areas shall receive the pre-emergent herbicide application and core aeration. These sites shall be determined by the site supervisor. The Vendor shall be immediately responsible for all post emergent weed control and at the request of the site representative. The Vendor must use approved herbicides and the approved method of application. Fields should be 99 - 100% weed free at all times.
- 7.3.3. Note: No spraying of weeds on grass playing surfaces will be permitted using Round-Up or any other non-selective herbicide. Vendor must communicate with site supervisors about not cutting fields before or after spraying either by putting it on the schedule or an email. Vendor must also communicate with site supervisors if spraying has to be rescheduled for some reason.

7.4. VEGETATION CONTROL

7.4.1. Vendor shall control weeds in such a manner as would be done by a County pesticide applicator in the entire site of the detailed list of athletic turf locations. Such weed control shall include, as a minimum, the application of an approved non-selective, post emergent herbicide in a mix with pre-emergent herbicide to a band 12 inches wide along the base of both sides of the chain link fences or any perimeter fencing located on site, a minimum of ten (10) times per year. Such herbicide application shall also be made to the ground areas under bleachers and also to such locations as would require "trim" mowing if the area does not receive a herbicide application. These areas include, but are not necessarily limited to, around poles, drinking fountains, tree wells, warning tracks, clay infields, unpaved roads, plaza, sidewalks including the cracks in the sidewalk and concrete areas.

7.4.2. Any exotic vegetation including but not limited to Palm shoots must be part of this control and treated as needed.

7.4.2.1. Note: Please note that weed control shall be applied to the entire site.

7.5. PEST CONTROL

7.5.1. Mole cricket control shall consist of a preventive application approximately in April and August depending on weather, testing and scheduled events, covering entire fields with approved pesticide (Attachment D) Top Choice, including approximately 10' outside of playing surface, warning tracks, and clay areas. "Preventive application shall consist of applying an insecticide having residual properties such as to target early stages of the mole cricket life cycle over a period of time." Further follow up applications are the responsibility of the Vendor and must be made immediately without hesitation as needed. The need for treatment shall be determined by the results of a soap test, or at any time as requested by the County or site representative. Control of other insects shall be as needed or as determined by the site representative and /or the Vendor, (including periodic sod removal to test for white grubs).

7.5.2. Vendor shall be responsible for detecting and immediately correcting any damage resulting from insect or fungal activities, up to and including removal and replacement of damaged turf with new turf at no additional charge upon notification by a Lee County representative at the discretion of the site representative and the Parks and Recreation Director. (Note: Vendor will not be responsible for pre-existing damage.) The Vendor must use approved pesticides mole cricket control, preventively and ongoing. All rates must be curative and documented; copy of documentation shall be supplied to the site representative and copied to the Lee County representative (Attachment E).

7.5.3. Vendor shall control fire ants in a preventive manner, so as to obviate the need for treatment of individual mounds. It is required that a broadcast treatment of "Top Choice" insect growth regulator be made 2 times per year (no substitutes unless approval is made by the County Representative). Amdro mound treatments are to be made at the request of the site representative. Other methods or products may be used that are equally efficient and acceptable to the County representative. The Vendor must state what methods will be used to assure fire ant control. A change in chemicals requires Lee County Representative's approval.

8. CATEGORY 1- SCHEDULED MAINTENANCE - ATTACHMENT C (PROFESSIONAL STADIUMS)

8.1. "Professional Stadium Maintenance" (Attachment C) minimum standards are:

8.1.1. Weekly inspection visits must be made by the Vendor and a site representative, if available, at each park within the districts, which includes written and signed inspection reports. Please check Attachment C for a "Professional Stadium Maintenance" checklist. Lee County Sports Complex and Jet Blue Park MUST look their best at all times. Some wear and tear is understandable. Please consult with site supervisor concerning the application of fertilizers, weed control, vegetation control and pest control.

8.2. FERTILIZATION

8.2.1. Site representatives shall accompany the Vendor for scouting of the entire area, at least weekly and as requested by the Lee County representative at any time. At least 24 to 48 fertilization visits, each of which shall include application of a 50% sulfur coated, dry, granular, and balanced fertilizer see "Professional Stadium Maintenance" list (Attachment C). The fertilizer applications are expected to follow the written application schedule furnished for each site as a minimum standard. All infield applications shall be made with a walk behind spreader and overlapping on baselines and aprons. All products must be accounted for before each application. Any fertilizer that gets on concrete or asphalt must be blown off.

- 8.2.2. Note: If fertilizer is delivered to the site make sure all fertilizer is applied within 72 hours or it must be removed from the site at no additional cost to the County.

8.3. WEED CONTROL (TURF AREAS)

- 8.3.1. The Vendor must consult with the site supervisor before applying any pre emergent herbicide to Lee County Sports Complex and Jet Blue Park (Fenway South). All other areas shall receive the pre-emergent herbicide application and core aeration. These sites shall be determined by the site supervisor. The Vendor shall be immediately responsible for all post emergent weed control and at the request of the site representative. The Vendor must use approved herbicides and the approved method of application. Fields should be 99 – 100% weed free at all times.
- 8.3.2. Note: No spraying of weeds on grass playing surfaces will be permitted using Round-Up or any other non-selective herbicide. Vendor must communicate with site supervisors about not cutting fields before or after spraying either by putting it on the schedule or an email. Vendor must communicate with site supervisors if spraying has to be rescheduled for some reason.

8.4. VEGETATION CONTROL

- 8.4.1. Vendor shall control weeds in such a manner as would be done by a County pesticide applicator in the entire site of the detailed list of athletic turf locations. Such weed control shall include, as a minimum, the application of an approved non-selective, post emergent herbicide in a mix with pre emergent herbicide to a band 12 inches wide along both sides of the base of all chain link fences or any perimeter fencing located on site, a minimum of twelve (12) times per year. Such herbicide application shall also be made to the ground areas under bleachers and also to such locations as would require "trim" mowing if the area does not receive a herbicide application. These areas include, but are not necessarily limited to, around poles, drinking fountains, tree wells, warning tracks, clay infields, unpaved roads, plaza, sidewalks including the cracks in the sidewalk and concrete areas.
- 8.4.2. Any exotic vegetation including but not limited to Palm shoots must be part of this control and treated as needed.

- 8.4.2.1. Note: Please note that weed control shall be applied to the entire site.

8.5. PEST CONTROL

- 8.5.1. Mole cricket control shall consist of a preventive application approximately in April and August depending on weather, testing and scheduled events, covering entire fields with approved pesticide (Attachment D) Top Choice, including approximately 10' outside of playing surfaced, warning tracks, and clay areas. "Preventive application shall consist of applying an insecticide having residual properties such as to target early stages of the mole cricket life cycle over a period of time." Further follow up applications are the responsibility of the Vendor and must be made immediately without hesitation as needed. The need for treatment shall be determined by the results of a soap test, or at any time as requested by the County or site representative. Control of other insects shall be as needed or as determined by the site representative and or the Vendor, (including periodic sod removal to test for white grubs).
- 8.5.2. Vendor shall be responsible for detecting and immediately correcting any damage resulting from insect or fungal activities, up to and including removal and replacement of damaged turf with new turf at no additional charge upon notification by a Lee County representative at the discretion of the site representative and the Parks and Recreation Director. (Note: Vendor will not be responsible for pre-existing damage). The Vendor must use approved pesticides mole cricket control, preventively and on going. All rates must be curative and documented; copy of documentation shall be supplied to the site representative and copied to the Lee County representative (Attachment E).
- 8.5.3. Vendor shall control fire ants in a preventive manner, so as to obviate the need for treatment of individual mounds. It is required that a broadcast treatment of "Top Choice" insect growth regulator be made 2 times per year (no substitutes unless approval is made by the County Representative). Amdro mound treatments are to be made at the request of the site representative. Other methods or products may be used that are

equally efficient and acceptable to the County representative. The Vendor must state what methods will be used to assure fire ant control. Any change in chemicals requires Lee County Representative approval.

8.6. TURF RECONSTRUCTION

- 8.6.1. If required at the County's discretion, Vendor shall reconstruct turf back to its natural state. Re-sod using Platinum TE Paspalum Turf, Bermuda 419, or Certified Celebration sod, Tif Tuff or Premier, Bimini Bermuda, or any new type of sod as determined by the Lee County Representative and replace soil where needed. Sod shall be rolled sod unless the Lee County Representative determined differently. Sod must be in excellent shape or the Lee County site representative may deny it. If determined unusable by the Lee County site representative the County will not be liable to pay for that sod. A Lee County site representative will determine any repairs or if the job is acceptable. It will be the Lee County site representative decision as to what will be replaced. No sod pieces shall be smaller than 12' x 12". Sod shall be cut with a knob cutter and drill for all the sprinkler heads. For large areas, it may require laser grading as determined by a County Representative. This includes but not limited to hauling dirt, laser-grading, raking, etc. Pricing for reconstruction shall utilize the pricing as listed under Category 2 – Required Additional Services.
- 8.6.2. If the turf is damaged due to Vendor error or neglect, the Vendor must reconstruct the turf back to its natural state. Re-sod using Platinum TE Paspalum Turf or rolled Certified Celebration sod, Tif Tuff, Premier, Bimini Bermuda, or what is present at that time (which will be determined by a County Representative) and replace soil where needed at no charge to the Lee County.
- 8.6.3. Area of reconstruction will be determined and approved by the County representative. Vendor shall meet with the County representative, as required prior to any work being performed to understand and layout area that needs to be reconstructed.

9. WORKMANSHIP AND INSPECTION

- 9.1. The Lee County Parks and Recreation will decide any and all questions which may arise as to the quality and acceptability of equipment, materials used, work performed, and as to the manner of performance and rate of progress of the work.
- 9.2. All work, including required documentation, that does not meet the specifications MUST be corrected before Lee County will give approval for payment.

10. SUPERVISION AND SAFETY

- 10.1. The Vendor shall be responsible for the supervision and direction of the work performed by their employees.
- 10.2. The Vendor shall be responsible for instructing their employees in all safety measures. All equipment used by the Vendor shall be maintained in safe operating condition at all times and be free from defects or wear which may in any way constitute a hazard to any person or persons on County property. All electrical equipment must be properly grounded. All employees must wear proper personal protective equipment while working on County premises.
- 10.3. Lee County reserves the right to stop any work practices, procedures, etc. it deems to be unsafe at any time.

11. TOLLS

- 11.1. Lee County is aware that Vendors may have to pay tolls as part of their work performed under this contract. Vendors shall be responsible for all tolls incurred while doing work under this contract. The County will not lift, suspend, or pay for any tolls.

12. CLASSES FOR PARKS MAINTENANCE STAFF

- 12.1. The Vendor shall be required to offer at least two classes for the Parks maintenance staff per year, to update the staff on new products, mowing turf, watering etc., at no additional cost to the County.

13. NO SUBCONTRACTORS

- 13.1. The use of sub-contractors shall not be allowed at any time or for any purpose with the exception of Specialized/Restricted treatments such as Nematode treatment, etc. with the approval of Lee County. The County

takes great pride in our playing fields so certain standards and qualifications must be met by the Vendor to properly maintain them.

13.1.1. Note: This could be cause for dismissal.

14. LEE COUNTY RESERVES THE RIGHT

- 14.1. Lee County may, at their sole discretion, add or delete area locations or change the status of maintenance (average demand, high demand, or professional stadium fields) at any time throughout the term of the agreement (price to be adjusted).
- 14.2. Lee County may, at their sole discretion, add new maintenance areas of dissimilar nature, based on a mutually agreed price, to be negotiated between the Vendor and an authorized Lee County representative.
- 14.3. Lee County may change the number or types of service that are required to be performed at each field.
- 14.4. Lee County may add or delete services based on a mutually agreed price to be negotiated between the Vendor and an authorized Lee County representative.

15. VENDOR REQUIREMENTS

- 15.1. The following minimum standards are what the Lee County representative will expect, but in case of any dispute, the final result will be the course of action recommended by the County representative. The County expects the quality of the Facilities to be maintained at a high standard. Minimum standards that we require are provided to maintain these levels.
- 15.2. Vendor must specifically agree to follow the County worksheet per park for average demand, high demand, or professional stadium field's care; a copy of this application schedule is attached to the solicitation (Attachment A, Attachment B and Attachment C). The Vendor, without hesitation, will supply and make application of amendments, such as iron, potassium, fungicides, herbicide or any other product and rates as needed/as determined by the County representative, during the course of the year, to present the best appearing turf. All applications shall be coordinated with the Lee County representative who may request applications be done in the evening or early (pre-dawn) morning to accommodate scheduling or optimal use of product. After hours applications and weekends may be required. From May until October all liquid applications must be made by 9:00am.
- 15.3. The following information shall be furnished to the Lee County representative and site representative (see Attachments A, B, C, D, E and F), application records are to be turned into Lee County representatives on a weekly basis:
 - 15.3.1. After each fertilizer application, totals applied and rate of application.
 - 15.3.2. After each pesticide application, totals applied and rate of application.
 - 15.3.3. Any observations of abnormal conditions.
 - 15.3.4. All chemicals and fertilizer amounts and rates must be verified and signed off by a designated Lee County representative on the County supplied form only.
 - 15.3.5. Provide a written schedule of dates and times the Friday prior to the upcoming week of, when the Vendor will be on site at the park facility.
 - 15.3.6. Must make contact with site supervisor or County Representative upon completion of work to give a verbal report – such as need to water in and keep people off.
 - 15.3.6.1. Note: A soil test is required annually and can be done during the months of March thru June under all three plans. Soil test results must be sent to the "County Representative".

16. SERVICE CALLS

- 16.1. If callbacks are necessary, the Vendor shall perform service calls within twenty-four (24) hours after receipt of notice of a problem.
- 16.2. In the event a problem arises that is determined to be an "emergency" by the Parks and Recreation Director, or designee, the Vendor agrees to respond within two (2) hours of notification.

16.3. Service calls shall be handled at no additional cost to Lee County.

17. INVOICING

17.1. Vendor shall be required to prepare invoices indicating the park location and the purchase order number. Please include the Item number, pricing as listed on the price sheets, and a brief description of what is being done.

18. MAJOR BREAKDOWNS/NATURAL DISASTERS

18.1. Lee County requires that the Vendor provide the name of a contact person and phone number which will afford Lee County access twenty-four hours per day, 365 days per year in the event of natural disaster or emergencies.

19. CATEGORY II – SERVICES

19.1. Category II services will be ordered as required by the County.

20. SERVICE A – AERIFICATION

20.1. Vendor shall provide per acre aerification (any location) services. As required, a County representative and Vendor will determine the type of aerification, type and size of tines, depth, and spacing.

20.2. Standard Aerification shall be 4-5" depth.

20.3. Deep Tine -- Vendor shall provide per acre for Deep Tine Aerification a specialized aerification method to be used on heavily used fields/areas that receive the most compaction. Deep tine can be done from a 6" to 13" depth; standard aerification is 4 to 5" depth. Deep tine aerification relieves severe compaction and promotes turf growth. The county representative will determine the depth of the deep tine aerification.

20.4. Pro Core Aerification: County representative and vendor should determine Tines, spacing and depth. Depth will be 1" to 5" and spacing 1.5" to 3".

20.5. Shockwave Aerification: County representative and vendor should determine Shockwave Aerification- Depth.

20.6. Vendor may be asked to drag or pick up cores if needed.

21. SERVICE B – VERTICUTTING

21.1. Vendor shall provide per acre verticutting (any location) services. After verticutting all excess clippings must be removed from the area. Remove the clippings from the fields and leave them in the designated area.

22. SERVICE C – FERTILIZATION

22.1. Vendor shall provide per acre fertilizing using either hand spreading or tractor spreading services. Fertilizer blend shall be determined between County representative and the Vendor. Fertilizer that gets on concrete or asphalt should be blown off before watering.

22.1.1. If required by County, Vendor shall supply fertilizer as needed with a mark up not to exceed 15% of the market price for the purchase of fertilizer.

23. SERVICE D – SOD

23.1. Vendor shall provide per square foot for sod supplied and installed (any location labor and material for rolled sod or by the pallet for Platinum TE Paspalum Turf or Certified Celebration, Premier, Tif Tuff, Bimini Bermuda, or any new sod type that Lee County may require). Sod work shall be turnkey, and any rolled sod installation shall include field/turf rolling.

24. SERVICE E – SPRIGGING

24.1. Eight hundred (800) Bushels per acre installed.

25. SERVICE F – ANT CONTROL

25.1. Vendor shall provide per acre ant control (any location labor and material) services using Top Choice and/or Amdro both tractor spread and hand spread.

26. SERVICE G – GRANULAR IRON TREATMENTS

- 26.1. Vendor shall provide per acre iron treatment (any location labor and material) services using both tractor spreading and hand spreading.
- 27. SERVICE H – SPRAYING LIQUID IRON**
27.1. Vendor shall provide per acre spray liquid iron services. Vendor shall supply labor and material. Vendor shall work with site supervisor to determine type of iron to use.
- 28. SERVICE I – TREATING FOR NEMATODES/STRESSGARD**
28.1. Vendor shall provide per acre application Curfew services. Since this is a restricted pesticide the County will allow only this application to be sub-contracted. It is up to the Vendor to make sure the sub-contractor has the appropriate license and certification from Dow Chemical to apply this chemical. All licenses and certifications must be presented to the County representative for approval before any applications can be applied. This can change depending on new products. County representative must approve before any changes are made.
- 29. SERVICE J – SPRAYING FOR FUNGUS, WEEDS AND OR INSECTS**
29.1. Vendor shall provide per acre spraying (any location labor and material or labor with the County supplying the material) services.
- 30. SERVICE K – DUAL RECEIVER LASER GRADING**
30.1. Vendor shall provide per acre and per infield Laser grading services, which promotes drainage and safe playability during all seasons.
- 31. SERVICE L – PRIMO TREATMENT**
31.1. Vendor shall provide primo treatment services to help slow horizontal growth and promote lateral growth. Only to be used on Turf unless the site supervisor and the Vendor agree upon using on different turf.
- 32. SERVICE M – SOD TO SPRIG**
32.1. Vendor shall provide sod to sprig services by cutting sod and turning it in to sprigs to repair fields – this shall be a turn key package from install to grown in and fields shall be playable when completed.
- 33. SERVICE N - TOP DRESSING**
33.1. Vendor shall provide the necessary equipment and labor to load and disperse sand to the turf areas. The County will provide the sand.
- 34. SERVICE O – ROTA DAIRON (REVERSE TILL)**
34.1. Vendor shall provide per acre and per infield for Rota Dairon (reverse till) services. This shall be part of the laser grading but also may be required in other situations such as areas that need sod work.
- 35. SERVICE P- FRAZE MOWING**
35.1. Vendor shall provide fraze mowing services. The depth shall be determined by the Vendor and the County representative. Helps level field areas and promotes growth. This shall be a turnkey project with the mowing and clean up.
- 36. SERVICE Q – SPRING TRAINING PACKAGE**
36.1. Vendor shall supply labor and material.
36.1.1. Spring Training Package-12-0-0 Iron and Amino Iron
36.1.2. Asset and Nutriplant (minors) Title Phyte (0-0-50).
36.1.3. Aspa-80 (wetting agent)
36.1.4. Heritage, Bandol, Chlorothalonil & Subdue (Fungicides)
36.1.5. Fifen XTS and Imid 2F (insectides)
36.1.6. Liquid Calcium
36.1.7. Exteris Stressgard
- 37. SERVICE R - ORGANO TREATMENT**
37.1. Vendor shall supply organo treatment services.

38. SERVICE S – MOWING FIELDS

38.1. Vendor shall provide mowing services using reel mower- Height of cut shall be determined by the site supervisor and Vendor representative. Reels must be sharp and properly adjusted.

39. SERVICE T – WETTING AGENT

39.1. Vendor shall supply wetting agent services, labor and materials, include pricing for liquid and granular. Granular shall be put down with a walk spreader on infield, sidelines and apron. Tractor and hopper can spread outfield.

40. SERVICE U - RECYCLE DRESSING

40.1. Vendor shall provide recycle dressing services. The Recycling Dresser aerates the underlying soil vertically and horizontally, removing soil from the root-zone and re-distributing it across the playing surface. Layering and compaction are eliminated, biological activity increased and existing fertilizers in the soil are better utilized. The Recycling Dresser reduces the amount of new top-dressing required, therefore saving labor and material costs and promoting sustainable maintenance. Vendor shall supply labor.

41. SERVICE V – ATHLETIC FIELD IRRIGATION SERVICE AND REPAIR

41.1. Vendor shall provide Athletic Field Irrigation Service and repair of irrigation at athletic fields, to include but not limited to baseball, softball, football, soccer, and practice fields, as needed.

41.2. Vendor shall supply labor for sprinkler head replacement and/or sprinkler head removal. County will provide sprinkler heads for replacement.

41.3. Vendor is allowed a 10% mark up for products and materials outside of the sprinkler head, i.e., glue, cutters, etc., that are not provided by the County.

41.4. Vendors are required to submit their pricing for Service V-Irrigation; however, this section will not be included in the basis of award for this solicitation.

42. LIST OF CHEMICALS

42.1. Vendor shall provide MSD Sheets on each chemical use to the County.

CHEMICAL LIST	CHEMICAL LIST
Acidiphlow	Lesco Tracker
Aquiflo Plus	Lesco Wet
Advion Insect Granuales	Liquid Iron
Armada 50 WDG	Manor
Avenue South	Monument
Award	Methelayed Seed Oil
Banner	Nimitz G
Barricado	Non -Ionic Spreader/Sticker
Basagram T&O	Pendulum 3.3 EC
Bifen	Pedulium Aquqcap
Blindside	Pillar G
Celsius WG	Primo
Certainty	Princep 4L T&O
Chipco Choice	Pro Sedge
Clearys 3336 DG Light Granular (fungicide)	Revolver
Cornerstone Plus	Ronstar
Criterion	Round-up Pro
Curfew	Sedge Hammer

Dimension	Sencor 75 T&O
Dismiss NXT	Sevin SL
Dismiss Turf	Shredder Amine 4L
Dismiss South	Spectacle Flo
Drive	Spectacle Total
Eagle 20 EW (fungicide)	Speedzone Southern
Drive XLR8	Subdue
Exteris Stressgard	Surflan
Focus	Sureguard
Garlon	Talstar
Gravity	Terrazole
Heritage	Top Choice
Idemnify	Triple Crown
Katana	Tribute Total
Launch	Xonerate WDG

42.2. Note: This is the current list of chemicals that may be used on our athletic turf areas. As newer products become available, they can be added to the list. All chemicals must be approved by the Parks and Recreation Representative, any substitutions or changes without permission are grounds for immediate dismissal.

End of Scope of Work and Specifications Section

SPECIAL CONDITIONS

These are conditions that are in relation to this solicitation only and have not been included in the County's Standard Terms and Conditions or the Scope of Work.

1. CONTRACT TERM

- 1.1. The Vendor shall be responsible for furnishing and delivering to the Lee County requesting Department(s) the commodity or services on an "as needed basis" for one (1) three-year (3) period. Upon mutual written agreement of both parties, the parties may renew the Agreement, in whole or in part, for a renewal term or terms not to exceed the initial Agreement term of three (3) years. The increments of renewal shall be at the sole discretion of the County as deemed in its best interest.
- 1.2. This is an annual Agreement and work will be authorized, scheduled, funded, and accounted for by issuance of a **Purchase Order**, by the requesting department. No guarantee is expressed or implied as to the quantity or commodities and/or services to be procured under this Invitation to Bid (ITB); no work is guaranteed.

2. BASIS OF AWARD

- 2.1. The basis of award shall be determined by the lowest *Project Total Bid* of the most responsive, responsible, and qualified Vendor meeting all bid specifications.
- 2.2. Vendors shall submit a bid on all line items in each category in order to be considered for award. Failure to do so may deem your firm nonresponsive.

3. LOCAL PREFERENCE

- 3.1. The Lee County Local Vendor Preference shall be included as part of the award process for this project. As such, Lee County at its sole discretion may choose to award a preference to any qualified Local Vendor.

4. VENDOR BACKGROUND SCREENING REQUIREMENTS

- 4.1. Some of the County's "Athletic Fields" are associated with Lee County Schools, parks, etc.. Vendor is required to conduct background checks on all employees that will be working in the County's facilities to include new hires.
 - 4.1.1. Vendor must maintain all employee background screening and employees must properly display credentials while on the premises.
- 4.2. Vendor is responsible for all costs associated with background screenings for all of its employees. The County will not reimburse the Vendor for costs associated with background screenings.

5. LETTER OF BONDABILITY

- 5.1. This solicitation does not require a Bid Bond; however, the Vendor must submit with their proposal a Letter of Bondability from their Surety Company showing their bonding capacity. Any issuer of a Letter of Bondability must be licensed to transact a fidelity and surety business in the State of Florida, with an A.M. Best of "B" or better.

6. MAINTENANCE BOND

- 6.1. The Awarded Vendor shall furnish, at time of contract execution or prior to Purchase Order Issuance, and at its own expense, a maintenance bond equal to \$1,000,000.00, by a surety company considered satisfactory by the County and otherwise authorized to transact business in the State of Florida. The maintenance bond shall be required to protect the County from defects and faults in materials and/or workmanship provided by the Vendor for the duration of the contract. The maintenance bond shall be required for the term of the awarded contract and any renewals.

End of Special Conditions Section



Procurement Management Department
2115 Second Street, 1st Floor
Fort Myers, FL 33901
Main Line: (239) 533-8881
Fax Line: (239) 485-8383
www.lee.gov/procurement

Posted Date: October 16, 2023

Solicitation No.: B230548WCD

Solicitation Name: Athletic Turf Maintenance and Reconstruction

Subject: Addendum Number 1

The following represents clarification, additions, deletions, and/or modifications to the above referenced bid. This addendum shall hereafter be regarded as part of the solicitation. Items not referenced herein remain unchanged, including the response date. Words, phrases or sentences with a strikethrough represent deletions to the original solicitation. Underlined words and bolded, phrases or sentences represent additions to the original solicitation.

1. QUESTIONS/ANSWERS

1.	How many of these fields are grass vs. turf fields?
Answer	All fields listed on the solicitation are natural grass the County does not have any turf fields.

BIDDER/PROPOSER IS ADVISED, YOU ARE REQUIRED TO ACKNOWLEDGE RECEIPT OF THIS ADDENDUM WHEN SUBMITTING A BID/PROPOSAL. FAILURE TO COMPLY WITH THIS REQUIREMENT MAY RESULT IN THE BIDDER/PROPOSER BEING CONSIDERED NON-RESPONSIVE.

ALL OTHER TERMS AND CONDITIONS OF THE SOLICITATION DOCUMENTS ARE AND SHALL REMAIN THE SAME.

Willie Dennard

Willie Dennard
Procurement Analyst Direct Line: 239-533-8831
Lee County Procurement Management



Procurement Management Department
2115 Second Street, 1st Floor
Fort Myers, FL 33901
Main Line: (239) 533-8881
Fax Line: (239) 485-8383
www.lcegov.com/procurement

Posted Date: October 19, 2023

Solicitation No.: B230548WCD

Solicitation Name: Athletic Turf Maintenance and Reconstruction

Subject: Addendum Number 2

The following represents clarification, additions, deletions, and/or modifications to the above referenced bid. This addendum shall hereafter be regarded as part of the solicitation. Items not referenced herein remain unchanged, including the response date. Words, phrases or sentences with a strikethrough represent deletions to the original solicitation. Underlined words and bolded, phrases or sentences represent additions to the original solicitation.

1. QUESTIONS/ANSWERS

1.	The due date on the solicitation response form is different than the printed due date.
Answer	The solicitation response form may be corrected by the Vendor to show the current solicitation due date of November 8, 2023.

BIDDER/PROPOSER IS ADVISED, YOU ARE REQUIRED TO ACKNOWLEDGE RECEIPT OF THIS ADDENDUM WHEN SUBMITTING A BID/PROPOSAL. FAILURE TO COMPLY WITH THIS REQUIREMENT MAY RESULT IN THE BIDDER/PROPOSER BEING CONSIDERED NON-RESPONSIVE.

ALL OTHER TERMS AND CONDITIONS OF THE SOLICITATION DOCUMENTS ARE AND SHALL REMAIN THE SAME.

Willie Dennard

Willie Dennard
Procurement Analyst Direct Line: 239-533-8831
Lee County Procurement Management

**EXHIBIT B
FEE SCHEDULE**

Athletic Turf Maintenance And Reconstruction			
Category 1 - Required Maintenance			
Item	Description	Total Number of Acres	Cost Per Acre Per Month
1	Average Demand Maintenance	12	\$428.00
2	High Demand Maintenance	263.25	\$463.00
3	Professional Stadiums Fields	6	\$1,832.00
Category 2 - Required Additional Services			
Service A	Description-Aerification	Unit of Measure	Unit Price
1	Standard	Per Acre	\$140.00
2	Deep Tine	Per Acre	\$735.00
3	Pro Core	Per Acre	\$625.00
4	Shockwave	Per Acre	\$510.00
5	Drag Cores In	Per Acre	\$110.00
6	Pick Up Cores	Per Acre	\$850.00
7	Flag Sprinkler Heads and Remove Flags	Per Field	\$110.00
Service B	Description-Verticutting	Unit of Measure	Unit Price
1	Vacuum	Per Acre	\$650.00
2	Flag Sprinkler Heads and Remove Flags	Per Field	\$110.00
3	Verticutting	Per Acre	\$500.00
Service C	Description-Fertilizing Labor Only	Unit of Measure	Unit Price
1	Hand Spreading	Per Acre	\$240.00
2	Tractor Spreading	Per Acre	\$160.00
Service D	Description-Sod, Celebration, Premier, Tif Tuf, Bimini, Paspalum	Unit of Measure	Unit Price
1	Rolled Sod TE Platinum Paspalum (Sod Supplied and Installation)	Per Square Ft.	\$2.50
2	TE Platinum Paspalum by the Pallet (Sod Supplied and Installation)	Per Pallet	\$1,600.00
3	Rolled Certified Celebration Sod (Sod Supplied and Installation)	Per Square Ft.	\$1.20
4	Certified Celebration by the Pallet (Sod Supplied and Installation)	Per Pallet	\$480.00
5	Certified Rolled Premier Sod (Sod Supplied and Installation)	Per Square Ft.	\$1.30
6	Certified Premier Sod by the Pallet (Sod Supplied and Installation)	Per Pallet	\$520.00
7	Rolled Certified Tif Tuf Sod (Sod Supplied and Installation)	Per Square Ft.	\$1.30
8	Certified Tif Tuf Sod by the Pallet (Sod Supplied and Installation)	Per Pallet	\$520.00
9	Rolled Certified Bimini Bermuda (Sod Supplied and Installation)	Per Square Ft.	\$1.30
10	Certified Bimini Bermuda (Sod Supplied and Installation)	Per Pallet	\$520.00
Service E	Description/Sprigging-800 Bushels Per Acre Installed	Unit of Measure	Unit Price
1	Certified Celebration	Per Acre	\$8,520.00
2	Certified Premier	Per Acre	\$9,655.00
3	TE Platinum Paspalum	Per Acre	\$14,483.00
4	Certified Bimini Bermuda	Per Acre	\$9,655.00
5	Certified Tif Tuf	Per Acre	\$9,655.00

Service F	Description-Ant Control (Labor and Materials)	Unit of Measure	Unit Price
1	Amdro-Tractor Spread	Per Acre	\$200.00
2	Amdro-Hand Spread	Per Acre	\$255.00
3	Top Choice -Tractor Spread	Per Acre	\$455.00
4	Top Choice-Hand Spread	Per Acre	\$565.00
Service G	Description-Granular Iron Treatments (Labor and Materials)	Unit of Measure	Unit Price
1	Tractor Spreading	Per Acre	\$260.00
2	Hand Spreading	Per Acre	\$275.00
Service H	Description-Spraying Liquid Iron (12-00)	Unit of Measure	Unit Price
1	Tractor Spreading	Per Acre	\$260.00
2	Hand Spreading	Per Acre	\$275.00
Service I	Description-Treating for Nematodes	Unit of Measure	Unit Price
1	Curfew Labor and Materials	Per Acre	\$1,200.00
2	Stressgard Labor Only	Per Acre	\$240.00
3	Stressgard Labor and Materials	Per Acre	\$605.00
Service J	Description-Spraying for Fungas, Weeds and Insects	Unit of Measure	Unit Price
1	Labor and Materials (Supplied by Vendor)	Per Acre	\$300.00
2	Labor Only	Per Acre	\$175.00
Service K	Description-Dual Receiver Laser Grading	Unit of Measure	Unit Price
1	Dual Receiver Laser Grading	Per Acre	\$5,500.00
2	Dual Receiver Laser Grading	Per Infield	\$1,000.00
Service L	Description-Primo Treatment	Unit of Measure	Unit Price
1	Primo Treatment	Per Acre	\$225.00
Service M	Description-Sod to Sprig	Unit of Measure	Unit Price
1	Sod to Sprig	Per Acre	\$19,000.00
Service N	Description-Top Dressing (Labor Only"County will provide sand)	Unit of Measure	Unit Price
1	Top Dressing - Labor Only Per Load of Sand	Per Load	\$550.00
Service O	Description-RotaDairon (Reverse Till)	Unit of Measure	Unit Price
1	RotaDairon (Reverse Till)	Per Acre	\$2,500.00
2	RotaDairon (Reverse Till)	Per Infield	\$600.00
Service P	Description-Fraze Mowing	Unit of Measure	Unit Price
1	Fraze Mowing	Per Acre	\$3,500.00
Service Q	Description-Spring Training Package	Unit of Measure	Unit Price
1	Spring Training Package	Per Acre	\$297.00
2	Asset and Nutriplant (minors) Title Phyte (0-0-50)	Per Acre	\$286.00
3	Aspa-80 (wetting agent)	Per Acre	\$258.00
4	Heritage, Bandol, Chlorothalonil & Subdue (Fungicides)	Per Acre	\$605.00
5	Bifen XTS and Imid 2F (insecticides)	Per Acre	\$299.00
6	Liquid Calcium	Per Acre	\$234.00
7	Exteris Stressgard	Per Acre	\$605.00

Service R	Description-Organo Treatment (Labor and Materials)	Unit of Measure	Unit Price
1	Organo Treatment - Labor Only	Per Acre	\$320.00
2	Organo Treatment - Labor and Materials	Per Acre	\$680.00
Service S	Description-Mowing Fields with Reel Mower	Unit of Measure	Unit Price
1	Mowing Fields with Reel Mower-Negotiable (Depending on Acreage)	Per Acre	\$125.00
Service T	Description-Wetting Agent (Labor and Materials)	Unit of Measure	Unit Price
1	Granular Infield-Sidelines and Apron will be walked with hand spreader. Outfields can be done with tractor and hopper.	Per Acre	\$504.00
3	Liquid	Per Acre	\$265.00
Service U	Description-Recycle Dressing	Unit of Measure	Unit Price
1	Recycle Dressing	Per Acre	\$850.00
Service C	Service C - Fertilization Provided By Vendor	Fertilizer Markup or Discount (Percentage markup may not exceed 15%)	
1	Fertilization Mark Up	15%	

Service V	Athletic Field Irrigation Service and Repair-Service	Service/Repair labor (standar hours) per hour	Service/Repair Labor (after hours and weekends) per Hour	Materials Markup or Discount (Percentage markup may not exceed 10%)
1	Sprinkler Heard Replacement-Labor Only	\$95.00	\$150.00	10%
2	Sprinkler Head Removal-Labor Only	\$95.00	\$150.00	10%

EXHIBIT C
INSURANCE REQUIREMENTS
INSURANCE GUIDE



Lee County Insurance Requirements

Minimum Insurance Requirements: *Risk Management in no way represents that the insurance required is sufficient or adequate to protect the vendors' interest or liabilities. The following are the required minimums the vendor must maintain throughout the duration of this contract. The County reserves the right to request additional documentation regarding insurance provided*

- a. **Commercial General Liability** - Coverage shall apply to premises and/or operations, products and completed operations, independent contractors, contractual liability exposures with minimum limits of:
 - \$1,000,000 per occurrence
 - \$2,000,000 general aggregate
 - \$1,000,000 products and completed operations
 - \$1,000,000 personal and advertising injury

- b. **Business Auto Liability** - The following Automobile Liability will be required and coverage shall apply to all owned, hired and non-owned vehicles use with minimum limits of:
 - \$1,000,000 combined single limit (CSL); or
 - \$500,000 bodily injury per person
 - \$1,000,000 bodily injury per accident
 - \$500,000 property damage per accident

- c. **Workers' Compensation** - Statutory benefits as defined by FS 440 encompassing all operations contemplated by this contract or agreement to apply to all owners, officers, and employees regardless of the number of employees. Workers Compensation exemptions may be accepted with written proof of the State of Florida's approval of such exemption. Employers' liability will have minimum limits of:
 - \$500,000 per accident
 - \$500,000 disease limit
 - \$500,000 disease – policy limit

**The required minimum limit of liability shown in a. and b. may be provided in the form of "Excess Insurance" or "Commercial Umbrella Policies." In which case, a "Following Form Endorsement" will be required on the "Excess Insurance Policy" or "Commercial Umbrella Policy."*

Revised 12/02/2022 – Page 1 of 2



Lee County Insurance Requirements

Verification of Coverage:

1. Coverage shall be in place prior to the commencement of any work and throughout the duration of the contract. A certificate of insurance will be provided to the Risk Manager for review and approval. The certificate shall provide for the following:
 - a. Under the Description of Operations, the following must read as listed:

“Lee County, a political subdivision and Charter County of the State of Florida, its agents, employees, and public officials are automatic additional insureds and includes an automatic waiver of subrogation with regard to general liability. The certificate holder is an additional insured on a primary and noncontributory basis with regards to general liability.”
 - b. The certificate holder must read as follows:

Lee County, a political subdivision and Charter County of the State of Florida
P.O. Box 398
Fort Myers, Florida 33902

Special Requirements:

1. An appropriate "Indemnification" clause shall be made a provision of the contract.
2. It is the responsibility of the general contractor to ensure that all subcontractors comply with all insurance requirements.

Revised 12/02/2022 – Page 2 of 2

End of Insurance Guide Section

EXHIBIT D

ATTACHMENT A - GENERAL CONDITIONS

1. Administration

The Consultant is the initial interpreter of the Contract Documents but is not the Judge between the COUNTY and the VENDOR. The COUNTY reserves the right to make final decisions considering the Consultant's recommendations or interpretations of the Contract Documents. The Consultant does not have authority to obligate or commit the COUNTY to fund additional expenditures or approve extensions of time over the approved Contract time or price. However, the CONSULTANT'S interpretation as to the intent of his design shall be final and not subject to interpretation by the COUNTY'S staff.

1.1. Copies of Documents

The COUNTY shall furnish to the VENDOR the number of copies specified in the Supplemental Information of the Contract Documents as are reasonably necessary for the execution of the Work. Additional copies will be furnished, upon request, at the cost of reproduction which shall be paid by the VENDOR.

1.2. Before Starting Construction

Before undertaking each phase of the Work, the VENDOR shall carefully study and compare the Contract Documents and check and verify pertinent figures shown thereon and all applicable field measurements. The VENDOR shall promptly report in writing to the OWNER'S REPRESENTATIVE any conflict, error or discrepancy which the VENDOR may discover or other information known to the VENDOR and shall obtain a written interpretation or clarification from the OWNER'S REPRESENTATIVE before proceeding with any Work affected thereby. If the VENDOR performs any construction activity knowing it involves a recognized error, inconsistency or omission in the Contract Documents without such notice to the OWNER'S REPRESENTATIVE, the VENDOR shall assume responsibility for such performance and shall share in costs associated with correction; however, the VENDOR shall not be liable to the COUNTY for failure to report any conflict, error or discrepancy in the Contract Documents, unless the VENDOR had actual knowledge thereof or should reasonably have known thereof.

1.2.1. Within ten calendar days after the Effective Date of the Agreement (unless otherwise specified in the Contract Documents), the VENDOR shall submit to the OWNER'S REPRESENTATIVE for review:

1.2.1.1. An estimated progress schedule indicating the starting and completion dates of the various stages of the Work:

1.2.1.2. Long lead item(s) shall be identified and scheduled accordingly.

1.2.1.3. A preliminary schedule of Shop Drawing submission; and

1.2.1.4. A preliminary schedule of values for all of the Work which will include quantities and prices of items aggregating the Contract Price and will subdivide the Work into component parts in sufficient detail to serve as the basis for progress payments during construction on form No. CMO:013. Such prices will include an appropriate amount of overhead and profit applicable to each item

of Work which will be confirmed in writing by the **VENDOR** at the time of submission; and specify times for Application for Payment.

1.2.1.5. A plan of work for maintenance of traffic, when the Contract Documents require maintenance of traffic.

1.2.1.6. For informational purposes, a proposed listing of sub-vendors to be used for the project.

1.2.2. **Pre-Construction Conference**

Within fifteen calendar days after the Effective Date of the Agreement, but before the **VENDOR** starts the Work at the site, a conference attended by the **VENDOR**, the **OWNER'S REPRESENTATIVE**, the **COUNTY**, and Others as appropriate, will be held to discuss the items, to discuss procedures for handling Shop Drawings and other submittals and for processing Applications for Payment, and to establish an understanding among the parties as to the Work.

1.2.3 **Finalizing Schedules**

At least ten calendar days before submission of the first Application for payment, a conference attended by the **VENDOR**, the **OWNER'S REPRESENTATIVE**, the **COUNTY**, and Others as appropriate, will be held to finalize the schedules submitted. The finalized progress schedule will be acceptable to the **OWNER'S REPRESENTATIVE** and the **COUNTY** as providing an orderly progression of the Work to completion within the Contract Time, but such acceptance will neither impose on the **OWNER'S REPRESENTATIVE** or the **COUNTY** responsibility for the progress or scheduling of the Work nor relieve the **VENDOR** from full responsibility therefor. The finalized schedule of Shop Drawing submissions will be acceptable to the **OWNER'S REPRESENTATIVE** as providing a workable arrangement for processing the submissions. The finalized schedule of values will be acceptable to the **OWNER'S REPRESENTATIVE** and the **COUNTY** as to form and substance.

Definitions

The following definition of terms associated with this Contract is provided to establish a common understanding between both parties to this Contract as to the intended usage, application and interpretation of such terms pertaining to this Contract.

ADDENDUM means any additional Contract provisions in writing signed and sealed by the **CONSULTANT**, if applicable, issued by the **COUNTY** prior to the receipt of Bid which clarify, correct, change or interpret the Bidding Documents or the Contract Documents.

AGREEMENT means the written agreement between the **COUNTY** and the **VENDOR** covering the Work to be performed; the Agreement is a part of the Contract Documents.

BIDDER is any individual, firm, partnership, joint venture, or corporation submitting a bid for this project, acting directly or through an authorized representative.

BID is a complete and properly signed proposal to do the Work or designated portion thereof for the sums stipulated therein, submitted in accordance with the Bidding Documents.

BID BOND is a security in the form and amount required by the COUNTY pledging that the BIDDER will enter into a Contract with the COUNTY on the terms stated in his Bid.

BID DOCUMENTS are the Invitation to Bid, the Notice to Bidders, the Invitation to Bid Terms and Conditions, sample forms, the Bid Proposal Form and the proposed Contract Documents (including all Addenda issued prior to receipt of Bids).

CHANGE ORDERS are written order to the VENDOR signed by the COUNTY, issued after execution of the Contract, authorizing a change in the Work or an adjustment in the Contract price or the Contract Time. The Contract Price and the Contract Time may be changed only by a Change Order. A Change Order signed by the VENDOR indicates his agreement therewith, including the adjustment in the Contract Price or the Contract Time.

COMPLETION (FINAL) means acceptance of the Project by the COUNTY as evidenced by its signature upon a final payment Certification and approval thereof by the Board of County Commissioners or their designee. The final payment Certification shall be signed only after the COUNTY has assured itself by tests, inspections, or otherwise that all of the provisions of the Contract have been carried out as required.

COMPLETION (SUBSTANTIAL) shall mean an acceptance of the Work by the COUNTY when construction is sufficiently complete in accordance with the Contract Documents so the COUNTY can occupy or utilize the Work or designated portion thereof for the use for which it is intended. A certificate of occupancy or compliance, when applicable, issued by the Building Official is required concurrent with or prior to issuance of the Certificate of Substantial Completion.

CONSTRUCTION is the erection, fabrication, assembly, remodeling, renovation, addition, modification, repair or demolition of any building or structure or any appurtenances connected or attached to such buildings or structures. The term applies but is not limited to the repair, replacement modification or construction of roads, bridges, sidewalks, traffic devices, parking lots, drainage, underground and overhead utilities.

CONSULTANT is the person lawfully licensed to practice Architecture or Engineering and registered in the State of Florida, or an entity lawfully practicing Architecture or Engineering, identified as such in the Construction Contract, and is referred to throughout the Contract Documents as if singular in number and masculine in genre. The term CONSULTANT means the Architect or Engineer or his authorized representative.

CONTRACT DOCUMENTS consist of the Invitation to Bid, Agreement, General and Special Conditions of the Contract, Specifications, the Plans, Supplemental Information, Addenda issued prior to execution of the Contract, all written modifications issued after

execution of the Contract, all provisions required by law to be inserted in this Contract whether actually inserted or not, and a Contract Number issued by the COUNTY.

A MODIFICATION is:

- (1) A written Amendment to the Contract.
- (2) A Change Order.
- (3) A written interpretation necessary for the proper execution or progress of the Work issued by the OWNER'S Representative.
- (4) A Field Change Order.
- (5) A Field Directive Change.

CONTRACT PRICE means the total monies payable to the VENDOR under the Contract Documents.

CONTRACT TIME means the number of Calendar days stated in the Agreement for the purpose of establishing Substantial Completion and Final Completion dates.

VENDOR is the person, firm, joint venture, or corporation with whom the COUNTY has contracted and who has the primary responsibility for performance of the work.

COUNTY means the Board of County Commissioners of Lee County, Florida, a political subdivision of the State of Florida, its successors and assigns. Also hereinafter referred to as OWNER.

DAYS - The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically designated. A calendar day constitutes twenty four hours measured from midnight to the next midnight.

DEFECTIVE - An adjective which when modifying the word "Work" refers to Work that is unsatisfactory, faulty or deficient, or does not conform to the Contract Documents, or does not meet the requirements of any inspection, reference standard, test or approval referred to in the Contract Documents, or has been damaged prior to the OWNER'S REPRESENTATIVE recommendation of final payment.

EFFECTIVE DATE OF THE AGREEMENT means the date on which the agreement is signed and delivered by the latter of the two parties.

ENGINEER shall mean the Director of the Lee County Department of Transportation or his designated County Project Manager.

FIELD CHANGE ORDER is a written change order requested by the OWNER'S Representative, accepted by the VENDOR, and approved by the PROJECT MANAGER for minor changes in the Work, not involving adjustments in the Contract Sum or an extension of Time, and not inconsistent with the overall intent of the Contract Documents.

FIELD DIRECTIVE CHANGE - A written directive to the CONTRACT, issued on or after the effective date of the Agreement ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen physical conditions under which the Work is to be performed as defined elsewhere in these documents. A Field Directive Change may not change the Contract Price or the Contract Time, but is evidence that the parties expect that the change directed or documented by a Field Directive Change will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or the Contract Time.

FINAL ACCEPTANCE means acceptance of the Work by the COUNTY upon the expiration of the warranty period as stated in the Contract Documents.

MATERIALS - Anything used in the process of, but not limited to, constructing, demolishing, renovating or remodeling of any building, structure, road, bridge, recreational facility, transportation element and utility or any addition thereto utilized for this project.

NOTICE means written notice. Notice shall be served upon the VENDOR either personally or by leaving the said Notice at his residence or with his agency in charge of the Work, or addressed to the VENDOR at the residence or place of business stated in the Bid Proposal and deposited in a postpaid wrapper in any United States Mailbox.

NOTICE TO PROCEED is a written instrument issued by the COUNTY to the VENDOR, authorizing the VENDOR to commence Work on the Project. The NOTICE TO PROCEED shall include the effective date of Commencement.

NOTICE OF AWARD means the written Notice given by the COUNTY to the successful Bidder.

NOTICE OF TERMINATION is a written instrument issued in accordance with the Contract Documents by the COUNTY to the VENDOR or by the VENDOR to the COUNTY notifying the receiving party that the Contract is being terminated. The NOTICE shall clearly identify the effective date the Contract is to be terminated.

OWNER'S REPRESENTATIVE is the CONSULTANT contracted by the COUNTY for Professional Services during the construction phase of this project or a qualified person authorized as his official representative, or in the absence of such a contract, the project Manager will be considered the OWNER'S REPRESENTATIVE for the purpose of this Contract Document. The OWNER'S REPRESENTATIVE is not authorized to issue change orders to the contract sum, contract time or scope of work without express approval of the Board of County Commissioners.

PLANS AND/OR DRAWINGS are a graphic representation of the arrangement of the materials or parts of the construction of the project and are a portion of the Contract Documents.

PROCUREMENT MANAGEMENT shall mean the Director of Lee County's Procurement Management Department or designee.

PROJECT shall mean the entire improvement of which this contract forms a part.

PROJECT MANAGER is an employee of the Department or the COUNTY which requested the Contract and is a designee authorized by or for that Department who is the representative of the Board of County Commissioners in matters concerning the vendor of this project. The project manager will act as the OWNER'S REPRESENTATIVE in the absence of a contract with a CONSULTANT. The PROJECT MANAGER is not authorized to issue changes to the Contract Sum, Contract Time, or Scope of Work without express approval by the Department Director, County Manager, or Board of County Commissioners.

The PROJECT MANAGER, within the authority conferred by the Board of County Commissioners, acting as the COUNTY'S designated representative shall initiate written Change Orders, and notification to the VENDOR of any and all changes approved by the COUNTY in the VENDOR'S (1) compensation (2) time and/or schedule of service delivery; (3) any Amendment (s) or other change(s) relative to the WORK and ADDITIONAL SERVICES pursuant to this Contract, or AMENDMENTS, or CHANGE ORDERS pertaining thereto. Following COUNTY approval, the Project Manager shall coordinate assurance of any such documents. The PROJECT MANAGER or his designee shall be responsible for acting on the COUNTY'S behalf to administer, coordinate, interpret and otherwise manage the contractual provisions and requirements set forth in this Contract, or any AMENDMENT(S), or CHANGE ORDER(S) issued there under.

SPECIFICATIONS are written documents organized into divisions, sections, and articles which provide detailed instructions to the VENDOR pertaining, but not limited to, materials, style, workmanship, fabrication, dimensions, colors, warranties, finishes, quality, manufacturer, grade and operational data of all components to be provided by the VENDOR and incorporated into the Project.

SUB-VENDOR is a person, firm, partnership, corporation, or entity who has a direct contract with the VENDOR to perform any of the Work at the site. The term Sub-vendor does not include those whose sole purpose is that of a supplier of materials. A supplier of materials shall be classified as a Sub-vendor if it enters into any agreement, whether written or verbal, for the installation of said materials. The term Sub-vendor means a Sub-vendor or its authorized representative.

SUPPLIER - A manufacturer, fabricator, distributor, materialmen or vendor.

SURETY is the surety company or individual that is bound by Contract bond with and for the VENDOR who is primarily liable, and is responsible for VENDOR'S acceptable performance of the Project and payment of all debts pertaining to the Contract Documents in accordance with Section 255.05, Florida Statutes.

UNDERGROUND FACILITIES - All pipeline, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels or other such facilities or attachments, and any encasements containing such facilities which have been installed underground to furnish any of the following services or materials: electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, sewage and drainage removal, traffic or other control systems or water.

WORK is the construction required by the Contract Documents and includes all labor necessary to produce such construction, and all materials and equipment incorporated or to be incorporated in such construction.

2. Starting the Work

Written Notice to Proceed is contingent upon and will be done subsequent to the VENDOR fully satisfying the COUNTY'S stated insurance and Bond submittal requirements. Until the VENDOR receives the COUNTY'S written Notice to Proceed, the VENDOR is advised that the COUNTY will not be liable for any expenses which the VENDOR may incur relative to this Contract before the written Notice to Proceed is issued.

- 2.1. The Contract time shall commence to run from the date specified in the "Notice to Proceed".
- 2.2. The VENDOR is required, before commencing the Work, to deliver to the COUNTY the Public Payment and Performance Bond issued by a surety insurer authorized to do business in the State of Florida as Surety. The Bond must state the name and principal business address of both the principal and the Surety and must contain a description of the project sufficient to identify it and post in conspicuous place at the project site.
- 2.3. The COUNTY will forward to the VENDOR a Notice of Commencement along with a copy of the recorded Public Payment and Performance Bond with instructions to post in a conspicuous spot on the project site.

3. Interpretation Intent, Amending and Reuse of Contract Documents

It is the intent of the Specifications and Plans to describe a complete Project to be constructed in accordance with the Contract Documents.

- 3.1 The Contract Documents are complementary; what is called for by one is as binding as if called for by all. If the VENDOR finds a conflict, error or discrepancy in the Contract Documents, he shall immediately call it to the attention of the OWNER'S REPRESENTATIVE in writing before proceeding with the Work affected thereby.
- 3.2 Any Work that may be reasonably inferred from the specifications or Drawings as being required to produce the intended result shall be supplied whether or not it is specifically called for.
- 3.3 Work, materials or equipment described in words which have a well-known technical or trade meaning, shall be deemed to refer to such recognized standards.

3.4 In resolving conflicts, errors, and discrepancies, the order of precedence of the Contract Document is as follows:

- (1) Change Order
- (2) Agreement
- (3) Addenda
- (4) Special Conditions
- (5) General Conditions
- (6) Specifications
- (7) Supplemental Information
- (8) Drawings
- (9) Figure Dimensions
- (10) Scale Dimensions (Large Scale Drawings supersede Small Scale Drawings)
- (11) Terms and Conditions

3.5 Amending and Supplementing Contract Documents

The Contract Documents may be amended to provide for additions, deletions and revisions in the Work or to modify the terms and conditions thereof in one or more of the following ways:

3.5.1 A formal Written Amendment,

3.5.2 A Change Order.

3.5.3 A Field Directive Change.

The Contract Price and the Contract Time may only be changed by a Change Order or Written Amendment.

3.6 In addition, the requirements of the Contract Documents may be supplemented and minor variations and deviations of the Work may be authorized, in one or more of the following ways:

3.6.1 A Field Change Order,

3.6.2 The OWNER'S REPRESENTATIVE approval of a Shop Drawing or sample, or

3.6.3 The OWNER'S REPRESENTATIVE written interpretation or clarification.

3.7 Reuse of Documents

Neither the VENDOR nor any SUB-VENDOR or Supplier or other person or organization performing or furnishing any of the Work under a direct or indirect contract with the COUNTY shall have or acquire any title to or ownership rights in any of the Drawings, Specifications or other documents (or copies of any thereof) prepared by or bearing the seal of the CONSULTANT; and they shall not reuse any of them on extensions of the Project or any other project without written consent of the COUNTY or their CONSULTANT and the specific written verification or adaptation by the CONSULTANT.

4 Availability of Lands

The COUNTY will furnish, as indicated in the Contract Documents and not later than the date when needed by the VENDOR, the lands upon which the Work is to be done, rights-of-

way for access thereto, and such other lands which are designated for the use of the VENDOR. Easements for permanent structures or permanent changes in existing facilities will be obtained by the COUNTY unless otherwise specified in the Contract Documents. If the VENDOR believes that any delay in the COUNTY'S furnishing these lands or easements entitles him to an extension of the Contract Time, he may make a claim therefore. The VENDOR will provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment unless designated otherwise. The OWNER'S REPRESENTATIVE will, upon request, furnish to the VENDOR copies of all available boundary and topographic surveys as required and sub-surface tests. The VENDOR shall be responsible for staging and storing equipment or materials. All parcels utilized for staging shall be secured. All parcels utilized for staging will be kept in a neat and orderly fashion and then restored to the landowner's satisfaction upon terminating the use of the staging area or improved as noted in the plans. The VENDOR shall maintain on the job site written proof of authorization for the use of any private land. The COUNTY does not condone trespass on private property and will hold the VENDOR liable for any such trespass. Right-of-way maps, if available, of the lands upon which the improvements will be made shall be provided upon request from the OWNER'S REPRESENTATIVE. The VENDOR may use these lands for work associated with this contract only. The VENDOR shall verify the availability of these lands with the Lee County D.O.T. project manager prior to the issuance of the notice to proceed.

4.1 Physical Conditions

Explorations and Reports: Reference is made to the Supplemental Information for identification of those reports of explorations and tests of subsurface conditions at the site that have been utilized by the CONSULTANT and/or the COUNTY in preparation of the Contract Documents. These reports are not part of the contract Documents. The VENDOR may rely upon the accuracy of the technical data contained in such reports but not upon the non-technical data, interpretations or opinions contained therein for the completeness or accuracy thereof for the VENDOR'S purposes of preparing or submitting a bid. Except as indicated in the immediately preceding sentence, the VENDOR shall have full responsibility with respect to subsurface conditions at the site. The technical data which will be made available only at the VENDOR'S request may not be sufficient for construction purposes. Additional investigations may be necessary for the purposes of carrying out the construction project.

4.2 Existing Structures: Reference is made to the Supplemental Information for identification of those drawings of physical conditions in or relating to existing surface and subsurface structures (except Underground Facilities) which are at or contiguous to the site that have been utilized by the CONSULTANT and/or the COUNTY in preparation of the Contract Documents. The VENDOR may rely upon the accuracy of the technical data contained in such drawings but not for the completeness thereof for the purposes of preparing or submitting a bid. Except as indicated in the immediately preceding sentence, the VENDOR shall have full responsibility with respect to physical conditions in or relating to such structures.

4.3 Unless otherwise stated, the VENDOR shall be fully responsible for the removal of any materials, debris, garbage, vehicles or other such items which would interfere with

- the undertaking and completion of the project. By submission of a bid, the **VENDOR** assumes full responsibility for the expenses associated with such removal. There shall not be an increase in time or price associated with such removal.
- 4.4 **Report of Differing Conditions:** If the **VENDOR** believes that:
- 4.4.1.1 Any technical data on which the **VENDOR** is entitled to is inaccurate, or
 - 4.4.1.2 Any physical condition uncovered or revealed at the site differs materially from that indicated, reflected or referred to in the Contract Documents.
 - 4.4.1.3 The **VENDOR** shall, promptly after becoming aware thereof and before performing any Work in connection therewith (except in an emergency as permitted) notify the **OWNER'S REPRESENTATIVE** in writing about the inaccuracy or difference.
- 4.5 **OWNER'S REPRESENTATIVE Review:** The **OWNER'S REPRESENTATIVE** will promptly review the pertinent conditions, determine the necessity of obtaining additional explorations or tests with respect thereto and advise the **COUNTY** in writing (with a copy to the **VENDOR**) of the **OWNER'S REPRESENTATIVE'S** findings and conclusions.
- 4.6 **Possible Document Change:** If the **OWNER'S REPRESENTATIVE** and the **COUNTY** conclude that there is a material error in the Contract Documents and a change in the Contract Documents is required, a Field Directive Change, a Field Change or a Change Order will be issued as to reflect and document the consequences of the inaccuracy or difference.
- 4.7 **Possible Price and Time Adjustments:** In each case of a material error in the Contract Documents, an increase or decrease in the Contract Price or an extension or shortening of the Contract Time, or any combination thereof, will be allowable to the extent that they are attributable to any such inaccuracy or difference.
- 4.8 **Physical Conditions - Underground Facilities**
Shown or Indicated: The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the site is based on information and data furnished to the **COUNTY** or the **CONSULTANT** by the owners of such Underground facilities or by others. Unless it is otherwise expressly provided in the Supplemental Information:
- 4.8.1 The **VENDOR** shall have full responsibility for reviewing and checking all such information and data, for locating all Underground Facilities shown or indicated in the Contract Documents, for coordination of the Work with the owners of such Underground Facilities during construction, for the safety and protection thereof and for repairing any damage thereto resulting from the Work, the cost of all of which will be considered as having been included in the Contract Price. The **CONSULTANT** and **COUNTY** shall not be responsible for the accuracy or completeness of any such information or data.
- 4.9 **Not Shown or Indicated:** If an Underground Facility is uncovered or revealed at or contiguous to the site which was not shown or indicated in the Contract Documents and which the **VENDOR** could not reasonably have been expected to be aware of, the

VENDOR shall, promptly after becoming aware thereof and before performing any Work affected thereby (except in an emergency as permitted) identify the owner of such Underground Facility and give written notice thereof to that owner and to the OWNER'S REPRESENTATIVE. The OWNER'S REPRESENTATIVE will promptly review the Underground Facility to determine the extent to which the Contract Documents should be modified to reflect and document the consequences of the existence of the Underground Facility, and with the COUNTY'S approval, the Contract Documents will be amended or supplemented to the extent necessary. During such time, the VENDOR shall be responsible for the safety and protection of such Underground Facility. The VENDOR shall be allowed an increase in the Contract Price or an extension of the Contract Time, or both, to the extent that they are attributable to the existence of any Underground Facility that was not shown or indicated in the Contract Documents and which the VENDOR could not reasonably have been expected to be aware of. Locations of existing underground utilities are not field confirmed. In the case of a conflict between this or any other utility and proposed improvements, it shall be the VENDOR'S duty to coordinate with all utility company relocation activities whether shown or not shown in the plans. Coordination is to include efforts by the VENDOR to minimize time lost due to unexpected utility relocation or modifications.

4.10 Reference Points

The COUNTY shall provide engineering surveys to establish reference points, as specified in the Supplemental Information, for construction which in the judgment of the COUNTY and the CONSULTANT are necessary to enable VENDOR to proceed with the Work. The VENDOR shall be responsible for laying out the Work (unless otherwise specified in the Technical Specifications), shall protect and preserve the established reference points and shall make no changes or relocations without the prior written approval of the COUNTY. The VENDOR shall report to the OWNER'S REPRESENTATIVE whenever any reference point is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points by professionally qualified personnel.

5 Bonds and Insurance

5.1 Public Payment and Performance Bond

The VENDOR will execute the Public Payment and Performance Bonds included herein as security for the faithful performance and payment of all his obligations under the Contract Documents.

5.2 This Bond shall be in amounts at least equal to the Contract Price and in such form and with such securities as are acceptable to the COUNTY. Prior to execution of the Contract Documents, the COUNTY may require the VENDOR to furnish such other bonds, in such form and with such sureties as it may require. If such bonds are required by written instructions given prior to opening of Bids, the Premiums shall be paid by the VENDOR. If the Contract is increased by a Change Order, it shall be the VENDOR'S responsibility to insure that the Public Payment and Performance Bond be amended accordingly and a copy of the amendment forwarded to PROCUREMENT MANAGEMENT.

- 5.3 If the surety on any bond furnished by the VENDOR is declared bankrupt or becomes insolvent or its right to do business is terminated in the State of Florida or it ceases to meet the requirements imposed by the Contract Documents, the VENDOR shall within five calendar days thereafter substitute another Bond and Surety, both of which shall be acceptable to the COUNTY.
- 5.4 If the VENDOR cannot obtain another bond and surety within five calendar days the COUNTY will accept and the VENDOR shall submit an irrevocable letter of credit drawn on a Lee County, Florida bank until the bond and surety can be obtained.

6 Qualifications of Surety Companies

In order to be acceptable to the COUNTY, a surety company issuing Bid Guaranty Bonds or 100% Public Payment and Performance Bonds, called for in these specifications, shall meet and comply with the following minimum standards:

- 6.1 **General**
All Sureties for Lee County projects must be authorized to do business in the State of Florida and shall comply with the provisions of Florida Statute 255.05.
- 6.2 Attorneys-in-Fact who sign bid bonds or Public Payment and Performance Bonds for Lee County projects must file with such bond a certified copy of their Power of Attorney to sign such bond.
- 6.3 Agents of surety companies must list their name, address, and telephone number on all bonds.
- 6.4 The life of all bonds provided to Lee County shall extend twelve months beyond the date of final payment and shall contain a waiver of alteration to the terms of the Contract, extensions of time and/or forbearance on the part of the COUNTY.
- 6.5 To be acceptable to the OWNER on projects not in excess of \$500,000.00, Surety shall comply with these minimum provisions of State Statute 287.0935 as follows:
 - 6.5.1 Surety must have twice the minimum surplus and capital required by Florida Insurance Code at the time of bid solicitation.
 - 6.5.2 Surety must be in compliance with all provisions of the Florida Insurance Code and hold a currently valid certificate of authority issued by the United States Department of the Treasury under SS.31 U.S.C. 9404-9308.
 - 6.5.3 Sureties on projects in excess of \$500,000.00 shall comply with the above minimum provisions as well as being rated thru A.M. Best Company and shall comply with the following provisions:
 - 6.5.4 The Surety shall be rated as “B” or better as to General Policyholders Rating and Class VII or better as to financial category by the most current Best’s Key Rating Guide, published by A.M. Best Company.
 - 6.5.5 Surety must have fulfilled all of its obligations on all other bonds previously given to the COUNTY.
 - 6.5.6 Surety must have a minimum underwriting limitation of \$5,000,000 published in the latest edition of the Federal Register for Federal Bonds (U.S. Dept. of Treasury).
- 6.6 **Letter of Credit**
At any time during the life of the letter of credit, should the rating of financial institution fall below both of the minimum ratings as indicated in the Contract

Documents, or should the financial institution become insolvent, the **VENDOR** must, within five calendar days after notification by the **COUNTY**:

- 6.6.1 Replace the existing letter of credit with a replacement letter of credit from a financial institution with either of the minimum ratings as specified in the Contract Documents, or
 - 6.6.2 Have the existing letter of credit confirmed by a financial institution with either of the minimum ratings as specified in the Contract Documents.
 - 6.6.3 At the **COUNTY'S** option, the letter of credit may be replaced by a Public Payment and Performance Bond in accordance with the **COUNTY'S** existing bond policies.
- 6.7 Failure to comply with this provision may result in any or all of the following actions by the **COUNTY**:
- 6.7.1 Suspension of the **VENDOR'S** right to pull building permits and schedule inspections;
 - 6.7.2 A stop work order; and/or Revocation of the Land Development Permit.

6.8 **Financial Institutions/Letters of Credit**

In order to be acceptable to the **COUNTY**, a financial institution issuing 100% Letters of Credit, called for in these specifications, shall meet and comply with the following minimum standards:

6.8.1 **General**

The face of the letter of credit must be in a format utilizing Lee County Standard Form and indicate the following:

- 6.8.1.1 The letter of credit is "clean" and "irrevocable";
- 6.8.1.2 An exact expiration date. The life of all letters of credit provided to Lee County shall extend twelve months beyond the date of final payment;
- 6.8.1.3 Statement of the purpose or project for which the letter of credit is issued;
- 6.8.1.4 A specific amount of the letter of credit, in U.S. dollars;
- 6.8.1.5 The method of disbursement of draws against the letter of credit;
- 6.8.1.6 The street address where draws against the letter of credit may be made; and
- 6.8.1.7 Venue in Lee County.
- 6.8.1.8 Verification of the status or certification of any financial institution may be made with:

Department of Insurance and Treasurer
Bureau of Collateral Securities
200 East Gaines Street
Tallahassee, FL 32377-0345
Phone (850) 922-3167

Or

Lee County Procurement Management
2115 Second Street, 1st Floor

Fort Myers, FL 33901
Phone (239) 533-8881

Or

Lee County Risk Management
2115 Second Street
Fort Myers, FL 33901
Phone (239) 533-2221

- 6.8.1.9 At the time of issuance of the letter of credit, the financial institution must have a minimum “peer group” rating of 50 in the latest Sheshunoff Quarterly Listing or a minimum rating of 125 in the latest IDC Bank Financial Quarterly Listing.
- 6.8.1.10 Letters of Credit from financial institutions which do not meet either of the minimum ratings indicated above must be confirmed by a financial institution with either of the minimum ratings indicated above.
- 6.8.1.11 All financial institutions which issue or confirm any Letter of Credit must be authorized by the Secretary of State to do business in the State of Florida, shall show proof of same upon request by COUNTY staff, and agree to venue in Lee County.
- 6.8.1.12 In addition to the institutions meeting the aforementioned requirements, the Federal Home Loan Bank of Atlanta is authorized to issue and confirm letters of credit which are in accordance with the provisions above and all subsequent sub-paragraphs.
- 6.8.1.13 These actions shall be in effect until a satisfactory replacement bond or letter of credit is accepted by the COUNTY. The VENDOR agreement shall so provide for replacement or confirmation in accordance with this policy.

7 Vendor’s Liability Insurance

- 7.1 The VENDOR will purchase and maintain such insurance as will protect him from claims under Worker’s Compensation laws, disability benefit laws or other similar employee benefit laws; from claims for damages because of bodily injury, occupational sickness or disease, or death of his employees including claims insured by usual personal injury, sickness and disease, or death of any person other than his employees including claims insured by usual personal injury liability coverage; and from claims for injury to or destruction of tangible property including loss of use resulting there from any or all of which may arise out of or result from the VENDOR’S operations under the Contract Documents, whether such operations be by himself or any Sub-vendor or anyone directly or indirectly employed by any of them or for whose acts any of them may be legally liable. This insurance shall be

written for no less than the limits of liability specified in the Contract Documents or required by law, whichever is greater, and shall include contractual liability insurance. As a prerequisite to the COUNTY signing the Contract, the VENDOR will file with the COUNTY certificates of such insurance, acceptable to the COUNTY; these certificates shall contain a provision for cancellation.

7.2 Insurance Requirements

7.2.1 Before final execution of the Agreement and until acceptance of the Work by the COUNTY, the VENDOR shall procure and maintain insurance of the types and the limits specified by the Insurance Guide included in the Solicitation.

7.2.2 All VENDOR'S Certificates of Insurance must be approved by the Lee County Risk Manager (or designee) before the final execution of the agreement by the COUNTY.

7.2.3 An Insurance Certificate shall be required from the successful BIDDER. Such form must be properly executed and submitted by an authorized representative of the insurance company and successful BIDDER within seven calendar days after notification by Lee County of the Board of County Commissioners' approval to award the contract. Such certificate of insurance state that the coverage is primary, and shall be in the types and amounts stated in the Contract Documents. Certificate should include producers' phone number and reference the name of the project.

8 Vendor's Responsibilities

8.2 Supervision and Superintendence

8.1.1 The VENDOR will supervise and direct the Work efficiently. He will be solely responsible for the means, methods, techniques, sequences, safety, and procedure of construction, unless otherwise specified. The VENDOR will be responsible to see that the finished Work complies with the Contract Documents.

8.1.2 The VENDOR will keep on the site at all times when work is being performed, a competent, resident superintendent who shall not be replaced without prior written notice to the OWNER'S REPRESENTATIVE. The superintendent will be the VENDOR'S representative at the site and shall have authority to act on behalf of the VENDOR. All communications given to the superintendent shall be binding as if given to the VENDOR.

9 Labor Material and Equipment

9.1 The VENDOR will provide competent, suitable, qualified personnel to lay out the Work and perform construction as required by the Contract Documents. He will at all times maintain good discipline and order at the site.

9.2 The VENDOR will furnish all materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, heat, light, telephone, water and sanitary facilities and incidentals necessary for the execution, testing, initial operation and completion of the Work unless otherwise specified. All

materials and equipment such as concrete pipe, inlets, manhole covers, etc., furnished by the **VENDOR** shall be made by the same manufacturer, e.g., all pipe by one company, all inlets by one company, etc.

- 9.3 All materials and equipment will be new except as otherwise provided in the Contract Documents. If required by the **OWNER'S REPRESENTATIVE**, the **VENDOR** will furnish satisfactory evidence as to the kind and quality of materials and equipment furnished.
- 9.4 All materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable manufacturers, fabricator or processors except as otherwise provided in the Contract Documents.
- 9.5 In instances where the act is applicable due to the nature of the bid matter with which this bid package is concerned, all material, equipment, etc., as proposed and offered by **VENDOR** must meet and conform to all **O.S.H.A.** requirements; the **VENDOR'S** signature upon the bid proposal form being by this reference considered a certification of such fact.

10 Adjusting the Progress Schedule

- 10.1 The **VENDOR** shall submit to the **OWNER'S REPRESENTATIVE** for acceptance of adjustments in the progress schedule to reflect the impact thereon of new developments; these will conform generally to the progress schedule then in effect and additionally will comply with any provisions of the Contract Documents applicable thereto. The **COUNTY** reserves the right to reject the progress schedule from the **VENDOR** which in its judgment does not appear to devote sufficient resources of manpower to enable the timely completion of the project. If the **COUNTY** requests the progress schedule to be adjusted, the **VENDOR** shall do so and perform the work according to the adjusted schedule at no additional cost to the **COUNTY**.

11 Substitute Materials or Equipment

- 11.1 If it is indicated in the specifications that the **VENDOR** may furnish or use a substitute that is equal to any material or equipment specified, and if the **VENDOR** wishes to furnish or use a proposed substitute, he will, within thirty calendar days after the award of the Contract, make written application to the **OWNER'S REPRESENTATIVE** for approval of such a substitute, certifying in writing that the proposed substitute will perform adequately the duties imposed by the general design, be similar and of equal substance to that specified and be suited to the same use and capable of performing the same function as that specified. No substitute shall be ordered or installed without the written approval of the **COUNTY** who shall be the judge of quality. Whether or not the **COUNTY** accepts a proposed substitute, the **VENDOR** shall reimburse the **COUNTY** for any charges or cost for evaluating any proposed substitute.

12 Concerning Sub-vendors

- 12.1 The **VENDOR** will be fully responsible for all acts and omissions of his **SUB-VENDORS** and of persons directly or indirectly employed by them and of persons for

whose acts they may be liable to the same extent that they are employed by him. Nothing in the Contract Documents shall create any contractual relationship between any SUB-VENDOR and the COUNTY. The COUNTY may, upon request, furnish to any SUB-VENDOR, to the extent practicable, evidence of amounts paid to the VENDOR on account of specific Work done.

- 12.2 The divisions and sections of the specifications and the identifications of any Drawings shall not control the VENDOR in dividing the Work among SUB-VENDORS or delineating the Work to be performed by any specific trade.
- 12.3 The VENDOR agrees to bind specifically every SUB-VENDOR to the applicable terms and conditions of these Contract Documents for the benefit of the COUNTY.
- 12.4 All Work performed for the VENDOR by a SUB-VENDOR shall be pursuant to an appropriate agreement between the VENDOR and the SUB-VENDOR which shall contain provisions that waive all rights the contracting parties may have against one another for damages caused by fire or perils covered by insurance, except such rights as they may have to the proceeds of such insurance held by the COUNTY as trustee.

13 Patent Fees and Royalties

- 13.1 The costs involved in fees, royalties, or claims for any patented invention, article, process or method that may be used upon, or in a manner connected with the work under this contract, shall be paid by the VENDOR. The VENDOR and his sureties, together with his officers, agents, and employees, shall protect and hold the COUNTY harmless against any and all demands made for such fees or claims brought or made by holder of any invention or patent. Before final payment is made on the account of this Contract, the VENDOR shall, if requested by the COUNTY, furnish acceptable proof of a proper release from all such fees or claims.
- 13.2 Should the VENDOR, his agent, employee, or any of them be enjoined from furnishing or using any invention, article, material or plans supplied or required to be supplied or used under this contract, the VENDOR shall promptly pay such royalties and secure the requisite licenses; or, subject to acceptance by the COUNTY, substitute other articles, materials or appliances in lieu thereof which are of equal efficiency, quality, finish, suitability and market value to those planned or required under the contract. Descriptive information of these substitutions shall be submitted to the OWNER'S REPRESENTATIVE for determination of general conformance to the design concept and the construction contract. Should the COUNTY elect to use the substitution, the VENDOR agrees to pay such royalties and secure such valid licenses as may be requisite for the COUNTY, his officers, agents, and employees, or any of them, to use such invention, article, material, or appliance without being disturbed or in any way interfered with by any proceeding in law or equity on account thereof.

14 Permits

- 14.1 Unless otherwise specified herein, the VENDOR will secure and pay for all permits, impact fees, and licenses and will pay all governmental charges and inspections' fees necessary for the prosecution of the Work which are applicable at the time of his bid.

The VENDOR will also pay all public utility charges and connection fees except as provided for in the Contract Documents. Permits and licenses of regulatory agencies which are necessary to be maintained after completion of the guarantee period shall be secured and paid for by the COUNTY.

14.2 Pursuant to the requirements of F.S. 218.80, the following County permits and fees are required to be obtained and paid for by the VENDOR.

14.2.1 *Permits as required shall be responsibility of Vendor unless otherwise stated herein. County permit and associated fees are available at <http://www.leegov.com/permits>*

14.3 This is a disclosure of permits and fees, required by Lee County, for this project and does not relieve the vendor of its responsibility to obtain and pay for permits required by other governmental entities as specified elsewhere in this document.

14.4 The VENDOR will give all notices and comply with all laws, ordinances, rules and regulations applicable to the Work. If the VENDOR observes that the Specifications or Drawings are at a variance therewith, he will give the OWNER'S REPRESENTATIVE prompt written notice thereof, and any necessary changes shall be adjusted by an appropriate modification. If the VENDOR performs any Work knowing it to be contrary to such laws, ordinances, rules and regulations and without such notice to the OWNER'S REPRESENTATIVE, he will bear all cost arising therefrom; however, it shall not be his primary responsibility to make certain that the Drawings and Specifications are in accordance with such laws, ordinances, rules and regulations.

15 Licenses

15.1 The VENDOR must be properly licensed, within the jurisdiction where the project is to be constructed, to perform the work specified in the Scope of Work at the time of bid submittal.

16 Use of Premises

16.1 The VENDOR will confine his equipment, the storage of materials and equipment, and the operations of his workmen to the areas permitted by law, ordinances, permits or the requirements of the Contract Documents and shall not unreasonably encumber the premises with materials or equipment.

17 Record Drawings

17.1 The VENDOR will keep one record copy of all Specifications, Drawings, Addenda, Modifications and Shop Drawings at the site in good order, and annotated to show all changes made during the construction process or addition and exact location of underground or otherwise concealed components such as, but not limited to, plumbing, air conditioning, electric, culverts, drainage structures, water main, force mains, service lines, wiring, traffic loops, pond or ditch bottoms and banks, signal poles, signs, and conduit which were not installed exactly as shown on the contract drawings. These shall be available to the OWNER'S REPRESENTATIVE and shall be verified by the OWNER'S REPRESENTATIVE at 30%, 60%, and 100% completion of the Project. The VENDOR shall submit to the OWNER'S REPRESENTATIVE one complete set of all recorded changes made during Construction entitled "As-Built", and dated. Submittals shall be made in accordance

- with the above and shall be submitted at the time of substantial completion.
- 17.2 The sum of \$5,000.00 shall be withheld from the final payment until written acceptance or all of the Record Drawings by the OWNER'S REPRESENTATIVE has occurred.
- 17.3 Certified "as-built" information, which the VENDOR must show on marked-up copies of the design drawings, prints, and other materials as specified above shall include both authorized and unauthorized changes to horizontal pavement dimensions, finish pavement grades, finish dimensions, elevations and alignment of the items noted in Article 17.1, and any modifications to material types from that specified in the bid plans and specifications. As a prerequisite to any payments, the VENDOR shall make available to the Engineer all "as-built" information pertinent to the design drawings each month prior to his submission of a monthly application for payment. The VENDOR shall also obtain "as-built" cross-sections of the roadway, ditches, channels, and other drainage ways as shown in the Contract Documents at intervals not to exceed 100 ft. The VENDOR shall set benchmarks on or within 100 ft. of each control structure constructed as part of this project. A complete description including elevation and location of each control structure benchmark shall be provided to the Engineer as part of the "as-built" information. The elevation shall be clearly and permanently indicated on each benchmark.
- 17.4 "As-built" dimensions and elevations shall be obtained by a Professional Land Surveyor registered in the State of Florida pursuant to Chapter 472, Florida Statutes. The "as-built" drawings shall be signed and sealed by the VENDOR'S Professional Land Surveyor in accordance with Section 472.025, Florida Statutes.
- 17.5 All pertinent surveyors' field survey notes containing the "as-built" data shall be sealed and submitted to the Engineer for review and acceptance prior to authorization of the final payment.
- 17.6 "As-built" data shall be secured and the accuracy of measurements shall be 0.01 ft.
- 17.7 All sub-surface improvements considered part of the Work as shown in the Contract Documents shall be "as-built" by the VENDOR prior to backfilling.
- 17.8 A final bench level circuit shall be secured indicating accuracy of vertical closure and a copy of these field notes shall be submitted to the Engineer before final acceptance of the project.
- 17.9 The VENDOR shall annotate and show all "as-built" information on 11" x 17" prints of the bid plans during the course of the construction process. Upon completion of all contract work, but prior to authorization of the final payment by the Engineer, the VENDOR shall deliver one (1) set of such annotated, in neat draftsman-like manner, "as-built" 11" x 17" prints to the Engineer for approval. Upon approval of such "as-built" plans, the VENDOR shall forthwith provide two (2) sets of these drawings containing all "as-built" information, a CD of the "as-built" electronic files in AutoCAD or MicroStation format and data which have been sealed by a Professional Land Surveyor by the VENDOR at the VENDOR'S cost and forthwith become the property of the COUNTY.
- 17.10 The cost of preparing, maintaining, and providing "as-built" plans and documents as specified in this Article must be included in the Lump Sum payment for mobilization for each part of the Bid Schedule providing for Mobilization.

- 17.11 Shop drawing submittals processed by the Engineer shall not be construed as Change Orders; the purpose of a shop drawing is to demonstrate to the Engineer that the VENDOR understands the design concept, and that his understanding is demonstrated by indicating the equipment and material to be furnished and installed. Corrections or changes indicated by the Engineer in the shop drawings do not constitute authorization to perform extra work.
- 17.12 The review of shop drawings and schedules shall be considered general and shall not be construed as permitting any departures from the contract requirements. The design drawings and contract specifications shall take precedence over the shop drawings in the event of deviations, discrepancy, or conflict.

18 Safety and Protection

- 18.1 The VENDOR will be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. He will take all necessary precautions for the safety of and will provide the necessary protection to prevent damage, injury or loss to:
 - 18.1.1 All employees on the Project and other persons who may be affected thereby;
 - 18.1.2 All the Work and all materials or equipment to be incorporated therein, whether in storage on or off the site; and
 - 18.1.3 Other property at the site or adjacent thereto including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.
 - 18.1.4 The VENDOR will comply with all applicable laws, ordinances, rules, regulations and orders of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. He will erect and maintain, as required by the conditions and progress of the Work, all necessary safeguards for safety and protection and, in addition, he will comply with all applicable recommendations of the "Manual of Accident Prevention in Construction" published by the Associated General Vendors of America, Inc.; "Roadway and Traffic Design Standards" latest edition published by the Florida Department of Transportation, specifically Index 600-650; and Occupational Safety and Health Administration published by the United States Department of Labor. He will notify owners of adjacent utilities when prosecution of the Work may affect them. All damage, injury or loss to any property caused directly or indirectly, in whole or in part by the VENDOR, any SUB-VENDOR, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable will be remedied by the VENDOR; except any damage or loss attributable to the fault of the Drawings or the Specifications or to the acts or omissions of the COUNTY, and not attributable, directly or indirectly, in whole or in part, to the fault of negligence of the VENDOR.
 - 18.1.5 The VENDOR will designate a member of his organization whose responsibility will be to plan for the prevention of accidents at the site. This person shall be the VENDOR'S Superintendent unless otherwise

designated in writing by the **VENDOR** to the **OWNER'S REPRESENTATIVE**.

19 Emergencies

19.1 In emergencies affecting the safety of persons, the **Work** or property at the site or adjacent thereto, the **VENDOR**, without special instruction or authorization from the **COUNTY**, is obligated to act at his discretion to prevent threatened damage, injury or loss. He will give the **OWNER'S REPRESENTATIVE** prompt written notice of any significant changes in the **Work** or deviations from the **Contract Documents** caused thereby. If the **COUNTY** and the **OWNER'S REPRESENTATIVE** determine that a change to the **Contract Documents** is required because of the action taken in response to an emergency, a **Field Directive Change** or **Change Order** shall thereupon be issued covering the changes and deviations involved.

20 Shop Drawings and Samples

20.1 After checking and verifying all field measurements, the **VENDOR** will submit to the **OWNER'S REPRESENTATIVE** for approval, in accordance with the acceptable schedule of **Shop Drawing** submission, five copies (or at the option of the **OWNER'S REPRESENTATIVE**, one reproducible copy) of all **Shop Drawings**, which shall have been checked by and stamped with the approval of the **VENDOR** and identified as the **OWNER'S REPRESENTATIVE** may require. The data shown on the **Shop Drawings** will be complete with respect to dimensions, design criteria, materials of construction and the like to enable the **OWNER'S REPRESENTATIVE** to review the information as required.

20.2 The **VENDOR** will also submit to the **OWNER'S REPRESENTATIVE** for approval with such promptness as to cause no delay in the **Work**, all samples required by the **Contract Documents**. All samples will have been checked by and stamped with the approval of the **VENDOR**, identified clearly as to material, manufacturer, any pertinent numbers and the use for which intended.

20.3 At the time of each submission, the **VENDOR** will in writing call the **OWNER'S REPRESENTATIVE'S** attention to any deviations that the **Shop Drawing** or sample may have from the requirements of the **Contract Documents** and, in addition, shall cause a specific notation to be made on each shop drawing submitted for review and approval of each such variation.

20.4 The **OWNER'S REPRESENTATIVE** will review and approve with reasonable promptness **Shop Drawings** and **Samples**, but its review and approval shall be only for conformance with the design concept of the **Project** and for compliance with the information given in the **Contract Documents**. The approval of a separate item as such will not indicate approval of the assembly in which the item functions. The **VENDOR** will make any corrections required by the **OWNER'S REPRESENTATIVE** and will return the required number of corrected copies of **Shop Drawings** and re-submit new samples until approved. All cost incurred by the **COUNTY** for the review of a shop drawing in excess of two reviews shall be the **VENDORS** responsibility. The **VENDOR'S** stamp of approval on any **Shop Drawing** or sample shall constitute a representation to the **OWNER'S REPRESENTATIVE**

that the **VENDOR** has either determined and verified all quantities, dimensions, field construction criteria, materials, catalog numbers and similar data or he assumes full responsibility for doing so, and that he has reviewed or coordinated each Shop Drawing or sample with the requirements of the Work and the Contract Document.

20.5 No work requiring a Shop Drawing or sample submissions shall be commenced until the submission has been approved by the **OWNER'S REPRESENTATIVE**. Any related Work performed prior to review and approval by the **COUNTY** of the pertinent submission will be the sole expense and responsibility of the **VENDOR**. A copy of each approved Shop Drawing and each approved sample shall be kept in good order by the **VENDOR** at the site and shall be available to the **OWNER'S REPRESENTATIVE**.

20.6 The **OWNER'S REPRESENTATIVE** approval of Shop Drawings or samples shall not relieve the **VENDOR** from his responsibility for any deviations from the requirements of the Contract Documents, unless the **VENDOR** has in writing called the **OWNER'S REPRESENTATIVE** attention to such deviation at the time of submission and the **COUNTY** and the **OWNER'S REPRESENTATIVE** have given written approval to the specific deviation; nor shall any approval by the **OWNER'S REPRESENTATIVE** relieve the **VENDOR** from responsibility for errors or omissions in the Shop Drawings.

20.6.1 The **VENDOR** shall, upon completion of the work, furnish to the Engineer two (2) complete sets of prints, neatly bound together, and in good condition, of all the **VENDOR'S**, Subvendors' and manufacturers' drawings as finally checked and reviewed by the Engineer with all modifications accepted by the Engineer subsequent thereto, showing the work as actually completed. Such "as-built" information for bridges, culverts, and similar structures shall also be provided by the **VENDOR**.

21 Indemnification

21.1 The **VENDOR** shall indemnify, save harmless and defend the **COUNTY** and all of its officers, agents, consultants and employees from and against all losses, claims, demands, payments, suits, actions, recoveries and judgments of every nature and description brought or recoverable against it or them by reason of any act or omission of the **VENDOR**, his agent, consultants, employees, sub-vendors etc., in the execution of the work or in consequence of any negligence or carelessness in guarding the same and agrees to assume any related cost.

21.2 The **VENDOR** shall assume all risk and bear any loss or injury to property or persons occasioned by neglect or accident during the progress of work until the same shall have been completed and accepted. The **VENDOR** agrees to repair, restore or rebuild any damages he causes to any property of the **COUNTY**. He shall also assume all blame or loss by reason of neglect or violation of any state or federal law or municipal rule, regulation or order. The **VENDOR** shall give to the proper authorities all required notices relating to the work, obtain all official permits and licenses and pay all proper fees. He shall repair any damage that may have occurred to any adjoining building, structure, utility or private property in the course of this work.

22 Cleaning Up

- 22.1 The VENDOR will keep the premises free from accumulations of waste materials, rubbish and other debris resulting from the Work; at the completion of the Work he will remove all waste materials, rubbish and debris from and about the premises as well as all tools, construction equipment and machinery, and surplus materials, and will leave the site clean and ready for occupancy by the COUNTY. The VENDOR will restore to their original condition those portions of the site not designated for alteration by the Contract Documents.
- 22.2 If the VENDOR fails to clean up as provided in the Contract Documents, the COUNTY may do so and the cost thereof shall be deducted from the final retainage due the VENDOR.

23 Continuing the Work

- 23.1 The VENDOR shall carry on the Work and adhere to the progress schedule during all disputes and disagreements with the COUNTY. No work shall be delayed or postponed pending resolution of any disputes or disagreements, except as permitted (The COUNTY May Stop Work) or as the VENDOR and the COUNTY may otherwise agree in writing.

24 Anti-Discrimination

- 24.1 The VENDOR for itself, its successors in interest, and assignees, as part of the consideration thereof covenant and agree that:
- 24.2 In the furnishing of services to the COUNTY hereunder, no person on the grounds of race, religion, color, age, sex, national origin, handicap or marital status shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination.
- 24.3 The VENDOR will not discriminate against any employee or applicant for employment because of race, religion, color, age, sex, national origin, handicap or marital status. The VENDOR will make affirmative efforts to insure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, age, sex, national origin, handicap or marital status. Such action shall include, but not be limited to, acts of employment, upgrading, demotion or transfer; recruitment advertising; layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeships.
- 24.4 VENDOR agrees to post in a conspicuous place, available to employees and applicants for employment, notices setting forth the provisions of this anti-discrimination clause.
- 24.5 VENDOR will provide all information and reports required by relevant regulations and/or applicable directives. In addition, the VENDOR shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the COUNTY to be pertinent to ascertain compliance. The VENDOR shall maintain and make available relevant data showing the extent to which members of minority groups are beneficiaries under these contracts.
- 24.6 Where any information required of the VENDOR is in the exclusive possession of another who fails or refuses to furnish this information, the VENDOR shall so certify

to the COUNTY its efforts made toward obtaining said information. The VENDOR shall remain obligated under this paragraph until the expiration of three years after the termination of this CONTRACT.

- 24.7 In the event of breach of any of the above anti-discrimination covenants, the COUNTY shall have the right to impose sanctions as it may determine to be appropriate, including withholding payment to the VENDOR or canceling, terminating or suspending this CONTRACT, in whole or in part.
- 24.8 Additionally, the VENDOR may be declared ineligible for further COUNTY contracts by rule, regulation or order of the Board of County Commissioners of Lee County, or as otherwise provided by law.
- 24.9 The VENDOR will send to each labor union, or representative of workers with which the VENDOR has a collective bargaining agreement or other contract of understanding, a notice informing the labor union or worker's representative of the VENDOR'S commitments under this assurance, and shall post copies of the notice in conspicuous places available to the employees and the applicants for employment.
- 24.10 The VENDOR will include the provisions in every sub-contract under this contract to insure its provisions will be binding upon each Sub-vendor. The VENDOR will take such action with respect to any Sub-vendor, as the contracting agency may direct, as a means of enforcing such provisions, including sanctions for non-compliance.

25 Work by Others

- 25.1 The COUNTY may perform additional Work related to the Project by itself, or it may let other direct contracts which shall contain General Conditions similar to these.
- 25.2 The VENDOR will afford the other Vendors who are parties to such direct contracts (or the COUNTY, if it is performing the additional Work itself), reasonable opportunity for the introduction and storage of materials and equipment and the execution of the Work, and shall properly connect and coordinate his work with theirs. Should the Contract entail relocation of facilities not a part of this Contract, the VENDOR will coordinate and cooperate with the applicable entity responsible for this portion of the Work.
- 25.3 Water lines, gas lines, wire lines, service connections, water and gas meter boxes, water and gas valve boxes, light standards, cableways, signals, and all other utility appurtenances within the limits of the proposed construction which are to be relocated or adjusted are to be moved by the owners at their expense, unless otherwise provided in the Contract. It is understood and agreed that the VENDOR has considered in his bid all of the permanent and temporary utility appurtenances in their present or relocated positions as shown on the plans and that no additional compensation will be allowed for any delays, inconveniences, or damage sustained to him due to any interference from the said utility appurtenances or the operation of moving them. If any part of the VENDOR'S work depends (for proper execution) upon the Work of any such other Vendor (or the COUNTY), the VENDOR will inspect and promptly report to the OWNER'S REPRESENTATIVE in writing, any defects, deficiencies or delays in such Work that render it unsuitable for such proper execution and results. His failure to report shall constitute an acceptance of the Work, except as to defects, deficiencies and delays which may appear in the other Work after the execution of

- his Work.
- 25.4 The **VENDOR** will do all cutting, fitting and patching of his Work, which is consistent with the Contract Documents that may be required to make its several parts come together properly and fit it to receive or be received by such other Work. The **VENDOR** will not endanger any Work of others by cutting, excavating or otherwise altering such other Work and will only cut or alter such other work with the written consent of the **OWNER'S REPRESENTATIVE**.
- 25.5 If the performance of additional Work by other Vendors or the **COUNTY** is not noted in the Contract Documents prior to the execution of the Contract, written notice thereof shall be given to the **VENDOR** prior to starting any such additional Work.
- 25.6 The **VENDOR** shall be responsible for coordination with all activities with adjacent projects.

26 Owner's Representative Status During Construction

- 26.1 County's Representatives
- 26.1.1 The **COUNTY** shall issue all communications to the **VENDOR** through the **OWNER'S REPRESENTATIVE**.
- 26.2 Clarifications and Interpretations
- 26.2.1 The **OWNER'S REPRESENTATIVE** will issue with reasonable promptness, through the **COUNTY**, such written clarifications or interpretations of the requirements of the Contract Documents (in the form of Drawings or otherwise) as the **COUNTY** may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Contract Documents. If the **VENDOR** believes that a written clarification or interpretation justifies an increase in the Contract Price or an extension of the Contract Time and the parties are unable to agree to the amount or extent thereof, the **VENDOR** may make a claim.
- 26.3 Authorized Variations in Work
- 26.3.1 The **OWNER'S REPRESENTATIVE** may authorize, with prior approval from the **COUNTY** minor variations in the Work from the requirements of the Contract Documents which do not involve an adjustment in the Contract Price or the Contract Time and are consistent with the overall intent of the Contract Documents. These may be accomplished by a Field Change Order and the **VENDOR** shall perform the Work involved promptly. If the **VENDOR** believes that a Field Change Order justifies an increase in the Contract Price or an extension of the Contract Time and the parties are unable to agree as to the amount or extent thereof, the **VENDOR** may make a claim.

27 Changes in Work

- 27.1 Without invalidating the Agreement, the **COUNTY** may unilaterally and at any time or from time to time order additions, deletions or revisions in the Work; these will be authorized by Change Orders or Field Directive Change. Upon receipt of a Change Order or Field Directive Change, the **VENDOR** will proceed with the Work

- involved.
- 27.2 All such Work shall be executed under the applicable conditions of the Contract Documents.
 - 27.3 If any Change Order or Field Directive Change causes an increase or decrease in the Contract Price or any extension or shortening of the Contract Time, an equitable adjustment will be made.
 - 27.4 Additional Work performed by the VENDOR without written authorization of a change in the form of an approved Change Order will not entitle him to an increase in the Contract Price or any extension of the Contract Time, except in the case of an emergency.
 - 27.5 It is the VENDOR'S responsibility to notify the Surety of any changes affecting the general scope of the Work or change of the Contract Price and the amount of the applicable Bonds shall be adjusted accordingly. The Surety's Acceptance must be submitted to the OWNER'S REPRESENTATIVE, by the VENDOR, within ten calendar days of the initiation of the change.

28 Change of Contract Price

- 28.1 The Contract Price constitutes the total compensation payable to the VENDOR for performing the Work. All duties, responsibilities and obligations assigned to or undertaken by the VENDOR shall be at his expense without change in the Contract Price.
- 28.2 The Contract Price may only be changed by a Change Order. Any claim for an increase or decrease in the Contract Price shall be in writing and delivered to the OWNER'S REPRESENTATIVE within fifteen calendar days of the occurrence of the event giving rise to the claim and stating the general nature of the claim. Notice of the amount of the claim with supporting data shall be delivered within sixty calendar days after such occurrence (unless COUNTY allows an additional period of time to ascertain more accurate data in support of the claim) and shall be accompanied by the VENDOR'S written statement that the amount claimed covers all known amounts (direct, indirect, and consequential) to which the VENDOR has reason to believe it is entitled as a result of the occurrence of said event. No claim for an adjustment in the Contract Price will be valid if not submitted in accordance. All claims for adjustment in the Contract Price shall be reviewed by the OWNER'S REPRESENTATIVE. Any change in the Contract Price shall be incorporated in a Change Order and approved by the COUNTY. No claim by the VENDOR for an equitable adjustment hereunder shall be allowed if asserted after final payment under this Contract.
- 28.3 Where the Work involved is covered by unit prices contained in the Contract Documents or subsequently agreed upon, by application of unit prices to the quantities of the items involved.
- 28.4 By mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation.
- 28.5 By cost of the Work and mutually acceptable fixed amount for overhead and profit agreed upon by the parties.
- 28.6 If none of the above methods is agreed upon, the value shall be determined by the

COUNTY on the basis of cost of the Work and a percentage for overhead and profit. Cost shall only include labor (payroll, payroll taxes, fringe benefits, worker's compensation, etc.), materials, equipment, and other incidentals directly related to the Work involved.

- 28.7 In such cases the VENDOR will submit in the form prescribed by the COUNTY an itemized cost breakdown together with supporting data. The amount of credit to be allowed by the VENDOR to the COUNTY for any such change which results in a net decrease in cost will be the amount of the actual net decrease as determined by the COUNTY. When both additions and credits are involved in any one change, the combined overhead and profit shall be figured on the basis of the net decrease, if any.

29 Cash Allowance

- 29.1 It is understood that the VENDOR has included in the Contract Price any allowances so named in the Contract Documents and shall cause the Work so covered to be done by such materialmen, suppliers, or SUB-VENDORS and for such sums within the limit of the allowances as the COUNTY may approve. Upon final payment, the Contract Price shall be adjusted as required and an appropriate Change Order issued. The VENDOR agrees that the original Contract Price includes such sums as he deems proper for cost and profit on account of cash allowances. No demand for an additional sum for overhead or profit in connection therewith will be allowed.

29.2 Unit Price Work

29.2.1 Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the established unit prices for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price.

29.2.2 Each unit price will be deemed to include an amount considered by the VENDOR to be adequate to cover the VENDOR'S overhead and profit for each separately identified item.

29.2.3 The unit price of an item of Unit Price Work shall be subject to revaluation and adjustment under the following conditions:

29.2.3.1 If the total cost of a particular item of Unit Price Work amounts to 5% or more of the Contract Price and the variation in the quantity of that particular item of Unit Price Work performed by the VENDOR differs by more than 15% from the estimated quantity of such item indicated in the Agreement; and,

29.2.3.2 If there is no corresponding adjustment with respect to any other item of Work; and

29.2.3.3 If the VENDOR believes that it has incurred additional

expense as a result thereof; or

- 29.2.3.4 If the COUNTY believes that the quantity variation entitles it to an adjustment in the unit price, either the COUNTY or the VENDOR may make a claim for an adjustment in the Contract Price if the parties are unable to agree as to the effect of any such variations in the quantity of Unit Price Work performed.

30 Change of Contract Time

- 30.1 The Contract Time may only be changed by a Change Order. Any claim for an extension in the Contract Time shall be in writing and delivered to the OWNER'S REPRESENTATIVE within fifteen calendar days of the occurrence of the event giving rise to the claim and stating general nature of the claim. Notice of the extent of the claim with supporting data (analysis and documentation) shall be delivered within sixty calendar days after such occurrence (unless the OWNER'S REPRESENTATIVE allows an additional period of time to ascertain more accurate data in support of the claim) and shall be accompanied by the VENDOR'S written statement that the adjustment claimed is the entire adjustment to which the VENDOR has reason to believe it is entitled as a result of the occurrence of said event. If adverse weather conditions are the basis for a claim for additional time, such claim shall be documented by data substantiating that weather conditions were abnormal for the period of time and could not have been reasonably anticipated, and that the weather conditions had an adverse effect on the scheduled construction. No claim by the VENDOR under this provision shall be allowed unless the VENDOR has given the notice and the analysis and documentation required in this paragraph. All claims for adjustment in the Contract Time shall be determined by the OWNER'S REPRESENTATIVE. Any change in the Contract Time resulting from any such claim shall be incorporated in a Change Order.
- 30.2 The COUNTY shall not be responsible for any delay in the completion of the project where the delay is beyond the control or without fault or negligence on behalf of the COUNTY. The COUNTY shall not be held accountable for extra compensation or an extension of time due to default by the VENDOR, SUB-VENDORS, or suppliers in the furnishing of labor or materials for the project, or having to replace defective materials.
- 30.3 The VENDOR shall be entitled to a claim for an extension of time when a delay or hindrance is caused by an act of God, or any act or omission on the part of the COUNTY, provided the VENDOR gives notice to the OWNER'S REPRESENTATIVE within fifteen calendar days of the occurrence of the event giving rise to the claim and having stated the general nature of the claim. The VENDOR'S sole remedy shall be an extension of Contract Time.
- 30.4 No extension of Contract Time or increases in Contract Price shall be granted for any delay caused either by (1) inadequate crewing, default or bankruptcy of lower tier contract, slow submittals, etc., or (2) by severe though not unusual weather conditions (other than hurricanes and tornadoes) or (3) any delay impacting a portion of the Work within the available total float or slack time and not necessarily preventing completion of the Work within the Contract Time unless otherwise

agreed to by the COUNTY in its sole discretion or (4) for any delay which is caused by the VENDOR having to replace defective material or equipment or (5) delays attributable to the lack of performance by Sub-vendors regardless of the reasons.

- 30.5 All time limits stated in the Contract Documents are of the essence of the Agreement. Shall not exclude recovery for damages (including but not limited to fees and charges of engineers, architects, attorneys and other professionals and court cost) for delay by either party.

31 Warranty and Guarantee: Acceptance of Defective Work

31.1 Warranty and Guarantee

31.1.1 The VENDOR warrants and guarantees to the COUNTY that all materials and equipment will be new unless otherwise specified and that all Work will be of good quality, free from faults or defects and in accordance with the requirements of the Contract Documents and any inspections, test or approvals referred to in this Article. All unsatisfactory Work, all faulty Work, and all Work not conforming to the requirements of the Contract Documents or such inspections, tests or approvals shall be considered defective. Prompt notice of all defects shall be given to the VENDOR. All defective Work, whether or not in place, may be rejected, corrected or accepted as provided herein. Vendor is to assign any and all warranties or guarantees on equipment, materials, etc. to the COUNTY.

31.2 Tests and Inspections

31.2.1 If the Contract Documents, laws, ordinances, rules, regulations or order of any public authority having jurisdiction require any Work to specifically be inspected, tested or approved by someone other than the VENDOR, the VENDOR will give the OWNER'S REPRESENTATIVE forty-eight (48) hours' notice of readiness therefore. The VENDOR will furnish the OWNER'S REPRESENTATIVE with the required certificates of inspection, testing or approval. All such tests will be in accordance with the methods prescribed by the American Society for Testing and Materials or such other applicable organizations as may be required by law or the Contract Documents. If any such Work required to be inspected, tested or approved is covered without written approval of the OWNER'S REPRESENTATIVE, it shall, if requested by the OWNER'S REPRESENTATIVE, be uncovered for observation at the VENDOR'S expense. The cost of all such inspections, tests and approvals shall be borne by the VENDOR unless otherwise provided.

31.2.2 Project field testing of materials required by the specifications or the OWNER'S REPRESENTATIVE shall be provided by and at the expense of the COUNTY. The VENDOR shall coordinate and schedule the required testing. The Vendor shall pay for all retests when the initial test result reveals that the materials failed to meet the requirements of the specifications. The VENDOR shall notify the OWNER'S REPRESENTATIVE twenty-four (24) hours prior to conducting any test so the OWNER's REPRESENTATIVE may be present.

- 31.2.3 The OWNER'S REPRESENTATIVE shall have the right to require all materials to be submitted to tests prior to incorporation in the Work. In some instances, it may be expedient to perform these tests at the source of supply, and for this reason, it is required that the VENDOR furnish the OWNER'S REPRESENTATIVE with the information concerning the location of his source before incorporating material into the Work. This does not in any way obligate the OWNER'S REPRESENTATIVE to perform tests for acceptance of material and does not relieve the VENDOR of his responsibility to furnish satisfactory material. The VENDOR shall furnish manufacturer's certificates of compliance with these specifications covering manufactured items incorporated in the Work.
- 31.2.4 Neither observations by the OWNER'S REPRESENTATIVE, nor inspections, tests or approvals by persons other than the VENDOR shall relieve the VENDOR from his obligations to perform the Work in accordance with the requirements of the Contract Documents.
- 31.2.5 Testing/Permits: The VENDOR shall be responsible for performing any testing and the cost for all items that may be required as part of the NPDES, FDEP, USACOE and SFWMD permits.

32 Close Out Procedure

32.1 General Operating/Maintenance Instructions & Manuals

- 32.1.1 The VENDOR shall organize maintenance operating manual information into four suitable sets of manageable size, and bind into individual binders properly identified and indexed (thumb-tabbed). Emergency instructions, spare parts listing, warranties, wiring diagrams, recommended "turn around" cycles, inspection procedures, shop drawings, product data, and similar acceptable information shall be included. The VENDOR shall bind each manual of each set in a heavy duty, 3-ring vinyl covered binder, and include pocket folders for folded sheet information. Mark identification on both front and spine of each binder.
- 32.1.2 Arrange for each installer of work requiring continuing maintenance (by the OWNER) or operation, to meet with the OWNER'S personnel, at the project site, to provide basic instructions needed for proper operation and maintenance of the entire work. Include instructions by manufacturer's representatives where installers are not expert in the required procedures. Review maintenance manuals, record documentation, tools, spare parts and materials, lubricants, fuels, identification system, control sequences, hazards, cleaning and similar procedures and facilities. For operational equipment, demonstrate start-up, shut-down, emergency operations, noise and vibration adjustments, safety, economy/efficiency adjustments, and similar operations. Review maintenance and operations in relation with applicable guaranties, warranties, agreements to maintain, bonds, and similar continuing commitments.

33 Access to the Work

33.1 The COUNTY and the OWNER'S REPRESENTATIVE shall at all times have access to the Work. The VENDOR shall provide proper facilities for such access and observation of the Work and also for any inspection or testing thereof by others.

34 Uncovering the Work

34.1 If any work has been covered which the OWNER'S REPRESENTATIVE has not specifically requested to observe prior to its being covered, or if the OWNER'S REPRESENTATIVE considers it necessary or advisable that covered Work be inspected or tested by others, the VENDOR, at the OWNER'S REPRESENTATIVE'S request, will uncover, expose or otherwise make available for observation, inspection or testing as the OWNER'S REPRESENTATIVE may require, that portion of the Work in question, furnishing all necessary labor, material and equipment. If it is found that such Work is defective, the VENDOR will bear all the expense of such uncovering, exposure, observation, inspection and testing, and of satisfactory reconstruction. If, however, such Work is not found to be defective, the VENDOR will be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to such uncovering, exposure, observation, inspection, testing and reconstruction, if he makes a claim therefore.

35 County May Stop Work

35.1 If the Work is defective, if the VENDOR fails to supply sufficient skilled workmen or suitable materials or equipment, or if the VENDOR fails to make prompt payments to SUB-VENDORS for labor, materials or equipment: the COUNTY may order the VENDOR to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of the COUNTY to stop the work shall not give rise to any duty on the part of the COUNTY to exercise this right for the benefit of the VENDOR or any other party.

35.2 Notwithstanding Paragraph 35.1, the COUNTY may also issue a Stop Work Order for the following reasons:

35.2.1 Insufficient Maintenance of Traffic practices.

35.2.2 Failure to comply with permits regarding pollution control.

35.2.3 Insufficient construction materials or methods.

35.2.4 Failure to provide a safe working environment in accordance with the US Department of Labor Occupational Safety and Health Administration (OSHA).

35.3 Upon notice of the Stop Work Order, the VENDOR shall cease all contracted work except for the activities required to correct the problem and as directed by the COUNTY.

35.4 If the VENDOR fails to correct the problem causing the Stop Work Order and there is immediate threat to the public's health, safety, or environmental protection, the COUNTY may perform any remedial activities necessary to protect the public and environment. Any costs incurred by the County in the performance of this work

- shall be deducted from monies due the Vendor or paid by the Vendor to the County.
- 35.5 No increase in the Contract Price or extension of the Contract Time will be granted for any delays or loss of time due to a Stop Work Order.

36 Correction or Removal of Defective Work

- 36.1 If required by the OWNER'S REPRESENTATIVE prior to approval of final payment, the VENDOR will, promptly, without cost to the COUNTY and as specified by the OWNER'S REPRESENTATIVE, either correct any defective Work whether or not fabricated, installed or completed or, if the Work has been rejected by the OWNER'S REPRESENTATIVE, remove it from the site and replace it with non-defective Work. If the VENDOR does not correct such defective Work or remove and replace such rejected Work within ten calendar days, all as specified in a written notice from the OWNER'S REPRESENTATIVE, the OWNER'S REPRESENTATIVE may have the deficiency corrected or the rejected Work removed and replaced. All direct or indirect costs of such correction or removal and replacement shall be paid by the VENDOR. The VENDOR will also bear the expense of making good all Work of others destroyed or damaged by his correction, removal or replacement of his defective Work.

37 One Year Correction Period

- 37.1 If, after the approval of the final payment and prior to the expiration of one year after the date of Final Completion or such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents, any Work is found to be defective, the VENDOR will promptly, without cost to the COUNTY, and in accordance with the OWNER'S REPRESENTATIVE'S written instructions, either correct such defective Work or, if it has been rejected by the OWNER'S REPRESENTATIVE, remove it from the site and replace it with non-defective Work. If, within seven calendar days, the VENDOR does not comply with the terms of such instructions, the Bonding Company shall be notified of default and requested to make repairs or replacement, the COUNTY may have the defective Work corrected or the rejected Work removed and replaced. All direct and indirect costs of such removal and replacement shall be paid by the VENDOR.

38 Acceptance of Defective Work

- 38.1 If, instead of requiring correction or removal and replacement of defective Work, the COUNTY prefers to accept it, the COUNTY may do so. In such case, if acceptance occurs prior to approval of final payment, a Change Order shall be issued incorporating the appropriate revisions to the Contract Documents including an appropriate reduction in the Contract Price. If the acceptance occurs after approval of the final payment, an appropriate amount shall be paid by the VENDOR to the COUNTY.

39 Neglected Work By Vendor

- 39.1 If the VENDOR should neglect to prosecute the Work in accordance with the

Contract Documents, including any requirements of the progress schedule, the COUNTY may, after three calendar days written notice to the VENDOR and without prejudice to any other remedy it may have, make good such deficiency and the cost thereof shall be charged against the VENDOR. A Change Order shall be issued incorporating the appropriate revision to the Contract Documents including an appropriate reduction in the Contract Price. If the payments then or thereafter due the VENDOR are not sufficient to cover such amount, the VENDOR shall pay the difference to the COUNTY.

40 Payment and Completion

40.1 Schedule of Values

40.1.1 Within ten (10) calendar days after the effective date of the Agreement, the VENDOR must submit a schedule of values of the Work including quantities and unit prices totaling to the Contract Price. This schedule shall be satisfactory in form and substance to the COUNTY and shall subdivide the Work into sufficient detail to serve as the basis for progress payments during construction. Upon approval of the schedule of values by the OWNER'S REPRESENTATIVE, it shall be incorporated into the Estimate and Requisition for Payment prescribed by the COUNTY. Unit Price Contracts shall have the bid proposal prices incorporated into the Estimate and Requisition for Payment.

40.2 Application for Progress Payment

40.2.1 Bid proposal units and unit prices shall serve as the basis for progress payments during construction. The bid proposal process shall be incorporated into the Estimate and Requisition for Payment Form No. CSD:505(4) prescribed by the COUNTY.

40.2.2 Not more often than once a month, nor less often than specified in the approved payment schedule, and on a date established at the Project Pre-Construction Conference, the VENDOR will submit to the OWNER'S REPRESENTATIVE for review the Estimate and Requisition for Payment form filled out and signed by the VENDOR covering the Work completed as of the date of the Application and supported by such data as the OWNER'S REPRESENTATIVE may reasonably require. Also, if payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the site or at another location agreed to in writing, the Application for Payment shall also be accompanied by such supporting data, satisfactory to the OWNER'S REPRESENTATIVE, as will establish the COUNTY'S title to the material and equipment and protect its interest therein, including applicable insurance. All progress payments will be subject to the retainage percentage specified in the Contract Documents. Such retainage shall be paid and will be issued in the final payment after acceptance by the COUNTY of the Work.

41 Vendor's Warranty of Title

- 41.1 The **VENDOR** warrants and guarantees that title to all **Work**, materials and equipment covered by an application for progress payment, whether incorporated in the **Project** or not, will be passed to the **COUNTY** prior to the next making of application for progress payment, free and clear of all liens, claims, security interest and encumbrances; and that no **Work**, materials or equipment covered by an **Application for Payment** will have been acquired by the **VENDOR** or by any other person performing the **Work** at the site or furnishing materials and equipment for the **Project** subject to an agreement under which an interest therein or encumbrance thereon is retained by the seller or otherwise imposed by the **VENDOR** or such other person.

42 Approval of Payments

- 42.1 The **OWNER'S REPRESENTATIVE** will, within ten calendar days after receipt of each **Application for Payment**, either indicate his approval of payment and deliver the application to the **COUNTY** or return the **Application** to the **VENDOR** indicating in writing the reason for refusing to approve payment. In the latter case, the **VENDOR** may make the necessary corrections and re-submit the **Application**. The **COUNTY** will, within five calendar days after receipt of each approved application for payment, either indicate their approval of payment, and within fifteen calendar days pay the **VENDOR** the amount approved, or return the application to the **VENDOR** thru the **OWNER'S REPRESENTATIVE** indicating in writing the reason for refusing to approve payment. In the latter case, the **VENDOR** may make the necessary corrections and resubmit the application to the **OWNER'S REPRESENTATIVE**.
- 42.2 The **OWNER'S REPRESENTATIVE'S** approval of any payment requested in an **Application for Payment** shall constitute a representation by him to the **COUNTY**, based on the **OWNER'S REPRESENTATIVE'S** on-site observations of the **Work** in progress and on his review of the **Application for Payment** and the supporting data that the **VENDOR** is entitled to payment of the amount approved.
- 42.3 The **OWNER'S REPRESENTATIVE'S** approval of final payment shall constitute an additional representation by him to the **COUNTY** that the conditions precedent to the **VENDOR'S** being entitled to final payment as set forth have been fulfilled.
- 42.4 The **OWNER'S REPRESENTATIVE** may refuse to approve the whole or any part of any payment if in his opinion; he is unable to make such representations to the **COUNTY**. He may then refuse to approve any such payment because of subsequently discovered evidence or the results of subsequent inspections or test, nullify any such payment previously approved, to such extent as may be necessary in his opinion to protect the **COUNTY** from loss because:
 - 42.4.1 The **Work** is defective;
 - 42.4.2 A portion of such payment is the subject of a dispute or claim that has been filed;
 - 42.4.3 The **Contract Price** has been reduced because of **Modifications**;
 - 42.4.4 The **COUNTY** has been required to correct defective **Work** or complete the **Work**, or of unsatisfactory prosecution of the **Work**, including failure to clean up as required.

43 Substantial Completion

43.1 Prior to final payment, the VENDOR shall, in writing to the OWNER'S REPRESENTATIVE, certify that the entire Project is substantially complete and request that the OWNER'S REPRESENTATIVE issue a Certificate of Substantial Completion. Within fourteen calendar days thereafter, the OWNER'S REPRESENTATIVE and the VENDOR will make an inspection of the Project to determine the status of completion. If the COUNTY does not consider the Project substantially complete, it will notify the VENDOR in writing giving the reasons therefore. If the COUNTY considers the Project substantially complete, a Certificate of Substantial Completion will be issued. This certificate shall fix the date of Substantial Completion and the responsibilities between the COUNTY and the VENDOR for maintenance, heat and utilities. The Certificate of Substantial Completion will also include a punch list of items to be completed or corrected, said time to be within the Contract Time, and the estimated cost to complete each item on the list. The list of items shall be prepared by the COUNTY following the inspection and provided to the VENDOR within 30 days of the date of the inspection. The VENDOR shall then provide the estimated cost to complete each item on the list back to the COUNTY within 30 days. Within 20 business days after the list is created, COUNTY must pay the vendor the remaining contract balance that includes all retainage previously withheld by the COUNTY less an amount equal to 150 percent of the estimated cost to complete the items on the list. The COUNTY shall have the right to exclude the VENDOR from the Project after the date of Substantial Completion but the COUNTY will allow the VENDOR reasonable access to complete items on the punch list.

44 Partial Utilization

44.1 Prior to final payment, the OWNER'S REPRESENTATIVE may request the VENDOR to permit the use of a specified part of the Project which the COUNTY believes it may use without significant interference with construction of the other parts of the Project. If the VENDOR agrees, he will certify to the OWNER'S REPRESENTATIVE that said part of the Project is substantially complete and request the OWNER'S REPRESENTATIVE to issue a Certificate of Substantial Completion for that part of the Project. Within fourteen calendar days thereafter, the OWNER'S REPRESENTATIVE and the VENDOR will make an inspection of that part of the Project to determine its status of completion. If the COUNTY considers that part of the Project to be substantially complete, the OWNER'S REPRESENTATIVE will deliver to the VENDOR a certificate to that effect, fixing the date of Substantial Completion as to that part of the Project, and listing the punch list of items to be completed or corrected before final payment, the estimated cost to complete each item on the list and fixing the responsibility between the COUNTY and the VENDOR for maintenance, heat and utilities as to that part of the Project. This list shall be prepared by the COUNTY following the inspection and provided to the VENDOR within 30 days of the date of the inspection. The VENDOR shall then provide the estimated cost to complete each

item on the list back to the COUNTY within 30 days. The COUNTY shall have the right to exclude the VENDOR from any part of the Project which is so certified to be substantially complete but the COUNTY will allow the VENDOR reasonable access to complete or correct items on the punch list.

- 44.2 If the COUNTY fails to provide the punch list to the VENDOR within the timeframe specified in Paragraph 44.1, the VENDOR may submit a payment request to the COUNTY for the remaining balance of the contract, including all remaining retainage withheld by the COUNTY. The COUNTY will then pay the VENDOR within 20 business days after receipt of a proper invoice or payment request. If the COUNTY has provided written notice to the VENDOR specifying the failure of the VENDOR to meet contract requirements in the development of the list of items to be completed, the COUNTY must pay the VENDOR the remaining balance of the contract, less an amount equal to 150 percent of the estimated cost to complete the items that the COUNTY intended to include on the list.

45 Final Inspection

- 45.1 Upon written notice from the VENDOR that the Project is complete, the OWNER'S REPRESENTATIVE will make a final inspection with the VENDOR and will notify the VENDOR in writing of any particulars which this inspection reveals that the Work is defective. The VENDOR shall immediately make such corrections as are necessary to remedy the defects within a reasonable time.

46 Final Inspection for Payment

- 46.1 After the VENDOR has completed any such corrections to the satisfaction of the OWNER'S REPRESENTATIVE and delivered all maintenance and operating instructions, schedules, guarantees, bonds, Certificates of Inspection and other documents as required by the Contract Documents, he may make application for final payment following the procedure for progress payments. The final Application for Payment shall be accompanied by legally effective final releases or waivers of liens from the VENDOR and all SUB-VENDORS which performed services for the VENDOR pursuant to the Contract Documents and the consent of surety, if applicable to final payment.

47 Approval of Final Payment

- 47.1 If, on the basis of its observations and review of the Work during construction, its final inspection and its review of the final Estimate and Requisition for Payment, all as required by the Contract Documents, the OWNER'S REPRESENTATIVE is satisfied that the Work has been completed and the VENDOR has fulfilled all of his obligations under the Contract Documents, it will, within ten calendar days after receipt of the final Application for Payment, indicate in writing its approval of payment and deliver the application to the COUNTY. Otherwise, it will return the Application to the VENDOR, indicating in writing its reason for refusing to approve final payment, in which case the VENDOR will make the necessary corrections and re-submit the Application. The COUNTY will, within fifteen calendar days after receipt of approved application for final payment, either

- indicate their approval of the estimate and requisition application for payment and within fifteen calendar days pay the VENDOR the amount approved by the COUNTY and issue a Certificate of Final Completion or return the application through the OWNER'S REPRESENTATIVE indicating in writing the reason for refusing to approve payment. In the latter case, the VENDOR may make the necessary corrections and resubmit the application to the OWNER'S REPRESENTATIVE.
- 47.2 If, after substantial Completion of the Work, final completion is materially delayed through no fault of the VENDOR, and the OWNER'S REPRESENTATIVE so confirms, the COUNTY shall and without terminating the Agreement, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than the retainage stipulated in the Agreement, and if bonds have been furnished as required, the written consent of the Surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the VENDOR to the OWNER'S REPRESENTATIVE, prior to certification of such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.
- 47.3 If liquidated damages are to be deducted from the final payment, the COUNTY shall so notify the VENDOR in writing at least seven calendar days prior to the COUNTY'S submittal to Finance.
- 47.4 The Vendor will be required to submit with his final payment documents a DBE Participation Certification, indicating all DBE sub-vendor(s) and amount(s) utilized for the project.
- 47.5 If the VENDOR did not utilize the DBE firm(s) listed on the Bid Proposal, a letter of justification, as to why shall be submitted along with the DBE Participation Certification.
- 47.6 At the final completion of the construction project if the county project manager experienced problems with the VENDOR the project manager will prepare a Vendor Performance Evaluation, and forward to the Vendor for review, comment and signature.
- 47.7 Upon receipt of the Vendor Performance Evaluation the VENDOR will have seven calendar days, from the date received, to review, comment, sign and return back to the project manager. If the evaluation has not been received back from the VENDOR within the seven calendar days, the COUNTY will assume the VENDOR fully agrees with and has no comments to the evaluation. The evaluation will then be placed on file with Lee County Procurement Management.

48 Vendor's Continuing Obligation

- 48.1 The VENDOR'S obligation to perform the Work and complete the Project in accordance with the Contract Documents shall be absolute. Neither approval of any progress or final payment by the COUNTY, the issuance of the Certificates of Completion, any payment by the COUNTY to the VENDOR under the Contract Documents, any use or occupancy of the Project or any part thereof by the COUNTY, any act of acceptance by the COUNTY, any failure to do so, nor any

correction of defective Work by the COUNTY shall constitute an acceptance of Work not in accordance with the Contract Documents.

49 Waiver of Claims

49.1 The making and acceptance of final payment shall constitute:

49.1.1 A waiver of all claims by the COUNTY against the VENDOR other than those arising from unsettled liens, from defective Work appearing after final payment or from failure to comply with the requirements of the Contract Documents, or from the terms of any special guarantees specified therein, and,

49.1.2 A waiver of all claims by the VENDOR against the COUNTY other than those previously made in writing and still unsettled.

50 Suspension of Work and Termination

50.1 County May Suspend Work

50.1.1 The COUNTY may at any time and without cause suspend the Work or any portion thereof for a period of not more than ninety calendar days by notice in writing to the VENDOR. The COUNTY shall fix the date on which Work shall be resumed and the VENDOR will resume the Work on the date so fixed. The VENDOR will be allowed an increase in the Contract Price, an extension of the Contract Time or both, if such increases are justified and directly attributable to any COUNTY suspension and if he makes a claim thereof.

51 County May Terminate

51.1 If the VENDOR is adjudged bankrupt or insolvent, if he makes a general assignment for the benefit of his creditors, if a trustee or receiver is appointed for the VENDOR or for any of his property, if he files a petition to take advantage of any debtor's act or reorganizes under the bankruptcy or similar laws, if he repeatedly fails to supply sufficient skilled workmen or suitable materials or equipment, if he repeatedly fails to make prompt payments to SUB-VENDORS for labor, materials or equipment, if he disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction, if he disregards the authority of the OWNER'S REPRESENTATIVE, or if he otherwise substantially violates any provisions of the Contract Documents, then the COUNTY may, without prejudice to any other right or remedy and after giving the VENDOR and his surety seven (7) calendar days' written notice, terminate the services of the VENDOR and take possession of the Project and all materials, equipment, tools, construction equipment and machinery thereon owned by the VENDOR and finish the Work by whatever method the COUNTY may deem expedient or arrange with the Surety to complete the project. The VENDOR, if notified by the COUNTY to do so, shall promptly remove any part of his equipment and supplies from the property of the COUNTY; failing, the COUNTY shall have the right to remove such equipment and supplies at the expense of the VENDOR.

51.2 In such case the VENDOR shall not be entitled to receive any further payment until

the Work is finished. If the unpaid balance of the Contract Price exceeds the direct and indirect cost of completing the Project, including compensation for additional professional services, such excess shall be paid to the VENDOR. If such cost exceeds such unpaid balance, the VENDOR will pay the difference to the COUNTY. Such cost incurred by the COUNTY will be determined by the COUNTY and incorporated in a Change Order.

- 51.3 Where the VENDOR'S services have been so terminated by the COUNTY, said termination shall not affect any rights of the COUNTY against the VENDOR then existing or which may thereafter accrue.
- 51.4 If so terminated, any retention or payment of monies by the COUNTY due the VENDOR will not release the VENDOR from liability accruing under this Contract.
- 51.5 If after notice of termination of the VENDOR'S right to proceed under the provisions of this clause, it is determined for any reason that the VENDOR was not in default under the provisions or that the delay was excusable, the rights and obligations of the parties shall be the same as if the notice of termination had not been issued.
- 51.6 Upon thirty (30) calendar days' written notice to the VENDOR, the COUNTY may without cause and without prejudice to any other right or remedy elect to abandon the Project and terminate the Agreement. In such case the VENDOR shall be paid for all Work executed and any expense sustained plus a reasonable profit.

52 Vendor May Stop Work or Terminate The Contract

- 52.1 If through no fault of the VENDOR, or a Sub-vendor, or their agents or employees or any other persons performing portions of the Work under Contract with the VENDOR, the WORK is suspended for a period of more than ninety calendar days by the COUNTY or under an order of court or other public authority, or the OWNER'S REPRESENTATIVE has not issued a certificate for payment and has not notified the VENDOR of the reason for withholding certification or because the COUNTY has not made payment on a certificate for payment within the time stated in the Contract Documents, then the VENDOR may, upon seven calendar days written notice to the COUNTY and the OWNER'S REPRESENTATIVE, terminate the Agreement and recover from the COUNTY payment for all Work executed and proven loss with respect to materials, equipment, tools and construction equipment and machinery, including reasonable overhead, profit and damages.
- 52.2 In addition and in lieu of terminating the Agreement, if the OWNER'S REPRESENTATIVE has failed to act on an application for payment or the COUNTY has failed to make any payment as aforesaid, the VENDOR may upon seven calendar days written notice to the COUNTY and the OWNER'S REPRESENTATIVE stop the Work until payment of all amounts then due. The provisions of this paragraph shall not relieve the VENDOR of the obligation to carry on the Work in accordance with the progress schedule and without delay during disputes and disagreements with the COUNTY.

53 Miscellaneous

53.1 General

- 53.1.1 All Specifications, Drawings and copies thereof furnished by the COUNTY, to the VENDOR, shall remain the COUNTY'S property. They shall not be used on another Project.
- 53.1.2 The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder, and, in particular but without limitation, the warrants, guarantees and obligations imposed upon the VENDOR and the rights and remedies available to the COUNTY thereunder shall be in addition to and not a limitation of any otherwise imposed or available by law, by special guarantee or other provisions of the Contract Documents.
- 53.1.3 Should the COUNTY or the VENDOR suffer injury or damage to its person or property because of any error, omission or act of the other or any of his employees, agents, or others for whose acts he is legally liable, claim should be made in writing to the other party within seven calendar days of the first observance of such injury or damage.
- 53.1.4 The Contract Documents shall be governed by the laws of the State of Florida, the County of Lee, and the municipality in which the project is being done.
- 53.2 Right-of-Way Station Boards: The VENDOR must establish and maintain throughout construction the right-of-way station boards at every even station within ten (10) days after the Notice to Proceed to assist and expedite construction and utility coordination. No additional compensation or separate pay item will be made for this work.
- 53.3 Abbreviations: Reference in the technical specifications to the specifications or requirements of technical societies, associated organization, or bodies shall mean their most current specifications. These groups are identified in the technical specifications.
- 53.4 Use of Public Streets: The use of public streets and roads shall be such as to minimize any inconvenience to the public and to other traffic. Any earth or other excavation materials spilled from trucks shall be removed by the VENDOR and the streets and roads shall be cleaned by the VENDOR to the satisfaction of the COUNTY.
- 53.5 Damage to Existing Property, Structures and Utilities: The VENDOR shall be held responsible for and shall repair all damage to pavement beyond the limits of the contract or outside the right-of-way. Also, the VENDOR shall repair if damaged buildings, telephone or other cables, poles, signs, mailboxes, irrigation piping, water pipes, sanitary pipes, or other structures which may be encountered, whether or not they are shown on the Drawings. Information shown on the Drawings as to the location of existing utilities has been prepared from the most reliable data available to the Engineer. However, this information is not guaranteed, and it shall be the VENDOR'S responsibility to determine the location, character, and depth of any existing utilities. The VENDOR shall assist the utility companies, by every means possible, to determine said locations. The VENDOR shall exercise extreme

caution to eliminate any possibility of any damage to utilities resulting from his activities.

53.5.1 At least two (2) business days prior to excavating any section of the Work, the VENDOR shall call the utility companies noted on the plans and inform them that Work on the specific section is about to commence and request that they field locate their underground utilities.

53.5.2 When proceeding with the Work, the VENDOR shall exercise due caution to protect all underground and overhead utilities and existing structures from damage. In keeping with the Trench Safety Act, the VENDOR shall provide all sheeting, shoring, and bracing that may be required to properly protect adjacent property, structures and people. The VENDOR shall repair, to the satisfaction of the OWNER, any surface or subsurface Improvement damaged during the course of the Work (unless such improvement is shown to be abandoned or removed) whether or not such improvement is shown on the Drawing. Should any utilities be encountered that are not shown on the Drawing, the VENDOR shall immediately notify the OWNER'S REPRESENTATIVE and shall take all due caution necessary to protect the utility.

53.6 Adjustment of Grades: Adjustments of grades shown on Drawings may be necessary to conform to actual field conditions or to maintain cover under proposed future grades. Such adjustments shall be considered part of the job conditions and no extra compensation will be allowed for such changes, except where specifically otherwise noted in the plans or specifications. Such adjustments must be approved by the OWNER'S REPRESENTATIVE prior to being made.

53.7 Existing Drainage: Existing drainage shall be maintained at all times and drainage under construction shall be left open so as not to cause flooding due to blockage. Any damage to construction caused by this requirement shall be the responsibility of the VENDOR.

53.8 Reference to Other Specifications

53.8.1 Reference to FDOT Specifications shall mean the State of Florida Department of Transportation Standard Specifications for Road and Bridge Construction dated July 2016 and supplements thereto unless specifically stated otherwise in the Contract Documents. Where an FDOT Specification section cites or contains references to other sections, they shall also be included as though cited herein. Where FDOT Specifications refer to the "Engineer", "Engineer of Test" or "Division of Test", it shall be understood to mean the OWNER'S REPRESENTATIVE or his designee. Where FDOT Specifications refer to the "Department", it shall mean the Department of Transportation of Lee County, Florida.

53.8.2 In case of conflict between the referenced FDOT Specifications and the Contract Documents, the Contract Documents shall govern.

53.8.3 Reference to AASHTO and ASTM are to the latest editions of published text of the American Association of Highway and Transportation Officials and the American Society for Testing and Materials, respectively.

53.9 Shoring

- 53.9.1 Unless trench banks are cut back on a stable slope, sheet and brace trenches shall be used as necessary to prevent caving or sliding, to provide protection for workmen and the pipe, and to protect adjacent structures and facilities. The VENDOR shall not brace sheeting against the pipe, but shall brace it so that no concentrated loads of horizontal thrust are transmitted to the pipe. If portable metal box is used for bracing the slopes, the VENDOR shall take care not to disturb the pipe when the box is removed.
- 53.9.2 The VENDOR must comply with the Trench Safety Act, Florida Statutes Sections 553.60 – 553.64. Cost of compliance is not a separate pay item. Costs shall be included in the cost of pipe placement.
- 53.10 Dewatering: Dewatering of excavations, trenches, structures and utilities may be required. The VENDOR shall be responsible for obtaining water use permits for dewatering operations, as necessary, from the South Florida Water Management District. No separate payment will be made for dewatering operations or procurement of dewatering permits. Costs shall be included in the cost of items as included in the Bid Form.
- 53.11 Excess Excavated Material: Unless otherwise specified, all excavated material in excess of the needs for backfill and area fill shall become the property of the VENDOR, and the VENDOR shall remove same from the project.
- 53.12 Asphalt Paving Conference: A pre-paving conference shall be held prior to any asphalt placement. The conference is intended to closely coordinate the VENDOR'S plant and site personnel with the COUNTY'S plant and field inspectors and establish expected quality assurance procedures. The VENDOR shall not perform any paving prior to this conference.
- 53.13 Rock Excavation: All excavations for the installation of pipes, structures, foundations, or other contract items shall be unclassified and no additional or separate payment for rock excavation shall be provided nor shall additional or separate payment be made for backfill required to compensate for excavated rock material that cannot be reused as backfill.
- 53.14 Permits
- 53.14.1 Copies of permits for this project other than for dewatering or NPDES will be provided by the COUNTY.
- 53.14.2 The VENDOR shall abide by all conditions, statutes, and regulations issued by the jurisdiction authorities, boards and agencies of the COUNTY, State and Federal Governments. The VENDOR shall be fully responsible for the execution and adherence to all directives, instructions, conditions, issuance of notices, special conditions, and limiting conditions contained in permits specifically issued for this project and which pertain to or affect the construction phase of this project. Except as may be provided elsewhere in these documents, the cost of materials, supplies, labor testing, permit fees and other direct or indirect expenses required to abide by or execute conditions of the permits shall be paid for by the VENDOR. There is no direct or specific payment item in the bid for cost due to compliance with said permits. The VENDOR'S reimbursement for said costs shall be distributed within the various items of work and

materials associated with the construction of the project.

53.15 **Field Office:** VENDOR is not required to provide a field office within the project limits as long as VENDOR has a field office within Lee, Collier or Charlotte County prior to bidding. If VENDOR does not have an established office within Lee, Collier or Charlotte County, then the VENDOR shall provide and staff a field office within the project limits for the entire project duration, per FDOT requirements. This item shall be compensated under the mobilization item and no separate payment will be made. The VENDOR shall coordinate the location of this field office with the Lee County Project Manager prior to the issuance of the Notice to Proceed.

54 Computation of Time

54.1 When any period of time is referred to in the Contract Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

55 Maintenance of Records

55.1 The VENDOR shall keep adequate records and supporting documents applicable to this contractual matter. Said records and documentation will be retained by the VENDOR for a minimum of five years from the date of termination of this Contract. The COUNTY and its authorized agents shall have the right to audit, inspect and copy records and documentation as often as the COUNTY deems necessary during the period of this Contract and during the period of five years thereafter; provided, however, such activity shall be conducted only during normal business hours. The COUNTY, during the period of time expressed by the preceding sentence, shall also have the right to obtain a copy of, and otherwise inspect, any audit made at the direction of the VENDOR as concerns the aforesaid records and documentation.

55.2 Vendor specifically acknowledges its obligations to comply with §119.0701, F.S., with regard to public records, and shall:

55.2.1 keep and maintain public records that ordinarily and necessarily would be required by the County in order to perform the services required under this Agreement;

55.2.2 provide the public with access to public records on the same terms and conditions that the County would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law;

55.2.3 ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law; and

55.2.4 meet all requirements for retaining public records and transfer, at no cost to the County, all public records in possession of Vendor upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the County in a

format that is compatible with the information technology system of the County.

55.3 IF THE VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE VENDOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 239-533-2221, 2115 SECOND STREET, FORT MYERS, FL 33901, <http://www.leegov.com/publicrecords>.

56 Federal Requirements

56.1 In the event this Contract is paid in whole or in part from any Federal Governmental agency or source, the specific terms, regulations and requirements governing the disbursement of these funds are incorporated by reference and made a part of this Contract as if attached hereto and become a part of this clause.

End of General Conditions Section

EXHIBIT E
VENDOR BACKGROUND SCREENING AFFIDAVIT



VENDOR BACKGROUND SCREENING AFFIDAVIT

Florida Statutes Chapter 435 governs required background screenings for any employees, vendors, subvendors, or agents of the Vendor who will have contact with any vulnerable person, as defined by statute, or who otherwise are required to undergo a Level 1 or Level 2 background screening in accordance with Florida law.

The Vendor is responsible for ensuring that such required background screenings are conducted in accordance with Florida Statutes Chapter 435. Documentation of such completed background screenings must be maintained for a period of no less than five (5) years and are subject to audit by Lee County at any time during such five (5) year period.

Under penalty of perjury, I declare that I have read and understand the requirements stated above, and that all required background screenings shall be conducted in accordance with this affidavit. I further understand that there may be additional local, state, and federal regulations that may require background screening, and that the Vendor will be solely responsible for complying with such legal requirements. Furthermore, the Vendor shall indemnify and hold Lee County harmless from any and all claims or actions resulting from failure to comply with this affidavit.

Date: 1/12/24

[Signature]
Signature
James Stamps / President
Name/Title

STATE OF FL
COUNTY OF Lee

The foregoing instrument was sworn to (or affirmed) and subscribed before me by means of physical presence or online notarization, this 12th day of January, 2024, by the above-named person and in their stated capacity, and is either personally known to me or who has produced the following type of identification: N/A
Type of Identification

[Stamp/seal required]

[Signature]
Signature, Notary Public

