

AGREEMENT FOR FLOORING PRODUCTS AND INSTALLATION SERVICES

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 Tarkett USA Inc., a Delaware corporation authorized to do business in the State of Florida, whose address is 30000 Aurora Road, Solon, OH 44139, and whose federal tax identification number is 63-1185575, hereinafter referred to as "Vendor."

WITNESSETH

WHEREAS, the County intends to purchase flooring products and installations services, on an as needed basis, from the Vendor in connection with "Flooring Products and Installation Services" (the "Purchase"); and,

WHEREAS, the County issued Solicitation No. B210031MIF on May 07, 2021 (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 July 21, 2021; 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 Work and Specifications is set forth in Sections 1 through 5 of the Scope of Work and Specifications Section of B210031MIF, a photocopy of said sections being attached hereto and incorporated by reference as Exhibit A. Vendor shall comply strictly with all of the terms and conditions of Solicitation No. B210031MIF, as modified by its addendum, copies of which are on file with the County's Department of Procurement Management and is 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 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 the 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 indemnify and hold harmless Lee County Government from liabilities, damages, losses, and costs, including but not limited to attorney's reasonable fees to the extent caused by the negligence, recklessness, or intentional wrongful conduct of the Vendor and persons employed or utilized by the Vendor in the performance 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 subcontractors 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 contractor. 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 contractor 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 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, contractors 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 subcontracts 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. 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.

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

Vendor's Representative:		County's Representatives:	
Name:	Alison Shaw or Jamie Collins	Names:	Roger Desjarlais Mary Tucker
Title:	Account Executive Sr. Contract Sales Support	Titles:	County Manager Director of Procurement Management
Address:	30000 Aurora Road Solon, OH 44139	Address:	P.O. Box 398 Fort Myers, FL 33902
Telephone:	941-932-3245 706-281-2730	Telephone:	239-533-2221 239-533-8881
Facsimile:	N/A	Facsimile:	239-485-2262 239-485-8383
E-mail:	Alison.Shaw@tarkett.com or Jamie.Collins@tarkett.com	E-Mail:	rdesjarlais@leegov.com 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:

Signed By: [Signature]

Print Name: ROBERT TARKETT

TARKETT USA INC.

Signed By: [Signature]

Print Name: Jeff Fenwick

Title: President, Commercial

Date: 2 August 2021

LEE COUNTY

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: [Signature]

Vice-CHAIR

DATE: 9-13-21

ATTEST:

CLERK OF THE CIRCUIT COURT
Linda Doggett, Clerk

BY: [Signature]
DEPUTY CLERK



Commissioner Cecil L Pendergrass
Lee County Board of County Commissioners
District 2

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

BY: [Signature]
OFFICE OF THE COUNTY ATTORNEY

EXHIBIT A

SCOPE OF WORK AND SPECIFICATIONS

VER 06-10-2020

SCOPE OF WORK AND SPECIFICATIONS

1. GENERAL SCOPE OF WORK

- 1.1. Lee County seeks to contract with a qualified Vendor to perform the purchase and installation of flooring, and associated materials on an as needed basis. All work performed shall follow all Federal, State, Local, OSHA, and department mandated regulations and specifications for associated work.
- 1.2. The Vendor agrees to furnish and pay for all management, supervision, financing, labor, materials, tools, transportation, fuel, supplies, utilities, equipment and services of every kind and type necessary to diligently, timely, and fully perform and complete in a good and workmanlike manner.
- 1.3. Vendor shall ensure all work is conducted to the highest quality of workmanship. All work with applicable manufacturer installation requirements for warranty purposes must be installed following manufacturer installation requirements to ensure fullest extent of warranty be passed onto the County. Failure to complete work in accordance with manufacturer regulations and/or failure to secure manufacturer warranty of product or services provided under this Agreement may result in corrections or re-work to be completed by the Vendor at no additional costs to the County. Should the County require or employ a third party to correct the work completed by the Vendor, for failure of the Vendor to provide quality workmanship or similar, such charges shall be billed to the Vendor for prompt payment or shall be deducted from any outstanding payments of the Vendor.
- 1.4. Vendor shall provide at minimum one digital copy of any and all manufacturer warranty details or specifications to County authorized representative of project ordering department upon completion of authorized work.

2. FULL PROJECT RESTORATION – ADDITIONAL SERVICES

- 2.1. Vendor shall ensure that project site is restored to the satisfaction of the County, at its sole discretion, following all work completed under this Agreement. Following project specific needs, additional services unrelated to specified scope of work as described herein may be required to provide for full project completion. Such services may be requested under this Agreement on a project by project basis where Vendor or County deem necessary and applicable. All such work shall be represented as a separate line item on Vendor quote and/or invoicing.
- 2.2. Vendor is responsible for all site clean-up, disposal of all debris material, and shall leave project site in a condition that is clean, orderly, and to the satisfaction of the County authorized representative.

3. PROJECT COORDINATION & GENERAL SERVICES

- 3.1. Vendor shall coordinate scheduling, access, delivery, or similar aspects of each project with the County authorized representative. The County reserves the right to cancel any work quoted and/or authorized with Vendor should Vendor fail to respond or coordinate project work with County in a timely manner. Timeliness shall be determined solely by the County.
- 3.2. Vendor is solely responsible for ordering and scheduling delivery of all necessary materials and equipment to complete work authorized under this Agreement.
- 3.3. Vendor shall provide for removal and disposal of all existing flooring and wall base where and as applicable for each project authorized. All disposal and removal services shall be in accordance with and shall comply with all applicable local, state, and federal laws, rules, and regulations inclusive of those as they pertain to lead and or asbestos products.
- 3.4. Vendor may be requested to move or relocate within same facility office furniture, filing cabinets, copiers, etc. All items must be re-installed back to their original condition and location. Vendor personnel must be able to work around or lift desks, furniture, cubicle walls or similar to complete removal and installation services. When such services are requested, a lump sum fee for furniture and equipment relocation and reinstallation services must be listed as a separate line item on Vendor quote for project and associated invoicing.

4. THEFT, DAMAGE, & ON-SITE MATERIALS MANAGEMENT

- 4.1. It is the sole responsibility of the Vendor to ensure security of Vendor supplied materials, tools, and equipment. The County is not responsible for theft, damage, or vandalism of any Vendor supplied materials, tools, and/or equipment that may result on a project site authorized under this Agreement.
- 4.2. Repairs that are required due to damage incurred to any of the County property as a result of services by Vendor, under and authorized by this Agreement, shall be the sole responsibility of the Vendor. The County reserves the right, at the expense of the Vendor, to select or employ a third party to replace or repair any damaged caused by Vendor and such services shall be charged to Vendor or deducted from any outstanding invoices of Vendor to be paid by the County.

5. PERSONNEL

- 5.1. Security and background checks for individuals and/or staff completing installation or services for Vendor under this Agreement shall be required for County secure facilities. Security and background checks must be completed prior to entering the facility and such shall be verified and coordinated with the County authorized representative of the project sponsoring department placing service order with Vendor. The County reserves the right in its sole discretion to deny access to any individual as they deem necessary. Vendor shall coordinate security and background checks with County point of contact prior to scheduled date and time of service.
- 5.2. Vendor agrees that all of its officers, employees and representatives shall conduct themselves in a professional manner and shall communicate with County employees and members of the public in a civil manner whenever conducting County business. All aspects of Vendor's performance, including complaints received from the public, may impact the County's decision to renew or terminate this Agreement in accordance with the provision contained here. Vendor shall remove or suspend, or further investigate, their employees for any act of violence, sexual harassment, substance abuse, or act of bigotry/prejudice.
- 5.3. The County reserves the right to request replacement of any personnel of Vendor performing services for Vendor that the County deems, in its sole discretion, to be unsatisfactory to the County's standards of work or conduct. This includes any personnel sub-contracted by Vendor.

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. PROJECT TERM

1.1. The Vendor shall be responsible for furnishing and delivering to the Lee County requesting Department(s) the Flooring products and Installation 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.

2. BASIS OF AWARD

2.1. It is the County's intent to award to a library of Vendors that are responsive, responsible, and meet the County requirements and specifications. This will allow individual departments and divisions to use the Vendor that has the needed product that best supports the department's need. The County reserves the right to purchase the product or service listed in this bid elsewhere at its sole discretion.

2.2. Vendor is encouraged to provide a listing of manufactures' products they carry or have access to with an associated Discount Percentage Off per manufacturer listed.

2.3. Vendor is *Required* to bid at minimum *Line Item 1 – Blanket Percentage Off* that will provide for a Discount Percentage Off any manufacturer or product carried or available by Vendor that is not separately listed on the Bid Schedule. Failure to bid the Blanket Percentage Off may deem Vendor Non-Responsive at the sole discretion of the County.

2.4. Vendor may state "See Attached" in the County Bid Schedule if Vendor manages published documents with various discount rates within a singular manufacturer. Discount rate sheets must be provided with bid submission if stated. Discounted rates may not change without mutual written consent of County and Vendor.

3. LOCAL VENDOR PREFERENCE

3.1. The County Local Vendor's Preference Ordinance No. 00-10 as amended by Ordinance Nos. 08-26 and 17-16 is applicable to the award process for this project.

4. MASTER AGREEMENT NOTICE

4.1. This is a "Master" agreement, which is not for any specific project. Work to be performed under this agreement will be authorized, scheduled, funded, and accounted for by the issuance of Purchase Order, by the County.

4.2. A Purchase Order shall be issued by the County before commencement of any Work related to this Agreement. Vendor acknowledges and agrees that no minimum order or amount of Work is guaranteed under this Agreement and no minimum charge shall be applied to any work given to Vendor by County.

5. INDIVIDUAL PROJECT AWARDS

5.1. Any project/task with a total cost of \$25,000.00 or less may be awarded to any Vendor holding a valid contract under this bid, and able to meet the required schedule.

5.2. Any project/task with a total cost between \$25,000.01, but less than \$200,000.00 the County shall be quoted by a minimum of three (3) approved Vendors holding a valid contract under this Solicitation. If there are fewer than three (3) approved Vendors holding a valid contract under this Solicitation, then all the Vendors shall quote the project/task. When quotes are requested, the Contractor's submittal shall be based on the unit prices contracted, or lower prices. The quote shall not list any prices that are higher. Award of the project shall be made to the Vendor holding a valid contract under the Solicitation, with the lowest quoted price, able to meet the required project schedule.

- 5.3. The County retains the right to select any vendor to whom a multiple-vendor award has been made.
- 5.4. The County retains the right to bid separately and competitively any and all job estimates greater than \$200,000.00.
- 5.5. The Vendor shall provide quotes for all products and services as requested by the County. The County's request for a quote does not authorize or otherwise guarantee issuance of a project/task for the work.
- 5.6. The Vendor's quote for each project/task negotiated shall provide, at a minimum:
 - Project Detailed Scope of Work
 - Itemized pricing for removal, installation of product, quantity of product, reflect contracted fee or discount details, extra services necessary to complete project.
 - Anticipated schedule/term required/requested to complete services

6. BOND/SURETY (CONSTRUCTION)

6.1. Bonding/Surety is required for any singular project request that exceeds \$200,000.00 in accordance with the Lee County Procurement Ordinance 18-22.

6.1.1. A Bid Bond is not required for this solicitation package.

6.2. Payment and Performance Bond: In accordance with F.S. 255.05 and Lee County Ordinance 18-22, a Public Payment and Performance Bond is to be issued in a sum equal to one-hundred (100%) percent of the total awarded contract amount by a surety company considered satisfactory by Lee County and otherwise authorized to transact business in the State of Florida shall be required from the successful bidder/vendor. This shall ensure the faithful performance of the obligations imposed by the resulting contract and protect the County from lawsuits for non-payment of debts incurred during the successful bidder/vendor performance under such Contract.

6.2.1. A public Payment and Performance bond must be properly executed, by the Surety Company and Vendor, and recorded with the Lee County Clerk of Court, prior to release of any Purchase Order that meets the requirements of a project needing a Performance & Payment Bond. At the time of solicitation issuance, any singular project that exceeds \$200,000 shall require a Performance & Payment Bond in accordance with the regulations stated herein. Such threshold may change as Florida Statute, Lee County Ordinance, and/or Lee County Policy changes.

6.2.2. A Clean Irrevocable Letter of Credit or Cash Bond may be accepted by the County in lieu of the Public Payment and Performance Bond.

6.2.3. Only Lee County form(s) may be accepted. Forms are available at <https://www.leegov.com/procurement/forms>.

6.2.4. Personal Checks are not acceptable to Lee County as a Bid or Bond Security.

6.3. Surety: In order to be acceptable to the County, a Surety Company issuing Evidence of Bondability, Bid Guaranty Bonds or 100% Public Payment and Performance Bonds or Letters of Credit called for herein shall meet and comply with the minimum standards set forth in as part of the Contract Documents.

6.3.1. The surety company shall be authorized to do business and in good standing with the Florida Department of State. All such bonds shall be issued or countersigned by a local producing agent who is a Florida resident with satisfactory evidence of its authority to execute the bond being submitted.

7. SERVICES TERM/COMPLETION TIMEFRAME

7.1. Number of calendar days to complete the Purchase Order, if omitted from the Purchase Order details, shall default to commence on the date of the approved Purchase Order and not exceed thirty (30) calendar days to final completion.

- 7.2. The County reserves the right to provide additional project clarification details with the issuance of and within or attached to each Purchase Order. Such items shall be minor in nature such as providing for location, working hours, number of units, etc.

8. INVOICING

- 8.1. Invoicing must show manufacturer, material ordered (tile, vinyl, carpet), unit of measure and quantity ordered along with percentage off.

- 8.1.1. Invoicing shall state the labor services such as demolition, installation, furniture relocation services, etc. that are bid on a per project basis and must be listed as a separate line item on the Vendor's quote when requested for a project.

- 8.2. Materials shall be invoiced showing the cost of materials and final cost to the County based on discount percentage provided in the bid schedule and Vendor's associated Agreement Fee Schedule.

- 8.2.1. Vendor shall supply any information necessary to accurately verify all costs incurred by the County and such shall accompany the Vendor's invoice. If the County cannot assess accurately the costs for any project, payment shall be held until the Vendor substantiates all its invoiced charges. A current invoice shall be provided to verify the materials costs, but if for some reason this cannot be done the County representative shall determine the cost of the material.

- 8.2.2. Materials that the Vendor has in stock and not specifically purchased for a County project does not need to have back-up attached unless the County deems the cost for the item to be substantial. When the County so deems the cost to be substantial, County will request back-up for the item in question.

- 8.2.3. County reserves the right to waive price verification of material only when and as deemed in its best interest and at its sole discretion.

9. PRICING & CATALOGS/PRICE GUIDES

- 9.1. Labor services such as demolition and installation will be bid on a per project basis at a Lump Sum amount and must be listed as a separate line item on the Vendor's quote when requested for a project.

- 9.2. Percentage off will be applied to manufacturer material products MSRP pricing, Vendor published product pricing, or equivalent including any required underlayment, flooring barrier, carpet pad or similar material required to installed product.

- 9.3. The Vendor shall, at no cost to the County, provide the necessary product catalogs (preferably e-catalogs with on-line access) to identify purchased goods and to verify the cost of such goods. Failure to provide or maintain necessary product catalogs to verify cost of parts purchased may result in delays to payment or denial of payment.

End of Special Conditions Section



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

Posted Date: June 9, 2021

Solicitation No.: B210031MIF

Solicitation Name: Flooring Products and Installation Services

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. ATTACHMENT: NONE

2. QUESTIONS/ANSWERS

1.	The Bid/Proposal form requests that price is inclusive of all labor, equipment, supplies, overhead, profit, material, and any other incidental costs required to perform and complete all work as specified in the Contract Documents. For this pricing exercise, does Lee County consider "labor" to be the labor to manufacture and deliver the product?
Answer	<p>Yes, labor in this instance is representative of the labor to manufacture and deliver the product. Labor for installation services are excluded and shall be addressed as stated in Section 9- PRICING & CATALOGS/PRICE GUIDES of the SPECIAL CONDITIONS as found on page 17.</p> <p>The bid schedule is requesting a % Discount off MSRP/Published Pricing. It is inherent that MSRP/Published Pricing be inclusive of all variable fees referenced.</p>
2.	Section 9.1 of the Special Conditions states that demolition and installation must be listed separately on the Vendor's quote. Are we to provide a list of installation services and associated pricing on a separate document for this bid submission?
Answer	<p>Labor services such as demolition and installation will be bid on a per project basis at a Lump Sum amount and must be listed as a separate line item on the Vendor's quote when a quote is requested for a project.</p> <p>This solicitation is the Master Agreement to establish the library of Vendors and their associated contracted Discount Percentage off products. As the County has a project arise individual project awards will be conducted as detailed in Section 5-INDIVIDUAL PROJECT AWARDS of the SPECIAL CONDITIONS as found on page 15 & 16 of the solicitation.</p>

3.	Will furnish and install pricing be acceptable for ancillary items (cove base, transitions, VCT, etc.)?
Answer	No, the County is requesting a % Discount Off MSRP/Published Pricing for all products. See Section 2-BASIS OF AWARD of the SPECIAL CONDITIONS as found on page 15 for additional details.
4.	Are you looking to have our pricing on labor only?
Answer	No, the County is requesting a % Discount Off MSRP/Published Pricing for all products. Labor shall be priced in accordance with Section 9 - PRICING & CATALOGS/PRICE GUIDES within the SPECIAL CONDITIONS section as found on page 17.
5.	Are you looking to have pricing on certain specific products?
Answer	<p>The County is seeking a % Discount Off a variety of flooring products. Flooring installations will take place throughout County facilities where products such as carpet, tile, vinyl, and more are present. Please reference Section 9 - PRICING & CATALOGS/PRICE GUIDES within the SPECIAL CONDITIONS section as found on page 17 for additional details.</p> <p>Vendor shall bid the Blanket Percentage Off line as described in article 2.3 of the BASIS OF AWARD of the SPECIAL CONDITIONS as found on page 15.</p>
6.	Is there an example from previous years you could provide?
Answer	<p>Please reference the attached link:</p> <p>https://www.leegov.com/procurement/awarded-annual-contracts/downloads?fid=5429&fm=Project2020-04-09T16 03 42.xml</p>

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.

Miguel Flores

Procurement Analyst
 Procurement Analyst Direct Line: 239-533-8835
 Lee County Procurement Management

EXHIBIT B FEE SCHEDULE


 LEE COUNTY SOUTHWEST FLORIDA	PROCUREMENT MANAGEMENT DEPARTMENT BID/PROPOSAL FORM		
COMPANY NAME: <u>Tarkett USA Inc.</u>			
SOLICITATION: <u>B210031MIF - Flooring Products and Installation Services</u>			
<p>Having carefully examined the Contract Documents, Contractor/Vendor proposes to furnish the following which meeting these specifications.</p> <p>PRICING: Pricing shall be inclusive of all labor, equipment, supplies, overhead, profit, material, and any other incidental costs required to perform and complete at work as specified in the Contract Documents.</p> <p>PLEASE ENSURE you have provided a printed copy of the Bid Schedule with your hard copy submission package and provided the excel version with your digital submission package.</p> <p>Vendor may state "See Attached" in the County Bid Schedule if Vendor manages published documents with various discount rates within a singular manufacturer. Discount rate sheets must be provided with bid submission if stated. Discounted rates may not change without mutual written consent of County and Vendor.</p>			
FLOORING PRODUCTS AND INSTALLATION SERVICES			
Manufacturers			
Item	Manufacturer	Product Type (Tile, Vinyl, Carpet, etc.)	% Discount off MSRP / Published Pricing
1	Blanket Discount: Percentage off any manufacturer product provided or available through Vendor and not listed separately below.		
2	Tarkett USA Inc.	ethos® with Omnicast Modular Tile	33% to 53%
3	Tarkett USA Inc.	Flex Aire® Cushion Modular Tile	32% to 52%
4	Tarkett USA Inc.	Powerbond Cushion 6" rolled carpet	33% to 56%
5	Tarkett USA Inc.	Powerbond Cushion RS 6" rolled carpet	33% to 57%
6	Tarkett USA Inc.	Luxury Vinyl Tile	32% to 44%
7	Tarkett USA Inc.	Resilient	10% to 22%
8			
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13			
14			
15			
16			
***Price before discount must be verifiable. Supporting documents such as quotes, receipts, invoices, published pricing, etc. will be required to verify cost.			

EXHIBIT C

INSURANCE REQUIREMENTS

VER 08-26-2020

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 03/19/2018 – Page 1 of 2



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. The certificate holder shall read as follows:

**Lee County Board of County Commissioners
P.O. Box 398
Fort Myers, Florida 33902**
 - b. *"Lee County, a political subdivision and Charter County of the State of Florida, its agents, employees, and public officials"* will be named as an **"Additional Insured"** on the General Liability policy, including Products and Completed Operations coverage.

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 insure that all subcontractors comply with all insurance requirements.

Revised 03/19/2018 – Page 2 of 2

End of Insurance Guide Section

EXHIBIT D

VENDOR BACKGROUND SCREENING AFFIDAVIT



VENDOR BACKGROUND SCREENING AFFIDAVIT

Florida Statutes Chapter 435 governs required background screenings for any employees, contractors, subcontractors, 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: 8-2-2021

A handwritten signature in blue ink, appearing to read "Jeff Fenwick".

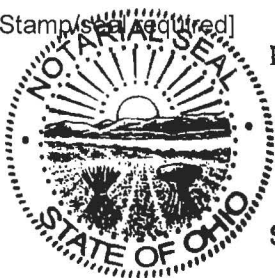
Signature

STATE OF Ohio
COUNTY OF Cuyahoga

Jeff Fenwick/ Pres., Comm.
Name/Title

The foregoing instrument was sworn to (or affirmed) and subscribed before me by means of ☒ physical presence or ☐ online notarization, this 2nd day of August, 2021, by the above-named person and in their stated capacity, and is either personally known to me or who has produced the following as identification: Drivers license.

[Stamp/Seal Required]



ROBERT A. TAORMINA
Attorney at Law
NOTARY PUBLIC
STATE OF OHIO
My Commission Has
No Expiration Date
Section 147.03 O.R.C.

A handwritten signature in blue ink, appearing to read "Robert A. Taormina".

Signature, Notary Public