

AGREEMENT FOR FUEL PURCHASE - ANNUAL

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 Palmdale Oil Company, Inc., a Florida corporation, whose address is 911 North 2nd Street, Ft. Pierce, FL 34950, and whose federal tax identification number is 59-2358666, hereinafter referred to as "Vendor."

WITNESSETH

WHEREAS, the County intends to purchase unleaded gasoline and diesel fuel on an as needed basis as well as during emergency situations/events from the Vendor in connection with "Fuel Purchase - Annual" (the "Purchase"); and,

WHEREAS, the County issued Solicitation No. B200480ANB on July 9, 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 August 30, 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 in accordance with the project Scope of Services made part of this Agreement as Exhibit A, attached hereto and incorporated herein. Vendor shall comply strictly with all of the terms and conditions of the Solicitation as modified by its addendum, 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 the date the Lee County Board of County Commissioners awarded the Solicitation to the Vendor on an "as needed basis" for a 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.

- 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 subcontractor'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 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 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 reserves the right to require Vendor to repay amounts previously paid by the County to the Vendor due to untimely delivery, inadequate product delivered, or inadequate product performance and the Vendor shall comply with such demand within 30 days.
- D. 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
- 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:

Name: Lochlan Cheatham

Title: President

Address: 2958 Fowler Street
Fort Myers FL 33901

Telephone: 561.722.0402

Facsimile: _____

E-mail: lach@palmdaleoil.com

County's Representatives:

Names:	<u>Roger Desjarlais</u>	<u>Mary Tucker</u>
Titles:	<u>County Manager</u>	<u>Director of Procurement Management</u>
Address:	<u>P.O. Box 398</u> <u>Fort Myers, FL 33902</u>	
Telephone:	<u>239-533-2221</u>	<u>239-533-8881</u>
Facsimile:	<u>239-485-2262</u>	<u>239-485-8383</u>
E-Mail:	<u>rdesjarlais@leegov.com</u>	<u>mtucker@leegov.com</u>

- 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:
- M. In the event of conflicts or inconsistencies, the documents shall be given precedence in the following order:
 - 1. Agreement
 - 2. Solicitation
 - 3. Vendor's Submittal in Response to the Solicitation
 - 4. Project Funding Package

The following listed documents, which are referred to hereinbefore, as attached to and are acknowledged, understood, and agreed to be an intergral part of this Agreement:

- (1) EXHIBIT "A" entitled "Scope of Services".
- (2) EXHIBIT "B" entitled "Fee Schedule".
- (3) EXHIBIT "C" entitled "Insurance Requirements".
- (4) EXHIBIT "D" entitled "Vendor Background Screening Affidavit".
- (5) EXHIBIT "E" entitled "Project Funding Package".

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

WITNESS:

Signed By: Denise Covert

Print Name: Denise Covert

Palmdale Oil Company, Inc.

Signed By: Lachlan Cheetham

Print Name: Lachlan Cheetham

Title: President

Date: 9/3/21

LEE COUNTY

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: [Signature]
CHAIR

DATE: October 05, 2021

ATTEST:

CLERK OF THE CIRCUIT COURT
Linda Doggett, Clerk

BY: [Signature]
DEPUTY CLERK



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

BY: [Signature]
OFFICE OF THE COUNTY ATTORNEY

EXHIBIT A

SPECIFICATIONS OR SCOPE OF SERVICES

VER 08-20-2020

SCOPE OF WORK AND SPECIFICATIONS

1. GENERAL SCOPE OF WORK

- 1.1 It is the intent of the Lee County Board of County Commissioners (County) to contract with a qualified Vendor to provide unleaded gasoline and diesel fuel on an as needed basis as well as during emergency situations/events.
 - 1.1.1 Emergency events include, but are not limited to natural disasters such as hurricanes, tornadoes, windstorms, floods, and fires as well as man-made events such as civil unrest and terrorist attacks.
- 1.2 It is further specified that this bid is to obtain fuels at competitive market rates through a conditional contract for the required materials with suppliers that have access to volumes of substantial petroleum products from nearby ports via contractual allocations or direct ownership and have a proven stable business operations; including provisions for delivery capabilities and business continuity that will ensure prompt and convenient service.
- 1.3 The County reserves the right to add or remove delivery locations and add or remove fuel types for delivery based on the County's needs and fuel tank delivery sites. No minimum order is guaranteed.

2. FUEL REQUIREMENTS

- 2.1 A quality motor fuel is desired; contaminated and/or degraded fuel will not be acceptable. The fuel to be provided under this bid must meet the following requirements:
 - The supplied gasoline shall be visually free of un-dissolved water, sediment, and suspended matter. It shall be clear and bright at ambient temperatures. Anti-knock index levels, defined as the average of the research octane number and motor octane number (R + M/2) shall be 87 octane as stipulated by Lee County. ASTM standard specifications for automotive gasoline (D439-84 or latest revised ASTM standard or other as dictated by the County on an on-going basis) shall prevail in case of dispute of quality. Ethanol rating/content: E10 is the maximum – E15 fuels are not acceptable under this bid.
 - The #2 diesel fuel supplied shall conform to ASTM D975-81 (or latest revised ASTM standard or other as dictated by the County on an on-going basis).
 - All fuel (gasoline and diesel motor fuels) shall be volatile hydrocarbon fuel, free from water and suspended matter, and suitable for use as a fuel in internal combustion engines.
 - All fuel and fuel products shall meet or exceed State of Florida specifications found at <https://www.frules.org/gateway/ChapterHome.asp?Chapter=5J-21> or current State of Florida specifications as updated by the State.
 - Non-approved additives are prohibited from all products. Octane rating may not be achieved by the adding of an octane booster additive of any sort subsequent to the refinery process.
- 2.2 Certificates of Analysis certifying that all fuel and fuel products being purchased under any resulting term contract(s) meet the product specifications referenced in these technical specifications may be requested at any time.

3. OPIS REPORTS

- 3.1 The County utilizes the Oil Price Information Service for Tampa Port at 10:00 a.m. (price fluctuates by port and time of day). If the County opts to utilize the Vendor to purchase this OPIS report, the OPIS report needs to be sent via email to various Lee County Departments to include, but not be limited to: Fleet, 2955 Van Buren Street; Lee County Transit, 3401 Metro Pkwy; Lee County Solid Waste, 10550 Buckingham Rd.; and Lee County Utilities, 7401 College Pkwy, Fort Myers, FL, 33907.
- 3.2 The subscription must be for the term of the contract and all renewal periods. Duplications or reproductions of the OPIS report are not acceptable. The OPIS report supplied to the County will be used to monitor the pricing of the fuel supplied by the Vendor. The County reserves the right to purchase the OPIS subscription(s) on their own.

4. DELIVERY REQUIREMENTS

- 4.1 The fuel shall be delivered F.O.B. to various locations throughout contiguous Lee County, as directed (see Attachment A). The County reserves the right to add additional fueling sites to this list as they come on line over the term of this bid.
- 4.2 When the fuel is delivered, a County employee may or may not be present. The delivering driver will meter the product into the tanks, sign and furnish a delivery ticket with the beginning and ending meter readings. The driver shall also be required to stick the tanks before and after delivery for Fleet Management locations. All Fleet delivery sites include the prefix of "CNTY" on the Attachment A. All invoices shall have delivery tickets attached and must reach each delivery location within three (3) business days of delivery. Optional metering arrangements may be considered if based upon State certified metering systems or State calibrated tanks.
- 4.3 Deliveries shall be made as necessary and in a timely manner, to assure continuity of on-going County operations. The awarded vendor(s) shall be provided current "stick readings" by the County for all fuel dispensing locations 2 days per week before 12:00 noon. It will be the responsibility of the vendor to ensure that adequate fuel supplies are available at each location, especially before or during an emergency. The ultimate goal is to ensure that fuel is always available. Awarded vendor or vendors shall endeavor to provide all deliveries within 24 hours of receipt of the County's request and shall notify the County if delivery cannot be made within 24 hours. If awarded vendor cannot deliver the requested fuel, as specified in the contract, within 24 hours of receiving the order, vendor shall notify the requesting department by email and County reserves the right to purchase fuel from the secondary vendor.
- Note: Solid Waste and Lee Tran have electronic monitoring systems. A tank monitoring ticket is required with the beginning and ending meter readings for those locations.
- 4.4 Deliveries during emergency situations must be made within a twelve (12) hour period from the request/order for delivery. Should the Vendor be unable to provide such service, the County reserves the right to cancel the purchase without penalty and purchase products from other sources.
- 4.5 Deliveries may be requested to fill generators located at various field locations throughout the County. Request for generator fuel may be made during times of heavy rains, emergency situations, or standard times of need.
- It is anticipated that the County will be purchasing their own fuel truck for fueling of generators in the field. The County also has fuel trailers that the County owns. Pickup of fuel by the County in either mobile fuel truck/trailer may be needed.

- 4.6 There shall be no holding of order to fill a truck prior to delivery. Before beginning to unload fuel, the delivery driver must wait for any vehicles to finish fueling, and then once the unloading is in process, prevent any vehicle from starting to fuel.
- 4.7 Adequate training must be provided to delivery drivers and appropriate personnel to ensure the safety of County employees and equipment.
- 4.8 All deliveries shall comply with all applicable State, local and Department of Environmental regulation guidelines.

5. LEE TRAN DELIVERY REQUIREMENTS

- 5.1 Before dispensing fuel, the driver must check in with the LeeTran Parts Department. The driver must obtain a tank monitoring ticket with beginning and ending meter readings. The driver will provide the tank monitoring tickets and fuel manifest to the Shop Maintenance Department and must obtain a LeeTran employee's signature attached to the manifest.

6. SOLID WASTE DELIVERY REQUIREMENTS

- 6.1 Before dispensing fuel the driver must check in as follows:

- Lee/Hendry Transfer Stations (LaBelle and Clewiston locations) – Driver checks in at the scale house and waits for staff to unlock the tanks.
- Lee/Hendry Landfill – Driver checks in at scale and waits for staff to authorize unloading.
- Waste to Energy Location (10550 Buckingham Road) – Driver checks in at maintenance shop and waits for staff to unlock the tanks.

- 6.2 In addition, at all Solid Waste locations, the Vendor must perform stick readings and provide before and after measurements on the packing slip.

7. SPILL PREVENTION

- 7.1 Vendor shall have an established, ongoing, fuel spill prevention plan and procedure to follow in the event there is an accidental fuel spill. Vendors shall submit details of this program with their bid submission. No County employee may authorize an over-fill. Tanks shall only be filled to 90-percent of capacity. In case of a spill or overfill, the Vendor's employee shall immediately verbally notify Lee County Fleet Management at 239-533-5338, Lee Tran at 239-533-0335, or Solid Waste Division at 239-533-8000 (as applicable and appropriate) Utilities/generator contact person Larry Clifford 239-533-5642 or cell 239-839-4831 and the appropriate emergency response agencies. In either case, a written follow up shall be delivered to the appropriate management personnel at the affected facility within forty-eight (48) hours of the spill. The cost of the site cleanup will be the responsibility of the Vendor. Final inspection by Department of Environmental Protection or another official government agency will be required before any additional invoices are released for payment.

8. EMERGENCY RESPONSE

- 8.1 A specific plan to provide the County with uninterrupted delivery of fuel before or during natural disasters or emergencies, such as hurricanes, storm, fire, etc., or during fuel supply shortages should be submitted

with bid. The plan shall include the names of at least two personal contacts and a method of contact twenty-four (24) hours a day, seven (7) days per week, in the event of a disaster.

9. QUALITY ASSURANCE PROGRAM

- 9.1 Vender shall have an established on-going quality assurance program, including but not limited to: spill prevention, driver training and cross-fueling prevention program. Bidders should submit details of this program with their bid.

10. CORRECTION FOR TEMPERATURE

- 10.1 The Vendor shall make adjustment and allowance in gallon age of products to compensate for change in temperature. Such correction shall be based on 60 degrees Fahrenheit as normal. Both the delivery reading, product temperature and corrected reading should be shown on the invoice.
- 10.2 Payment shall be made on net gallons dropped not gross. The County is tax exempt; therefore, the Vendor shall verify with the County to determine their tax exemption status and its applicability to state, federal sales, use and/or transportation and excise taxes or any other additional taxes as mandated by law.

11. ESTIMATED CONSUMPTION

- 11.1 Last fiscal year, Lee County Fleet purchased approximately 524,383 gallons of unleaded fuel and 474,147 gallons of diesel fuel. An additional 70,234 gallons of unleaded and 835,845 gallons of diesel were purchased by other Lee County departments as listed herein. These amounts are given for bidder's guidance only. No minimum quantity is guaranteed or implied.

12. STORAGE CAPACITY

- 12.1 The County's current storage capacity is listed on Attachment A. Additionally, the County has numerous emergency generators at various locations, which require fueling when requested. A sample list of the County's current generator locations list is attached as Attachment B.

13. VARIABLE PRICING

- 13.1 The Vendor shall submit invoices based upon "OPIS" (Oil Price Information Service), a Vendor Flat Rate Markup per Gallon (to include overhead, profit, etc.) that shall be added to the "Base Price per Gallon", and the appropriate taxes. The pricing shall be allowed to vary one time per day based on OPIS. Total price shall be firm and effective for all orders delivered before the following day.
- 13.2 The "Base Price per Gallon" price shall be based upon the average Tampa, Florida price as reported in "OPIS" through a daily report for Unleaded 87 Octane, and #2 Ultra Low Sulfur Diesel Clear and #2 Ultra Low Sulfur Diesel Dyed. Prices shall be based upon delivery date only (not invoice date).

14. PAYMENT

- 14.1 The County shall process all invoices within 30 calendar days of receipt. From fuel delivery date to invoicing date, shall be no more than three (3) business days. (It is preferred that the invoice date be the same as the delivery date if possible.) Invoices shall fully itemize all charges including taxes, temperature correction, time of delivery, before and after delivery stick readings, net and gross gallons, and segregate them by tank, date and location. If any split loads are received, the Vendor must provide

separate invoices for each fuel type. Any penalties or late fees assessed by Lee County because of late invoicing on part of the Vendor be the responsibility of the Vendor's.

- 14.2 NOTE: The County's payment terms are NET 30 – no exceptions. Credit cards may not and shall not be used for the payment of fuel under this contract.

15. SUB-CONTRACTORS

- 16.1 The use of sub-contractors to transport fuel will be allowed under this bid; however, the primary vendor shall be responsible for all deliveries from fueling location to the Lee County facility including unloading of fuel. The Lee County contract shall be exclusively with the Vendor of record. All sub-contractors must comply with the terms and conditions of this bid.

16. MAJOR BREAKDOWNS/NATURAL DISASTERS

- 17.1 The 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, to this product or service in the event of major breakdowns or natural disasters. Lee Tran must receive priority for fuel as they are classified as first responders for the evacuation of individuals during a disaster.
- 17.2 The County reserves the right to purchase the product or service listed in this bid outside of the resulting contract or contracts in an emergency situation. The County reserves the right to purchase the fuel for their mobile fuel truck or trucks/trailers outside of this contract, if purchasing outside of the contract to fuel the County's fuel truck/trucks/trailer is found in the best interest of the County, e.g. cost savings.

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 PRICING

- 1.1 Lee County, herein referenced as "County" reserves the right to purchase fuel off of the State of Florida contract, off contract completely, or from another city/county agency located within Florida, if pricing is lower and in the best interest of the County.
- 1.2 Pricing shall be 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. This contract is for normal fuel purchases as well as Federal Emergency Management Agency (FEMA), Florida Department of Transportation (FDOT) & Federal Transit Administration (FTA) funded fuel purchases.
- 1.3 The contracted markup per gallon shall stay fixed across all fuel purchase funding sources utilized under this contract.

2. BASIS OF AWARD

- 2.1 The Basis of Award shall be to the lowest Responsive, Responsible Vendor per Category Total of Category and Category B. The County intends to award a primary and a secondary Vendor per each category (A through B) based on the lowest total bid price per category.

2.1.1 Vendor shall provide in the bid schedule the Base Price Per Gallon and the Vendor Flat Rate Markup per Gallon (excluding tax). The Base Price Per Gallon shall be based upon the average Tampa, Florida price as reported in the "Oil Price Information Services (OPIS)" as of August 3, 2021 at 10:00 AM.

2.1.1 Base Price Per Gallon shall be used for Basis of Award evaluation purposes only. Vendor shall be contracted for Vendor Flat Rate Markup per Gallon (excluding tax) and such markup shall stay fixed across all fuel purchase funding sources and shall not increase without mutual written agreement between the County and the Vendor.

- 2.2 To be considered for award, Vendor must bid either Category A or B (Vendor may bid both) and must bid Category C.

2.2.1 Categories D and E are optional and where bid will be added to the awarded Vendor's contract of services and fee schedule. Where optional categories are not bid, Vendor shall not provide such services to the County unless deemed in the County's best interest and where specifically authorized.

2.2.2 Any Category bid shall have all line items within the category bid. Failure to bid all line items or full line items within a category selected for bid shall deem Vendor as Non-Responsive and therefore ineligible for award.

2.2.3 The cost of the Oil Price Information Service (OPIS) subscription (Category C) and designated Optional services (Category D & E) shall be awarded at the County's discretion. The County reserves the right not to award such items.

- 2.3 The County reserves the right to award in the manner that is in the best interest of the County at its sole discretion.

3. PROJECT TERM

- 3.1 The Vendor shall be responsible for furnishing and delivering to the County requesting Department(s) the commodity or services on an "as needed basis" for a 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.

4. PROJECT FUNDING NOTICE

- 4.1 As notice to all Vendors, this project may be funded in whole or in part with Federal and State Funds through the Federal Emergency Management Agency (FEMA), Florida Department of Transportation (FDOT) & Federal

Transit Administration (FTA). The Vendor agrees to abide by and comply with all Federal terms, conditions, provisions, certifications, affidavits, or otherwise as applicable and stated within this solicitation package and further agrees to incorporate all such clauses, provisions, and regulations into any sub-contracted agreements or relationships Vendor creates to support Vendor's servicing to County under this Agreement.

5. SUBMITTAL DOCUMENTS

5.1 Vendor is requested to provide with bid submittal the below items. The County reserves the right to request additional documentation or clarification at any point prior to award and during term of Agreement, inclusive of any renewals. Failure to provide requested submittal documents in a timely manner, at the sole discretion of the County, may deem Vendor non-responsive and ineligible for award, renewal, or continuation of services.

- Details of on-going quality assurance program, including driver training program
- Spill prevention plan
- Emergency plan
- Safeguards for cross-fueling prevention

6. LOCAL VENDOR PREFERENCE EXCLUSION

7. Local Vendor Preference Ordinance has been waived for this solicitation and any and all references contained herein are non-applicable to this solicitation and subsequent contract and/or purchase order(s).

8. MASTER CONTRACT NOTICE

8.1 This is a "Master"/"Annual" contract, which is not for any specific project. Work to be performed under this contract will be authorized, scheduled, funded, and accounted for by the issuance of County Purchase Order (PO), by the requesting department. The requesting County department reserves the right to provide additional project clarification details with the issuance of and within or attached to each PO. Such items shall be minor in nature such as providing for service completion dates, delivery locations, delivery and working hours, number of units, etc...

8.2 The Purchase Order will list any alternate funding source such as FEMA, FDOT or FTA. The Vendor shall comply with all associated funding terms, conditions, provisions, certifications, affidavits, or otherwise as applicable and stated within this solicitation package and associated agreement under Supplemental Information and/or where referenced and attached as it applies to each funding type.

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: August 5, 2021

Solicitation No.: B200480ANB

Solicitation Name: Fuel Purchase - Annual

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:

- a. Attachment 1. Fleet Invoices and Bills of Lading
- b. Attachment 2. DBE Good Faith Efforts Forms
- c. Attachment 3. Lee County Transit System Annual Report
- d. Attachment 4. Lee County Transit Invoice and Bill of Lading

2. QUESTIONS/ANSWERS

1.	In the bid OPIS pricing using Port Tampa 10am is specified but I don't see which price will be used i.e.(Rack Avg. Low Rack.). Can you please define?
Answer	<u>Lee County uses the Rack Avg. price to determine the price paid daily for fuel.</u>
2.	Please provide tabulations from the most current fuel bid.
Answer	<u>You can find the current contract and pricing at the attached link B180281TJM - Fuel Annual Purchase</u>
3.	How often are deliveries split between multiple locations?
Answer	<u>This contract is for all of the County's annual fuel purchases on an as needed basis. Deliveries will be split between multiple locations across Lee County.</u>
4.	Will a metered bill of lading from the terminal be accepted in lieu of a metered delivery ticket for transport deliveries?
Answer	<u>The bill of ladings from the terminal are acceptable for Lee County Fleet Management. Solid Waste locations – For transport loads only. Tank wagons need to be metered from the tank wagon.</u>
5.	Please provide estimated annual usage for each location.
Answer	<u>Approximate Totals: 1. Fleet Management: Annual Unleaded – 176,500 gal; Diesel – 77,000 gal. 2. Billy Creek: Annual Unleaded – 134,500 gal; Diesel – 220,250 gal. 3. Evergreen: Annual Unleaded – 83,000 gal; Diesel – 41,000 gal. 4. Govt. Complex: Annual Unleaded – 42,000 gal; Diesel – 40,000 gal. 5. Century Link Sports Complex: Annual Unleaded – 2,000 gal; Diesel 2,000 gal. 6. Jet Blue Park: Annual Unleaded – 2,500 gal; Diesel – 2,000 gal. Other two ball field avg. 1,000 gallons each of Unleaded and Diesel. Solid Waste – FY20 – est. Diesel, 371,000 gallons – est. Unleaded Gasoline, 30,000 gallons</u>

	Lee County Transit annual totals may be found in the associated report provided as an attachment to this addendum.
6.	Please provide estimated annual usage for each generator.
Answer	This contract is for all of the County's annual fuel purchases on an as needed basis. No estimated usage is available at this time.
7.	Please provide addresses for each generator.
Answer	The County has locations all across Lee County. Attachment B – Generator List in the solicitation package contains the generator location, kw, fuel type, fuel capacity and the approximate fuel consumption gal/hr.
8.	Please provide generators that are difficult to access (ie. gated, locked, keypad).
Answer	All County locations have various forms of security, ranging from gates, locks, and secured access.
9.	Please provide a current gas and diesel invoice.
Answer	See attachment for Fleet Management and Lee County Transit
10.	Please provide a current gas and diesel Bill of Lading.
Answer	See attachment for Fleet Management and Lee County Transit.
11.	Will sites call in to the awarded vendor to schedule a delivery?
Answer	Representative from Fleet, Lee Tran, Solid Waste, Port Authority and Utilities will call or e-mail orders for fuel as needed.
12.	What is the anticipated award date?
Answer	The County anticipates going to the Board for award on September 21, 2021. This date is subject to change at the sole discretion of the County.
13.	Who is the current vendor being used to meet the 4% DBE goal?
Answer	The current 4% DBE goal is not being met by any vendor.
14.	Will the supplier be permitted to remotely monitor the telemetry system?
Answer	No
15.	Will site employees be available to provide tank inventories over the phone?
Answer	Fleet Management can provide this. However, the County historically calls in a specified quantity of fuel to be delivered to the site. Solid Waste locations: Yes
16.	Will site employees be available to provide tank inventories via email?
Answer	See response for #15.
17.	Per Lee County Transit Policies and Procedures, pg. 16, Section B: Bonding Requirements, are bid bonds required for this bid?
Answer	No
18.	Per Lee County Transit Policies and Procedures, pg. 16, Section B: Bonding Requirements, are performance bonds required for this bid?
Answer	No

19.	Per Lee County Transit Policies and Procedures, pg. 16, Section B: Bonding Requirements, are payment bonds required for this bid?
Answer	No
20.	How do vendors receive approval for subcontractors?
Answer	List anticipated sub contractor's on Form 6 of the submission package. Upon review of the proposals with the County approve/reject subcontractors.
21.	Does Lee County runs biocide with its fuel management program?
Answer	Biocide usage is department specific and may not be utilized throughout all departments/request for fuel.
22.	Our past records show your office hours for bid delivery via FedEx or UPS are M-F 0730-1630. Is this still accurate? If not, what are your office hours for bid delivery?
Answer	Our office is open until 5:00PM eastern.
23.	When is the first board meeting after the opening?
Answer	The first board meeting is 8/17/2021
24.	When is the anticipated award date?
Answer	Please see answer to question 12.
25.	What is the anticipated start date for the three (3) year initial contract term?
Answer	The anticipated start date of the contract is 10/2/2021. This date is subject to change at the sole discretion of the County.
26.	Have you ever had cause to cancel a fuel contract for convenience?
Answer	No
27.	What is your current turnaround on payment of invoices?
Answer	Please see the solicitation for invoice specifications. Per article 14.1, the County shall process all invoices within 30 calendar days of receipt.
28.	The bid states that a performance bond may be required. Will you require a performance bond?
Answer	No
29.	Do you consider common carriers to be subcontractors? If so, how would we obtain prior written authorization to use them? Will the inclusion of carriers to be used on the Sub-Contractor List (page 44) be sufficient?
Answer	Yes. Submit the Subcontractor form completed with subcontractor information. If awarded a contract, then the County has approved those carriers for use.
30.	Review of invoices and Bills of Lading provided through an open records request, it appears that the metered BoL is sufficient for meeting the metered requirements. Will this continue to be acceptable?
Answer	Metered bill of lading will be acceptable.
31.	Review of the invoices provided shows that Palmdale Oil is making the Transport deliveries currently. Our records show they were the secondary vendor awarded in 2018. Is there a reason the primary vendor (Southern Petroleum) is not making the Transport deliveries?

Answer	The current primary provider is Palmdale Oil Company. Lee County and Southern Petroleum failed to enter into a final valid contract; removing their primary status.
32.	As we are a Non-Local business and do not have a Local Business Tax License number, should that be left blank on page 43, or would you like us to include our FEIN there?
Answer	Please list the local business tax license number from your county or municipality where applicable.
33.	The Lee County Transit and Procedures General Provisions document states that there is a 4% DBE participation goal. Does that goal apply to the entire contract, or just to the Lee Tran portion?
Answer	The goal applies to the whole contract. This is a goal and not a requirement of the contract.
34.	The Lee County Transit and Procedures General Provisions document page 4-5 requests a DBE letter of intent and a DBE Affidavit (both items state to 'see below') be submitted with the bid. Neither of these items is seen in the document. Can you provide appropriate documentation to be filled out and submitted with the bid?
Answer	LeeTran's DBE Good Faith Efforts form and Letter of Intent are attached.
35.	Page 7 item 17 encourages use of Florida Certified Enterprises (DBE/MBE/WBE/VBE). The Lee Tran General Provisions page 4 states a certified out of state firm would be acceptable. Will an out of state Veteran Owned Small Business qualify as a DBE for this contract?
Answer	Yes
36.	What information will you be reading out loud at the bid opening?
Answer	The names of the firms and the category total for each category will be read aloud at the opening.
37.	If we attend the bid opening, will we be able to review other submitted bids?
Answer	No
38.	If we do not attend the bid opening, how and when will we be notified of the low bidder and can we receive a copy of the bid tabulations?
Answer	It the sole responsibility of the Vendor to monitor the County project webpage for posting of project related information. The Bid Tabulation will be posted to the County project webpage at the earliest opportunity following the bid opening. The release of documents and records related to this project will be conducted in accordance with Public Records regulations upon request of specific documentation.
39.	Please provide a current invoice for each fuel grade on this solicitation.
Answer	See Attachment for Fleet Management.
40.	Please provide bill of ladings for all fuel grades on this solicitation.
Answer	See Attachment for Fleet Management.
41.	Please provide the tabulations for the current contract.
Answer	See question 2.
42.	Please provide tax exemptions / certificates.
Answer	Tax exempt certificates will be provided to the awarded Vendor.

43.	Who is the current vendor?
Answer	See question 2.
44.	What is the expected start date for deliveries?
Answer	See question 25.
45.	Would the Lee County BOC consider extending the due date?
Answer	No.
46.	Will bids be considered responsive if electronic signatures are used? (i.e. DocuSign) or are wet signatures required for bids to be considered responsive?
Answer	Electronic signatures on bid submissions are acceptable.
47.	Please provide all bid submission and contract documents from the last awarded bidder.
Answer	See question 2.
48.	Are gas and diesel delivered together on the same shipment?
Answer	For County Fleet Management and Lee County Transit gas and diesel may be received in the same shipment. For County Solid Waste gas and diesel are not expected to be delivered in the same shipment. All purchases are made on an as-needed basis and such elements of ordering are specific to each County department's needs at the time of purchase.
49.	If a split occurs, is the fee to be included in the bid differential pricing or a separate line item on the invoice?
Answer	Invoice should reflect the separate cost for gas and diesel delivered for each order.
50.	Are bidders required to submit a certificate of insurance with their bid submittal?
Answer	The certificate of insurance is not required at time of bid submission, but requested to expedite processing.
51.	Are bidders required to submit a bid bond with their bid submittal?
Answer	A bid bond is not required for this project.
52.	Would you be able to provide each site's individual annual volume?
Answer	See response to question 5 for Fleet Management locations.
53.	Would you be able to provide monthly total usage volumes?
Answer	Response to question 5 was annual average. Divide by 12 for monthly volumes/usage.
54.	Are bidders required to submit Safety Data Sheets with their bid submittal?
Answer	Not at time of bid submission, but may be requested at a later date.
55.	Will there be a public bid opening? If so, can you please provide the call in number or weblink for the bid opening?
Answer	Please see the cover page of the solicitation for the opening information. There is not an option for a virtual presence or call in number. At the time of the publishing of this addendum, the opening meeting will be held in person on 8/10/2021 at 2:30PM at 2115 Second Street, Fort Myers, FL 33901.
56.	Does the Lee County BOC subscribe to OPIS?

Answer	A requirement of the awarded contract is that the awarded vendor provide the BOCC with a subscription to OPIS.
57.	Which sites require a tank wagon for deliveries?
Answer	The following sites are known to require tank wagon delivery: Evergreen, Government Complex, Lehigh Depot and 4 Ball Fields, all Solid Waste locations. Fort Myers, Felda, Labelle, Clewiston and 3401 Metro Parkway for generator deliveries.
58.	Which sites require a transport truck for deliveries?
Answer	The following sites are known to require transport truck delivery: Fleet Management and Billy Creek Sites. Solid Waste – 10500 Buckingham Rd, Fort Myers FL, Lee Hendry Landfill/Compost Site, 5500 Church Rd, Felda FL and 3401 Metro Parkway.
59.	Will a transport tractor-trailer be permitted for all delivery locations?
Answer	Several locations are too tight for Tractor-Trailer access. Smaller Tank wagon style truck would be required. No tractor-trailer will be permitted at Solid Waste locations. Purchases are made throughout the County on an as-needed basis. The Vendor shall ensure any such delivery concerns are covered with acceptance of purchase order request.
60.	Will the above ground tanks require the delivery truck to provide a pump for offloading?
Answer	Yes, the delivery truck for above ground tanks will require the vendor provide a pump for offloading.
61.	Can the contract award be split between multiple vendors?
Answer	Please see page 15 2. Basis of Award.
62.	Is it the intent to award to a single vendor?
Answer	Please see page 15 2. Basis of Award.
63.	Is the subcontractor form – Certification Debarment, Suspension, Ineligibility and Voluntary Exclusion form to be completed by the potential subcontract and submitted with the bid?
Answer	No, only the Prime Contractor needs to complete the required forms in the solicitation package.

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.

Laura L. Parks for _____

Adam Brooke, Procurement Analyst Supervisor
Procurement Analyst Direct Line: 239-533-8851
Lee County Procurement Management

EXHIBIT B
FEE SCHEDULE

PRIMARY VENDOR FOR CATEGORY A: FUEL BY TRANSPORT DELIVERY.			
Minimum size of a Transport Load: 7,500 Gallons			
<i>Item #</i>	<i>Description</i>	<i>Unit of Measure</i>	<i>Vendor Flat Rate Markup Per Gallon (Excluding Tax)</i>
Unleaded Gasoline-E10-Delivered via Transport			
1	Unleaded 87 Octane	Per Gallon	\$0.0169
Diesel Fuel-Delivered via Transport			
2	#2 Ultra Low Diesel Clear	Per Gallon	\$0.0305
3	#2 Ultra Low Sulfur Diesel Dyed	Per Gallon	\$0.0352

PRIMARY VENDOR FOR CATEGORY B: FUEL BY TANK WAGON DELIVERY.			
Maximum size of a tank wagon load: 4,000 Gallons			
<i>Item #</i>	<i>Description</i>	<i>Unit of Measure</i>	<i>Vendor Flat Rate Markup Per Gallon (Excluding Tax)</i>
Unleaded Gasoline-E10-Delivered via Tank Wagon			
1	Unleaded 87 Octane	Per Gallon	\$0.1496
Diesel Fuel-Delivered via Tank Wagon			
2	#2 Ultra Low Diesel Clear	Per Gallon	\$0.1678
3	#2 Ultra Low Sulfur Diesel Dyed	Per Gallon	\$0.1719

**PRIMARY VENDOR FOR CATEGORY C:
OPIS SUBSCRIPTION**

<i>Item #</i>	<i>Description</i>		
Subscription			
1	OPIS-Annual Subscription	Each	\$1,836.00

**PRIMARY VENDOR FOR CATEGORY D:
FUEL FOR PICKUP BY COUNTY**

Fuel for Pickup by County mobile fuel truck/trailer as needed by County			
<i>Item #</i>	<i>Description</i>	<i>Unit of Measure</i>	<i>Vendor Flat Rate Markup Per Gallon (Excluding Tax)</i>
Unleaded Gasoline-E10-Delivered via Tank Wagon			
1	Unleaded 87 Octane	Per Gallon	\$0.1063
2	#2 Ultra Low Diesel Clear	Per Gallon	\$0.1110
3	#2 Ultra Low Sulfur Diesel Dyed	Per Gallon	\$0.1197

**PRIMARY VENDOR FOR CATEGORY E:
EMERGENCY DELIVERY RATE**

<i>Item #</i>	<i>Description</i>	<i>Unit of Measure</i>	<i>Vendor Flat Rate Markup Per Gallon (Excluding Tax)</i>
1	#2 Ultra Low Sulfur Diesel Dyed-500 Gallons or Less Delivered	Per Gallon	\$0.3600

EXHIBIT C INSURANCE REQUIREMENTS



Lee County Insurance Requirements including Pollution Liability

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)

- 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

- d. **Pollution Liability** - Covering property loss and liability arising from pollution-related damages, for sites that have been inspected and found uncontaminated. Transporter moving hazardous products or waste as cargo aboard the transporter's truck:

\$1,000,000 bodily injury / property damage/ cleanup, including wrongful delivery.

**The required minimum limit of liability shown in a. or 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 07/16/2018 – 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.*
 - c. Lee County will be given notice prior to cancellation or modification of any stipulated insurance. Such notification will be in writing by registered mail, return receipt requested and addressed to the Risk Manager (P.O. BOX 398 Ft. Myers, FL 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 insure that all subcontractors comply with all insurance requirements.

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: 9/3/21

STATE OF FL
COUNTY OF Palm Beach

Lachlan Cheatham
Signature
Lachlan Cheatham President
Name/Title

The foregoing instrument was sworn to (or affirmed) and subscribed before me by means of ☐ physical presence or ☐ online notarization, this 3rd day of Sept, 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: _____.

[Stamp/seal required]

Denise Covert
Signature, Notary Public

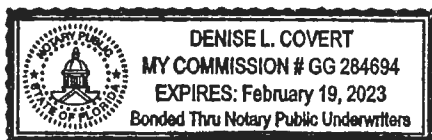


EXHIBIT E
PROJECT FUNDING PACKAGE



Lee County
Southwest Florida

EXHIBIT E - PROJECT FUNDING PACKAGE

Advertise Date: Friday, July 09, 2021

Lee County Board of County Commissioners DIVISION OF PROCUREMENT MANAGEMENT

INVITATION TO BID (B)

Solicitation No.:	B200480ANB		
Solicitation Name:	Fuel Purchase - Annual		
Open Date/Time:	Tuesday, August 10, 2021	Time:	2:30 PM
Location:	Lee County Procurement Management 2115 Second Street, 1st Floor Fort Myers, FL 33901		
Procurement Contact:	Adam Brooke	Title	Procurement Analyst Supervisor
Phone:	(239) 533-8851	Email:	Abrooke@leegov.com
Requesting Dept.	COUNTY WIDE		

Pre-Bid Conference:

Type: No meeting scheduled at this time
Date/Time:
Location:

All solicitation documents are available for download at
www.leegov.com/procurement

Electronic bidding is coming! Visit www.leegov.com/bid to stay informed

FUNDED IN PART OR IN WHOLE BY:

Federal Emergency Management Agency (FEMA) - Florida Department of Transportation (FDOT)

Federal Transit Administration (FTA)



Advertisement Date: 7/9/2021

Notice to Bidder

Invitation to Bid (B)

Lee County, Florida, is requesting bids from qualified individuals/firms for

B200480ANB, Fuel Purchase - Annual

Then and there to be publicly opened and read aloud for the purpose of selecting a vendor to furnish all necessary labor, services, materials, equipment, tools, consumables, transportation, skills and incidentals required for Lee County, Florida, in conformance with solicitation documents, which include technical specifications and/or a scope of work.

Those individuals/firms interested in being considered for this solicitation are instructed to submit, in accordance with specifications, their Bids, pertinent to this project prior to

2:30 PM Tuesday, August 10, 2021

to the office of the **Procurement Management Director, 2115 Second Street, 1st Floor, Fort Myers, FL 33901**. The Invitation to Bid shall be received in a sealed envelope, prior to the time scheduled to receive Bid(s), and shall be clearly marked with the solicitation name, solicitation number, bidder name, and contact information as identified in these solicitation documents.

The Scope of Work/Specifications for this solicitation is available from www.leegov.com/procurement. Bidders who obtain Scope of Work/Specifications from sources other than www.leegov.com/procurement are cautioned that the solicitation package may be incomplete. The County's official bidders list, addendum(s) and information must be obtained from www.leegov.com/procurement. It is the bidder's responsibility to check for posted information. The County may not accept incomplete Bids.

It has been determined that the specifications and scope of work within this solicitation are adequate to describe the product or services being requested. A pre-bid conference and site visit has not been scheduled for this solicitation. Questions regarding this solicitation are to be directed, in writing, to the individual listed below using the email address listed below or faxed to (239) 485 8383 during normal working hours.

Adam Brooke, ABrooke@leegov.com

Sincerely,

A handwritten signature in blue ink that reads "Lindsay Cepero".

Lindsay Cepero, CPPO, CPPB
Procurement Manager

*WWW.leegov.com/Procurement is the County's official posting site

Terms and Conditions

INVITATION TO BID (B)

1. DEFINITIONS

- 1.1. **Addendum/Addenda:** A written change, addition, alteration, correction or revision to a bid, proposal or contract Agreement/Contract. Addendum/Addenda may be issued following a pre-bid/pre-proposal conference or as a result of a specification or work scope change to the solicitation.
- 1.2. **Approved Alternate:** Solicitation documents may make reference of specific manufacturer(s) or product(s). These references serve only as a recommendation and a guide to minimum quality and performance. The references are not intended to exclude approved alternatives of other manufacturer(s) or product(s).
- 1.3. **Bid/Proposal Package:** A bid/proposal is a document submitted by a vendor in response to some type of solicitation to be used as a basis for negotiations or for entering into a contract.
- 1.4. **Bidder/Responder/Proposer:** One who submits a response to a solicitation.
- 1.5. **County:** Refers to Lee County Board of County Commissioners.
- 1.6. **Due Date and Time/Opening:** Is defined as the date and time upon which a bid or proposal shall be submitted to the Lee County Procurement Management Division. Only bids or proposals received prior to the established date and time will be considered.
- 1.7. **Liquidated Damages:** Damages paid usually in the form of monetary payment, agreed by the parties to a contract which are due and payable as damages by the party who breaches all or part of the contract. May be applied on a daily basis for as long as the breach is in effect.
- 1.8. **Procurement Management:** shall mean the Director of Lee County's Procurement Management Department or designee.
- 1.9. **Responsible:** A vendor, business entity or individual who is fully capable to meet all of the requirements of the bid/proposal solicitation documents and subsequent contract. Must possess the full capability including financial and technical, to perform as contractually required. Must be able to fully document the ability to provide good faith performance.
- 1.10. **Responsive:** A vendor, business entity or individual who has submitted a bid or request for proposal that fully conforms in all material respects to the bid/proposal solicitation documents and all of its requirements, including all form and substance.
- 1.11. **Solicitation:** An invitation to bid, a request for proposal, invitation to negotiate or any document used to obtain bids or proposals for the purpose of entering into a contract.

2. ORDER OF PRECEDENCE

- 2.1. In resolving conflicts, errors, and discrepancies, the order of precedence of the bid document is as follows
 - 2.1.1. Florida State Law as applied to Municipal Purchasing in accordance with Title XIX, "Public Business", Chapter 287 "Procurement of Personal Property and Services."
 - 2.1.2. Lee County Procurement Management Ordinance 18-22
 - 2.1.3. Change Order
 - 2.1.4. Agreement
 - 2.1.5. Addenda
 - 2.1.6. Special Conditions
 - 2.1.7. Detailed Scope of Work/Specifications
 - 2.1.8. Supplemental Information, if any
 - 2.1.9. Terms and Conditions

3. RULES, REGULATIONS, LAWS, ORDINANCES AND LICENSES

- 3.1. It shall be the responsibility of the bidder to assure compliance with all other federal, state, or county codes, rules, regulations or other requirements, as each may apply. Any involvement with the Lee County shall be in accordance with but not limited to:
 - 3.1.1. Lee County Procurement Management Ordinance 18-22
 - 3.1.2. Pursuant to FL § Section 119.071, Public Records, General exemptions from inspection or copying of public records. Sealed bids, proposals or replies received by the agency pursuant to a solicitation are exempt from public records request (s. 119.07(1) and s. 24(a), Art. I, of the State Constitution until such time as the agency provides notice of an intended decision or until 30 days after opening the bids, proposals or final replies, whichever is earlier.

- 3.1.3. FL § 215 regarding scrutinized companies and business operations.
 - 3.1.4. FL § 218 Public Bid Disclosure Act.
 - 3.1.5. Florida State Law as applied to Municipal Purchasing in accordance with Title XIX, "Public Business", Chapter 287 "Procurement of Personal Property and Services."
 - 3.1.6. FL § 337.168 Confidentiality of official estimates, identities of potential bidders, and bid analysis and monitoring system.
 - 3.1.7. FL § Section 607.1501(1) states: A foreign corporation may not transact business in the State of Florida until it obtains a certificate of authority from the Department of State.
 - 3.2. **Local Business Tax Account:** As applicable, anyone providing merchandise or services to the public within the jurisdiction of Lee County must obtain a Lee County business tax account to operate unless specifically exempted.
 - 3.3. **License(s):** Bidder should provide, at the time of the opening of the bid, licenses required for this product and/or service.
4. **BID – PREPARATION OF SUBMITTAL**
- 4.1. **Sealed Bid:** Submission must be in a sealed envelope/box, and the outside of the submission must be marked with the following information (Sealed Bid Label Form is attached for your use):
 - 4.1.1. Marked with the words "Sealed Bid"
 - 4.1.2. Bid Number
 - 4.1.3. Bid Title
 - 4.1.4. Bid Due Date
 - 4.1.5. Name of the firm submitting the bid
 - 4.1.6. Contact e-mail and telephone number
 - 4.2. **Bid submission shall include:**
 - 4.2.1. Provide two (2) hard copies. Mark each: one "Original", one "Copy"
 - 4.2.2. Provide one (1) electronic flash drive set of the entire submission documents.
 - 4.2.3. Electronic submission document is to be one single Adobe PDF file in the same order as the original hard copy.
 - 4.2.4. Limit the color and number of images to avoid unmanageable file sizes.
 - 4.2.5. Do not lock files.
 - 4.3. **Submission Format:**
 - 4.3.1. Required Forms: complete and return **all** required forms. If the form is not applicable please return with "Not Applicable" or "N/A" in large letters across the form.
 - 4.3.2. Failure to submit required or requested information may result in the bidder being found non-responsive.
 - 4.3.3. Execution of Bid: All documents must be properly signed by corporate authorized representative, witnessed, and where applicable corporate and/or notary seals affixed. All Bids shall be typed or printed in ink. The bidder may not use erasable ink. All corrections made to the bids shall be initialed.
 - 4.3.4. If a cost/bid schedule was provided in Microsoft Excel format, the returned completed schedule should be included as a Microsoft Excel File on the Flash drive.
 - 4.3.5. The submission should not contain links to other web pages.
 - 4.3.6. Include any information requested by the County necessary to analyze your bid, i.e., required submittals, literature, technical data, financial statements.
 - 4.3.7. Bid Security/Bond(s), as applicable (Construction projects)
 - 4.4. **Preparation Cost:** The Bidder is solely responsible for any and all costs associated with responding to this solicitation. No reimbursement will be made for any costs associated with the preparation and submittal of any bid, or for any travel and per diem costs that are incurred by any Bidder.
5. **RESPONSES RECEIVED LATE**
- 5.1. It shall be the Bidder's sole responsibility to deliver the bid submission to the Lee County Procurement Management Division prior to or on the time and date stated. All references to date and time herein reference Lee County, FL local time.
 - 5.2. Any bids received after the stated time and date will not be considered. The bid shall not be opened at the public opening. Arrangements may be made for the unopened bid to be returned at the bidder's request and expense.

- 5.3. The Lee County Procurement Management Division shall not be responsible for delays caused by the method of delivery such as, but not limited to; internet, United States Postal Service, overnight express mail service(s), or delays caused by any other occurrence.

6. BIDDER REQUIREMENTS (unless otherwise noted)

- 6.1. **Responsive and Responsible:** Only bids received from responsive and responsible bidders will be considered. The County reserves the right before recommending any award to inspect the facilities and organization; or to take any other necessary action, such as background checks, to determine ability to perform is satisfactory, and reserves the right to reject submission packages where evidence submitted or investigation and evaluation indicates an inability for the bidder to perform.

6.1.1. Additional sources may be utilized to determine credit worthiness and ability to perform.

6.1.2. Any bidder or sub-contractor that will have access to County facilities or property may be required to be screened to a level that may include, but is not limited to fingerprints, statewide criminal. There may be fees associated with these procedures. These costs are the responsibility of the bidder or sub-contractor.

6.1.3. Bidders are responsible for ensuring that any required background screening are conducted in accordance with Chapter 435. Bidders shall be aware, understand, and ensure compliance with the statutory requirements regarding background checks. FL Statutes Chapter 435 governs required background screenings for any employees, contractors, subcontractors, or agents of the Bidder 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. Such requirements shall flow down to sub-contractors/consultants of the prime Bidder and prime Bidder shall ensure compliance with Chapter 435 of such parties.

6.1.3.1. 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.

- 6.2. **BID--Past Performance:** Bidders past performance and prior dealings with Lee County (i.e., failure to meet specifications, poor workmanship, late delivery, etc.) may be reviewed. Poor or unacceptable past performance may result in bidder disqualification.

- 6.3. Submission packages, unless otherwise noted, will be considered only from bidders normally engaged in the provision of the services specified here in. The bidder shall have adequate organization, facilities, equipment, and personnel to ensure prompt and efficient service to Lee County. The County reserves the right before recommending any award to inspect the facilities and organization; or to take any other action necessary to determine ability to perform satisfactorily, and reserves the right to reject submission packages where evidence submitted or investigation and evaluation indicated an inability of the bidder to perform.

7. PRE-BID CONFERENCE

- 7.1. A pre-bid conference will be held in the location, date, and time specified on the cover of this solicitation. The cover will also note if the pre-bid conference is Non-Mandatory or Mandatory. All questions and answers are considered informal. All prospective bidders are encouraged to obtain and review the solicitation documents prior to the pre-bid conference so they may be prepared to discuss any questions or concerns they have concerning this project. All questions must be submitted formally in writing to the procurement staff noted on the first page of the bid document. A formal response will be provided in the form of an addendum (see "County Interpretation/Addendums" for additional information.) A site visit may follow the pre-bid conference, as applicable.

- 7.2. **Non-Mandatory:** Pre-bid conferences are generally non-mandatory, but it is highly recommended that prospective bidders participate.

- 7.3. **Mandatory:** Failure to attend a mandatory pre-bid conference will result in the bid being considered **non-responsive**.

8. COUNTY INTERPRETATION/ADDENDUMS

- 8.1. Each Bidder shall examine the solicitation documents and shall judge all matters relating to the adequacy and accuracy of such documents. Any inquiries, suggestions or requests concerning interpretation, clarification or additional information pertaining to the solicitation shall be **submitted in writing prior to 5:00 PM at least eight (8) calendar days prior to the date when the submission is due.**

- 8.2. Response(s) will be in the form of an Addendum posted on www.leegov.com/procurement. It is solely the bidder's responsibility to check the website for information. ~~No notifications will be sent by Lee County Procurement Management Division.~~
 - 8.3. All Addenda shall become part of the Contract Documents.
 - 8.4. The County shall not be responsible for oral interpretations given by any County employee, representative, or others. Interpretation of the meaning of the plans, specifications or any other contract document, or for correction of any apparent ambiguity, inconsistency or error there in, shall be in writing. Issuance of a written addendum by the County's Procurement Management Division is the only official method whereby interpretation, clarification or additional information can be given.
9. QUALITY GUARANTEE/WARRANTY (as applicable)
- 9.1. Bidder will guarantee their work without disclaimers, unless otherwise specifically approved by the County, for a minimum of twelve (12) months from the date of final completion.
 - 9.2. Unless otherwise specifically provided in the specifications, all equipment and materials and articles incorporated in the work covered by this contract shall be new, unused and of the most suitable grade for the purpose intended. Refurbished parts or equipment are not acceptable unless otherwise specified in the specifications. All warranties will begin from the date of final completion.
 - 9.3. Unless otherwise specifically provided in the specifications, the equipment must be warranted for twelve (12) months, shipping, parts and labor. Should the equipment be taken out of service for more than forty-eight (48) hours to have warranty work performed, a loaner machine of equal capability or better shall be provided for use until the repaired equipment is returned to service at no additional charge to the County.
 - 9.4. If any product does not meet performance representation or other quality assurance representations as published by manufacturers, producers or distributors of such products or the specifications listed, 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. The vendor shall refund, to the County, any money which has been paid for same.
10. SUBSTITUTION(S)/APPROVED ALTERNATE(S)
- 10.1. Unless otherwise specifically provided in the specifications, reference to any equipment, material, article or patented process, by trade name, brand name, make or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition. If a bidder wishes to make a substitution in the specifications, the bidder shall furnish to the County, **no later than ten (10) business days prior to the bid opening date**, the name of the manufacturer, the model number, and other identifying data and information necessary to aid the County in evaluating the substitution. Such information is submitted through the Procurement Management Division. Any such substitution shall be subject to County approval through the issuance of a written addendum by the County's Procurement Management Division. Substitutions shall be approved only if determined by the County to be an **Approved Alternate** to the prescribed specifications.
 - 10.2. A bid containing a substitution is subject to disqualification if the substitution is not approved by the County. Items bid must be identified by brand name, number, manufacturer and model, and shall include full descriptive information, brochures, and appropriate attachments. Brand names are used for descriptive purposes only. An **Approved Alternate** product or service may be used.
11. NEGOTIATED ITEMS
- 11.1. Any item not outlined in the Scope of Work/Specifications may be subject to negotiations between the County and the successful bidder.
 - 11.2. After award of this bid the County reserves the right to add or delete items/services at prices to be negotiated at the time of addition or deletion.
 - 11.3. At contract renewal time(s) or in the event of significant industry wide market changes, the County may negotiate justified adjustments such as price, terms, etc., if in its sole judgment, the County considers such adjustments to be in their best interest.
12. ERRORS, OMISSIONS, CALCULATION ERRORS (as applicable)
- 12.1. **Calculation Errors:** In the event of multiplication/addition error(s), the unit price shall prevail. Written prices shall prevail over figures where applicable. All bids will be reviewed mathematically and corrected, if necessary, using these standards, prior to further evaluation.

13. CONFIDENTIALITY

- 13.1. Bidders should be aware that all submissions provided are subject to public disclosure and will **not** be afforded confidentiality, unless provided by Chapter 119 FL §.
- 13.2. If information is submitted with a bid that is deemed "Confidential" the bidder must stamp those pages of the submission that are considered confidential. The bidder must provide documentation as to validate why these documents should be declared confidential in accordance with Chapter 119, "Public Records," exemptions.
- 13.3. Lee County **will not reveal engineering estimates or budget amounts for a project** unless required by grant funding or unless it is in the best interest of the County. According to FL § 337.168: A document or electronic file revealing the official cost estimate of the department of a project is confidential and exempt from the provisions of s. 119.07(1) until the contract for the project has been executed or until the project is no longer under active consideration.

14. BID CONFLICT OF INTEREST

- 14.1. **Business Relationship Disclosure Requirement:** The award hereunder is subject to the provisions of Chapter 112, Public Officers and Employees: General Provisions, Florida Statutes. All bidders must disclose with their submission the name of any officer, director or agent who is also an employee of the Lee County or any of its agencies. Further, all bidders must disclose the name of any County employee who owns directly or indirectly, an interest of five percent (5%) or more in the bidder's firm or any of its branches.

15. ANTI-LOBBYING CLAUSE (Cone of Silence)

- 15.1. Following FL § Section 287.057(23), Upon the issuance of the solicitation, prospective proposers/bidders or any agent, representative or person acting at the request of such proposer/bidder shall not have any contact, communicate with or discuss any matter relating in any way to the solicitation with any Commissioner, Evaluation Review Committee, agent or employee of the County other than the Procurement Management Director or their designee. This prohibition begins with the issuance of any solicitation, and ends upon execution of the final contract or when the solicitation has been cancelled. **If it is determined that improper communications were conducted, the Bidder/Proposer maybe declared non-responsible.**

16. DRUG FREE WORKPLACE

- 16.1. Lee County Board of County Commissioners encourages Drug Free Workplace programs.

17. FLORIDA CERTIFIED ENTERPRISES

- 17.1. The County encourages the use of Florida Certified Enterprises such as such as Disadvantaged, Minority, Women, Veterans Business Enterprise (DBE, MBE, WBE, VBE) firms.
- 17.2. Bidder/Proposer is requested to indicate whether the Firm and/or any proposed sub-consultants are a Florida Certified Enterprise. Lee County encourages the utilization and participation of DBE, MBE, WBE, VBE or similar in procurements, and evaluation proceedings will be conducted within the established guidelines regarding equal employment opportunity and nondiscriminatory action based upon the grounds of race, color, sex or national origin. Interested Florida Certified Enterprises such as Disadvantaged, Minority, Women, Veterans Business Enterprise (DBE, MBE, WBE, VBE) firms and similar are encouraged to submit.

18. ANTI-DISCRIMINATION/EQUAL EMPLOYMENT OPPORTUNITY

- 18.1. The bidder agrees to comply, in accordance with FL § 287.134, 504 of the Rehabilitation Act of 1973 as amended, the Americans with Disabilities Act of 1990 (ADA), the ADA Amendments Act of 2008 (ADAAA) that furnishing goods or services to the County hereunder, no person on the grounds of race, religion, color, age, sex, national origin, disability or marital status shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination.
- 18.2. The bidder will not discriminate against any employee or applicant for employment because of race, religion, color, age, sex, national origin, disability or marital status. The bidder will make affirmative efforts to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, age, sex, national origin, disability or marital status.
- 18.3. The bidder will include the provisions of this section in every sub-contract under this contract to ensure its provisions will be binding upon each sub-contractor. The bidder will take such actions in respect to any sub-

contractor, as the contracting agency may direct, as a means of enforcing such provisions, including sanctions for non-compliance.

- 18.4. An entity or affiliate who has been placed on the State of Florida's Discriminatory Vendor List (This list may be viewed by going to the Department of Management Services website at <http://www.dms.myflorida.com>) may not submit a bid on a contract to provide goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not award or perform work as a vendor, supplier, sub-contractor, or consultant under contract with any public entity, and may not transact business with any public entity.

19. SUB-CONTRACTOR

- 19.1. The use of sub-contractors under this solicitation requires prior written authorization from the County representative.

20. BID - PROJECT GUIDELINES (as applicable)

- 20.1. The County has established the following Guidelines, Criteria, Goals, Objectives, Constraints, Schedule, Budget and or Requirements which shall service as a guide to the bidder(s) in conforming to the provision of goods and/or services to be provided pursuant to this Agreement/Contract:
- 20.1.1. No amount of work is guaranteed upon the execution of an Agreement/Contract.
 - 20.1.2. Rates and all other negotiated expenses will remain in effect throughout the duration of the Agreement/Contract period.
 - 20.1.3. This contract does not entitle any bidder to exclusive rights to County Agreement/Contracts. The County reserves the right to perform any and all available required work in-house or by any other means it so desires.
 - 20.1.4. In reference to vehicle travel, mileage and man-hours spent in travel time, is considered incidental to the work and not an extra compensable expense.
 - 20.1.5. Lee County reserves the right to add or delete, at any time, and or all material, tasks or services associated with this Agreement/Contract.
 - 20.1.6. Any Single Large Project: The County, in its sole discretion, reserves the right to separately solicit any project that is outside the scope of this solicitation, whether through size, complexity or the dollar value.

21. BID – TIEBREAKER

- 21.1. Whenever two or more Bids, which are equal with respect to price, quality and service, are received for procurement of commodities or contractual services, from Responsive and Responsible Bidders, the following steps shall be taken to establish the Award to the lowest Bidder. This method shall be used for all ties.
- 21.1.1. THIS SECTION HAS BEEN LEFT INTENTIONALLY BLANK
 - 21.1.2. THIS SECTION HAS BEEN LEFT INTENTIONALLY BLANK
 - 21.1.3. Coin Flip: At the conclusion of Step 1 and Step 2, if all is equal, the Contract Award, or the first opportunity to negotiate, as applicable, the final outcome shall be determined by the flip of a coin.
- 21.2. When the tie has been broken pursuant to the above procedures, the Contract Award, or the first opportunity to negotiate, as applicable, shall be furnished to the prevailing Bidder.
- 21.3. If an Award or negotiation is unsuccessful with the initial Bidder, Award or negotiations may commence with the next highest Bidder, utilizing the tiebreaker steps above to make the determination of next lowest Bidder, if necessary.

22. WITHDRAWAL OF BID

- 22.1. No bid may be withdrawn for a period of **180 calendar days** after the scheduled time for receiving submissions. A bid may be withdrawn prior to the solicitation opening date and time. Withdrawal requests must be made in writing to the Procurement Management Director, who will approve or disapprove the request.
- 22.2. A bidder may withdraw a submission any time prior to the opening of the solicitation.
- 22.3. After submissions are opened, but prior to award of the contract by the County Commission, the Procurement Management Director may allow the withdrawal of a bid because of the mistake of the bidder in the preparation of the submission document. In such circumstance, the decision of the Procurement Management Director to allow the submission withdrawal, although discretionary, shall be based upon a finding that the bidder, by clear and convincing evidence, has met each of the following four tests:

- 22.3.1. The bidder acted in good faith in submitting the bid,
- 22.3.2. The mistake in bid preparation that was of such magnitude that to enforce compliance by the bidder would cause a severe hardship on the bidder,
- 22.3.3. The mistake was not the result of gross negligence or willful inattention by the bidder; and
- 22.3.4. The mistake was discovered and was communicated to the County prior to the County Commission having formally awarded the Agreement/Contract.

23. PROTEST RIGHTS

- 23.1. Any Bidder that has submitted a formal Response to Lee County, and who is adversely affected by an intended decision with respect to the Award, has the right to protest an intended decision posted by the County as part of the Solicitation process.
- 23.2. Notice of Intended Decision is posted on the Lee County Department of Procurement Management website (www.leegov.com/procurement). Bidders are solely responsible to check for information regarding the Solicitation.
- 23.3. Refer to the "Procurement Protest" section of the Lee County Procurement Ordinance 18-22 for a complete description of the protest process and associated requirements. The ordinance is posted on the Lee County website or may be obtained by contacting the Procurement Management Director.
- 23.4. In order to preserve the right to protest, a written **"Notice Of Intent To File A Protest"** must be filed with the Lee County Procurement Management Director within seventy-two (72) hours of Posting of the Notice of Intended Decision.
 - 23.4.1. The notice shall clearly indicate all grounds being claimed for the protest.
 - 23.4.2. The notice must be physically received by the Procurement Management Director within the required time frame described above. No additional time will be granted for mailing.
- 23.5. Following receipt of the Notice of Intent to File a Protest, a **"Protest Bond"** and **"Formal Written Protest"** must be filed **within ten (10) business days** of Posting of the Notice of Intended Decision.
- 23.6. **Failure to follow the protest procedures requirement within the time frames as prescribed herein and in the Lee County Procurement Ordinance 18-22 shall constitute a waiver of the right to protest and shall bar any resulting claims.**

24. AUTHORITY TO UTILIZE BY OTHER GOVERNMENT ENTITIES

- 24.1. This opportunity is also made available to any government entity. Pursuant to their own governing laws, and subject to the Agreement/Contract of the vendor, other entities may be permitted to make purchases at the terms and conditions contained herein. Lee County Board of County Commissioners will not be financially responsible for the purchases of other entities from this solicitation.

25. CONTRACT ADMINISTRATION

- 25.1. **Designated Contact:**
 - 25.1.1. The awarded bidder shall appoint a person(s) to act as a primary contact for all County departments. This person or back-up shall be readily available during normal working hours by phone or in person, and shall be knowledgeable of the terms and procedures involved.
 - 25.1.2. Lee County requires the awarded bidder to provide the name of a contact person(s) and phone number(s) which will afford Lee County access 24 hours per day, 365 days per year, of this service in the event of major breakdowns or natural disasters.
- 25.2. **BID – Term:** (unless otherwise stated in the Scope of Work or Detailed Specifications)
 - 25.2.1. Unless otherwise stated in the scope of work, specifications, or special conditions the default **contract term shall be 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.**
 - 25.2.2. The County reserves the right to renew this Agreement/Contract (or any portion thereof) and to negotiate pricing as a condition for each.
 - 25.2.3. The County's performance and obligation to pay under this contract, and any applicable renewal options, is contingent upon annual appropriation of funds.

25.3. BID – Basis of Award:

- 25.3.1. The bid is awarded under a system of sealed, competitive bidding to the lowest responsive and responsible bidder.
- 25.3.2. In the event the lowest responsible and responsive bid for a project exceeds the available funds the County may negotiate an adjustment of the bid price with the lowest responsible and responsive bidder, in order to bring the total cost of the project within the amount of available funds.
- 25.3.3. The County reserves the right to make award(s) by individual item, group of items, all or none, or a combination thereof. The County reserves the right to reject any and all bids or to waive any minor irregularity or technicality in the bids received. Award will be made to the lowest responsive and responsive bidder(s) within the category chosen for basis of award.
- 25.3.4. The County reserves the right to award to one or multiple bidders at the discretion of the requesting authority and approval of the Procurement Management Director.

25.4. Agreement/Contracts:

- 25.4.1. The awarded bidder will be required to execute an Agreement/Contract as a condition of award. A sample of this document may be viewed on-line at <http://www.leegov.com/procurement/forms>.

25.5. Records:

- 25.5.1. Retention: The bidder shall maintain such financial records and other records as may be prescribed by Lee County or by applicable federal and state laws, rules and regulations. Unless otherwise stated in the specifications, the bidder shall retain these records for a period of five years after final payment, or until they are audited by Lee County, whichever event occurs first.
- 25.5.2. Right to Audit/Disclosure: These records shall be made available during the term of the contract as well as the retention period. These records shall be made readily available to County personnel with reasonable notice and other persons in accordance with the Florida General Records Schedule. Awarded Bidder/Proposer(s) are hereby informed of their requirement to comply with FL §119 specifically to:
 - 25.5.2.1. Keep and maintain public records required by the County to perform the service.
 - 25.5.2.2. Upon request from the County's custodian of public records, 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 or as otherwise provided by law.
 - 25.5.2.3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the County.
 - 25.5.2.4. Upon completion of the contract, transfer, at no cost, to the County all public records in possession of the contractor or keep and maintain public records required by the County to perform the service. If the contractor transfers all public records to the County upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County, upon request from the County's custodian of public records, in a format that is compatible with the information technology systems of the County.

- 25.5.3. Public Record: **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, Email at PRRCustodian@leegov.com or Visit <http://www.leegov.com/publicrecords>.**

- 25.5.4. Ownership: It is understood and agreed that all documents, including detailed reports, plans, original tracings, specifications and all data prepared or obtained by the successful bidder in connection with its

services hereunder, include any documents bearing the professional seal of the successful bidder, and shall be delivered to and become the property of Lee County, prior to final payment to the successful bidder or the termination of the Agreement/Contract. This includes any electronic versions, such as CAD or other computer aided drafting programs.

25.6. **Termination:**

- 25.6.1. Any Agreement/Contract as a result of this solicitation may be terminated by either party giving **thirty (30) calendar days advance written notice**. The County reserves the right to accept or not accept a termination notice submitted by the vendor, and no such termination notice submitted by the vendor shall become effective unless and until the vendor is notified in writing by the County of its acceptance.
- 25.6.2. The Procurement Management Director may immediately terminate any Agreement/Contract as a result of this solicitation for emergency purposes, as defined by the Lee County Procurement Ordinance 18-22.
- 25.6.3. Any bidder who has voluntarily withdrawn from a solicitation without the County's mutual consent during the contract period shall be barred from further County procurement for a **period of 180 days**. The vendor may apply to the Board for a waiver of this debarment. Such application for waiver of debarment must be coordinated with and processed by the Procurement Management Department.
- 25.6.4. The County reserves the right to terminate award or contract following any of the below for goods or services over \$1,000,000:
 - 25.6.4.1. Contractor is found to have submitted a false certification as provided under FL § 287.135 (5);
 - 25.6.4.2. Contractor has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List (FL §215.473);
 - 25.6.4.3. Contractor has engaged in business operations in Cuba or Syria (FL § 215.471);
 - 25.6.4.4. Contractor has been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel. (FL § 215.4725)
 - 25.6.4.5. The County reserves the right to review, on a case-by-case basis, and waive this stipulation if it is deemed to advantageous to the County.

26. **WAIVER OF CLAIMS**

- 26.1. Once this contract expires, or final payment has been requested and made, the awarded bidder shall have waived any claims against the County concerning this contract. After that period, the County will consider the bidder to have waived any right to claims against the County concerning this Agreement/Contract.

27. **LEE COUNTY PAYMENT PROCEDURES**

- 27.1. Unless otherwise noted, all vendors are requested to mail an original invoice to:
Lee County Finance Department
Post Office Box 2238
Fort Myers, FL 33902-2238
- 27.2. All invoices will be paid as directed by the Lee County payment procedure unless otherwise stated in the detailed specifications for this project.
- 27.3. Lee County will not be liable for requests for payment deriving from aid, assistance, or help by any individual, vendor, proposer, or bidder for the preparation of these specifications.
- 27.4. Lee County is generally a tax exempt entity subject to the provisions of the 1987 legislation regarding sales tax on services. Lee County will pay those taxes for which it is obligated, or it will provide a Certificate of Exemption furnished by the Department of Revenue. All bidders should include in their bids, all sales or use taxes, which they will pay when making purchases of material or sub-contractor's services.

28. **SAFETY DATA SHEETS (SDS) (as applicable)**

- 28.1. It is the vendor's responsibility to provide Lee County with Safety Data Sheets on bid materials, as may apply to this procurement.

29. **DEBRIS DISPOSAL (as applicable)**

- 29.1. Unless otherwise stated, the bidder shall be fully responsible for the lawful removal and disposal of any materials, debris, garbage, vehicles or other such items which would interfere with the undertaking and completion of the project. There shall not be an increase in time or price associated with such removal.

30. SHIPPING (as applicable)

- 30.1. Cost of all shipping to the site, including any inside delivery charges and all unusual storage requirements shall be borne by the bidder unless otherwise agreed upon in writing prior to service. It shall be the bidders responsibility to make appropriate arrangements, and to coordinate with authorized personnel at the site, for proper acceptance, handling, protection and storage (if available) of equipment and material delivered. All pricing to be F.O. B. destination.
- 30.2. The materials and/or services delivered under the bid shall remain the property of the seller until a physical inspection and actual usage of these materials and/or services is accepted by the County and is deemed to be in compliance with the terms herein, fully in accord with the specifications and of the highest quality.

31. INSURANCE (AS APPLICABLE)

- 31.1. Insurance shall be provided by the awarded bidder/vendor. Prior to execution of the Agreement/Contract a certificate of insurance (COI) complying with the bid documents shall be provided by the bidder/vendor.

End of Terms and Conditions Section



Lee County Insurance Requirements including Pollution Liability

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)

- 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

- d. **Pollution Liability** - Covering property loss and liability arising from pollution-related damages, for sites that have been inspected and found uncontaminated. Transporter moving hazardous products or waste as cargo aboard the transporter's truck:

\$1,000,000 bodily injury / property damage/ cleanup, including wrongful delivery.

**The required minimum limit of liability shown in a. or 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."*



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.*
 - c. Lee County will be given notice prior to cancellation or modification of any stipulated insurance. Such notification will be in writing by registered mail, return receipt requested and addressed to the Risk Manager (P.O. BOX 398 Ft. Myers, FL 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 insure that all subcontractors comply with all insurance requirements.

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 PRICING

- 1.1 Lee County, herein referenced as "County" reserves the right to purchase fuel off of the State of Florida contract, off contract completely, or from another city/county agency located within Florida, if pricing is lower and in the best interest of the County.
- 1.2 Pricing shall be 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. This contract is for normal fuel purchases as well as Federal Emergency Management Agency (FEMA), Florida Department of Transportation (FDOT) & Federal Transit Administration (FTA) funded fuel purchases.
- 1.3 The contracted markup per gallon shall stay fixed across all fuel purchase funding sources utilized under this contract.

2. BASIS OF AWARD

- 2.1 The Basis of Award shall be to the lowest Responsive, Responsible Vendor per Category Total of Category and Category B. The County intends to award a primary and a secondary Vendor per each category (A through B) based on the lowest total bid price per category.

2.1.1 Vendor shall provide in the bid schedule the Base Price Per Gallon and the Vendor Flat Rate Markup per Gallon (excluding tax). The Base Price Per Gallon shall be based upon the average Tampa, Florida price as reported in the "Oil Price Information Services (OPIS)" as of August 3, 2021 at 10:00 AM.

2.1.1 Base Price Per Gallon shall be used for Basis of Award evaluation purposes only. Vendor shall be contracted for Vendor Flat Rate Markup per Gallon (excluding tax) and such markup shall stay fixed across all fuel purchase funding sources and shall not increase without mutual written agreement between the County and the Vendor.

- 2.2 To be considered for award, Vendor must bid either Category A or B (Vendor may bid both) and must bid Category C.

2.2.1 Categories D and E are optional and where bid will be added to the awarded Vendor's contract of services and fee schedule. Where optional categories are not bid, Vendor shall not provide such services to the County unless deemed in the County's best interest and where specifically authorized.

2.2.2 Any Category bid shall have all line items within the category bid. Failure to bid all line items or full line items within a category selected for bid shall deem Vendor as Non-Responsive and therefore ineligible for award.

2.2.3 The cost of the Oil Price Information Service (OPIS) subscription (Category C) and designated Optional services (Category D & E) shall be awarded at the County's discretion. The County reserves the right not to award such items.

- 2.3 The County reserves the right to award in the manner that is in the best interest of the County at its sole discretion.

3. PROJECT TERM

- 3.1 The Vendor shall be responsible for furnishing and delivering to the County requesting Department(s) the commodity or services on an "as needed basis" for a 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.

4. PROJECT FUNDING NOTICE

- 4.1 As notice to all Vendors, this project may be funded in whole or in part with Federal and State Funds through the Federal Emergency Management Agency (FEMA), Florida Department of Transportation (FDOT) & Federal

Transit Administration (FTA). The Vendor agrees to abide by and comply with all Federal terms, conditions, provisions, certifications, affidavits, or otherwise as applicable and stated within this solicitation package and further agrees to incorporate all such clauses, provisions, and regulations into any sub-contracted agreements or relationships Vendor creates to support Vendor's servicing to County under this Agreement..

5. **SUBMITTAL DOCUMENTS**

5.1 Vendor is requested to provide with bid submittal the below items. The County reserves the right to request additional documentation or clarification at any point prior to award and during term of Agreement, inclusive of any renewals. Failure to provide requested submittal documents in a timely manner, at the sole discretion of the County, may deem Vendor non-responsive and ineligible for award, renewal, or continuation of services.

- Details of on-going quality assurance program, including driver training program.
- Spill prevention plan
- Emergency plan
- Safeguards for cross-fueling prevention

6. **LOCAL VENDOR PREFERENCE EXCLUSION**

7. Local Vendor Preference Ordinance has been waived for this solicitation and any and all references contained herein are non-applicable to this solicitation and subsequent contract and/or purchase order(s).

8. **MASTER CONTRACT NOTICE**

8.1 This is a "Master"/"Annual" contract, which is not for any specific project. Work to be performed under this contract will be authorized, scheduled, funded, and accounted for by the issuance of County Purchase Order (PO), by the requesting department. The requesting County department reserves the right to provide additional project clarification details with the issuance of and within or attached to each PO. Such items shall be minor in nature such as providing for service completion dates, delivery locations, delivery and working hours, number of units, etc...

8.2 The Purchase Order will list any alternate funding source such as FEMA, FDOT or FTA. The Vendor shall comply with all associated funding terms, conditions, provisions, certifications, affidavits, or otherwise as applicable and stated within this solicitation package and associated agreement under Supplemental Information and/or where referenced and attached as it applies to each funding type.

End of Special Conditions Section

SCOPE OF WORK AND SPECIFICATIONS

1. GENERAL SCOPE OF WORK

1.1 It is the intent of the Lee County Board of County Commissioners (County) to contract with a qualified Vendor to provide unleaded gasoline and diesel fuel on an as needed basis as well as during emergency situations/events.

1.1.1 Emergency events include, but are not limited to natural disasters such as hurricanes, tornadoes, windstorms, floods, and fires as well as man-made events such as civil unrest and terrorist attacks.

1.2 It is further specified that this bid is to obtain fuels at competitive market rates through a conditional contract for the required materials with suppliers that have access to volumes of substantial petroleum products from nearby ports via contractual allocations or direct ownership and have a proven stable business operations; including provisions for delivery capabilities and business continuity that will ensure prompt and convenient service.

1.3 The County reserves the right to add or remove delivery locations and add or remove fuel types for delivery based on the County's needs and fuel tank delivery sites. No minimum order is guaranteed.

2. FUEL REQUIREMENTS

2.1 A quality motor fuel is desired; contaminated and/or degraded fuel will not be acceptable. The fuel to be provided under this bid must meet the following requirements:

- The supplied gasoline shall be visually free of un-dissolved water, sediment, and suspended matter. It shall be clear and bright at ambient temperatures. Anti-knock index levels, defined as the average of the research octane number and motor octane number (R + M/2) shall be 87 octane as stipulated by Lee County. ASTM standard specifications for automotive gasoline (D439-84 or latest revised ASTM standard or other as dictated by the County on an on-going basis) shall prevail in case of dispute of quality. Ethanol rating/content: E10 is the maximum – E15 fuels are not acceptable under this bid.
- The #2 diesel fuel supplied shall conform to ASTM D975-81 (or latest revised ASTM standard or other as dictated by the County on an on-going basis).
- All fuel (gasoline and diesel motor fuels) shall be volatile hydrocarbon fuel, free from water and suspended matter, and suitable for use as a fuel in internal combustion engines.
- All fuel and fuel products shall meet or exceed State of Florida specifications found at <https://www.flrules.org/gateway/ChapterHome.asp?Chapter=5J-21> or current State of Florida specifications as updated by the State.
- Non-approved additives are prohibited from all products. Octane rating may not be achieved by the adding of an octane booster additive of any sort subsequent to the refinery process.

2.2 Certificates of Analysis certifying that all fuel and fuel products being purchased under any resulting term contract(s) meet the product specifications referenced in these technical specifications may be requested at any time.

3. OPIS REPORTS

- 3.1 The County utilizes the Oil Price Information Service for Tampa Port at 10:00 a.m. (price fluctuates by port and time of day). If the County opts to utilize the Vendor to purchase this OPIS report, the OPIS report needs to be sent via email to various Lee County Departments to include, but not be limited to: Fleet, 2955 Van Buren Street; Lee County Transit, 3401 Metro Pkwy; Lee County Solid Waste, 10550 Buckingham Rd.; and Lee County Utilities, 7401 College Pkwy, Fort Myers, FL, 33907.
- 3.2 The subscription must be for the term of the contract and all renewal periods. Duplications or reproductions of the OPIS report are not acceptable. The OPIS report supplied to the County will be used to monitor the pricing of the fuel supplied by the Vendor. The County reserves the right to purchase the OPIS subscription(s) on their own.

4. DELIVERY REQUIREMENTS

- 4.1 The fuel shall be delivered F.O.B. to various locations throughout contiguous Lee County, as directed (see Attachment A). The County reserves the right to add additional fueling sites to this list as they come on line over the term of this bid.
- 4.2 When the fuel is delivered, a County employee may or may not be present. The delivering driver will meter the product into the tanks, sign and furnish a delivery ticket with the beginning and ending meter readings. The driver shall also be required to stick the tanks before and after delivery for Fleet Management locations. All Fleet delivery sites include the prefix of "CNTY" on the Attachment A. All invoices shall have delivery tickets attached and must reach each delivery location within three (3) business days of delivery. Optional metering arrangements may be considered if based upon State certified metering systems or State calibrated tanks.
- 4.3 Deliveries shall be made as necessary and in a timely manner, to assure continuity of on-going County operations. The awarded vendor(s) shall be provided current "stick readings" by the County for all fuel dispensing locations 2 days per week before 12:00 noon. It will be the responsibility of the vendor to ensure that adequate fuel supplies are available at each location, especially before or during an emergency. The ultimate goal is to ensure that fuel is always available. Awarded vendor or vendors shall endeavor to provide all deliveries within 24 hours of receipt of the County's request and shall notify the County if delivery cannot be made within 24 hours. If awarded vendor cannot deliver the requested fuel, as specified in the contract, within 24 hours of receiving the order, vendor shall notify the requesting department by email and County reserves the right to purchase fuel from the secondary vendor.

Note: Solid Waste and Lee Tran have electronic monitoring systems. A tank monitoring ticket is required with the beginning and ending meter readings for those locations.

- 4.4 Deliveries during emergency situations must be made within a twelve (12) hour period from the request/order for delivery. Should the Vendor be unable to provide such service, the County reserves the right to cancel the purchase without penalty and purchase products from other sources.
- 4.5 Deliveries may be requested to fill generators located at various field locations throughout the County. Request for generator fuel may be made during times of heavy rains, emergency situations, or standard times of need.
- It is anticipated that the County will be purchasing their own fuel truck for fueling of generators in the field. The County also has fuel trailers that the County owns. Pickup of fuel by the County in either mobile fuel truck/trailer may be needed.

4.6 There shall be no holding of order to fill a truck prior to delivery. Before beginning to unload fuel, the delivery driver must wait for any vehicles to finish fueling, and then once the unloading is in process, prevent any vehicle from starting to fuel.

4.7 Adequate training must be provided to delivery drivers and appropriate personnel to ensure the safety of County employees and equipment.

4.8 All deliveries shall comply with all applicable State, local and Department of Environmental regulation guidelines.

5. LEE TRAN DELIVERY REQUIREMENTS

5.1 Before dispensing fuel, the driver must check in with the LeeTran Parts Department. The driver must obtain a tank monitoring ticket with beginning and ending meter readings. The driver will provide the tank monitoring tickets and fuel manifest to the Shop Maintenance Department and must obtain a LeeTran employee's signature attached to the manifest.

6. SOLID WASTE DELIVERY REQUIREMENTS

6.1 Before dispensing fuel the driver must check in as follows:

- Lee/Hendry Transfer Stations (LaBelle and Clewiston locations) – Driver checks in at the scale house and waits for staff to unlock the tanks.
- Lee/Hendry Landfill – Driver checks in at scale and waits for staff to authorize unloading.
- Waste to Energy Location (10550 Buckingham Road) – Driver checks in at maintenance shop and waits for staff to unlock the tanks.

6.2 In addition, at all Solid Waste locations, the Vendor must perform stick readings and provide before and after measurements on the packing slip.

7. SPILL PREVENTION

7.1 Vendor shall have an established, ongoing, fuel spill prevention plan and procedure to follow in the event there is an accidental fuel spill. Vendors shall submit details of this program with their bid submission. No County employee may authorize an over-fill. Tanks shall only be filled to 90-percent of capacity. In case of a spill or overfill, the Vendor's employee shall immediately verbally notify Lee County Fleet Management at 239-533-5338, Lee Tran at 239-533-0335, or Solid Waste Division at 239-533-8000 (as applicable and appropriate) Utilities/generator contact person Larry Clifford 239-533-5642 or cell 239-839-4831 and the appropriate emergency response agencies. In either case, a written follow up shall be delivered to the appropriate management personnel at the affected facility within forty-eight (48) hours of the spill. The cost of the site cleanup will be the responsibility of the Vendor. Final inspection by Department of Environmental Protection or another official government agency will be required before any additional invoices are released for payment.

8. EMERGENCY RESPONSE

8.1 A specific plan to provide the County with uninterrupted delivery of fuel before or during natural disasters or emergencies, such as hurricanes, storm, fire, etc., or during fuel supply shortages should be submitted

with bid. The plan shall include the names of at least two personal contacts and a method of contact twenty-four (24) hours a day, seven (7) days per week, in the event of a disaster.

9. QUALITY ASSURANCE PROGRAM

9.1 Vender shall have an established on-going quality assurance program, including but not limited to: spill prevention, driver training and cross-fueling prevention program. Bidders should submit details of this program with their bid.

10. CORRECTION FOR TEMPERATURE

10.1 The Vendor shall make adjustment and allowance in gallon age of products to compensate for change in temperature. Such correction shall be based on 60 degrees Fahrenheit as normal. Both the delivery reading, product temperature and corrected reading should be shown on the invoice.

10.2 Payment shall be made on net gallons dropped not gross. The County is tax exempt; therefore, the Vendor shall verify with the County to determine their tax exemption status and its applicability to state, federal sales, use and/or transportation and excise taxes or any other additional taxes as mandated by law.

11. ESTIMATED CONSUMPTION

11.1 Last fiscal year, Lee County Fleet purchased approximately 524,383 gallons of unleaded fuel and 474,147 gallons of diesel fuel. An additional 70,234 gallons of unleaded and 835,845 gallons of diesel were purchased by other Lee County departments as listed herein. These amounts are given for bidder's guidance only. No minimum quantity is guaranteed or implied.

12. STORAGE CAPACITY

12.1 The County's current storage capacity is listed on Attachment A. Additionally, the County has numerous emergency generators at various locations, which require fueling when requested. A sample list of the County's current generator locations list is attached as Attachment B.

13. VARIABLE PRICING

13.1 The Vendor shall submit invoices based upon "OPIS" (Oil Price Information Service), a Vendor Flat Rate Markup per Gallon (to include overhead, profit, etc.) that shall be added to the "Base Price per Gallon", and the appropriate taxes. The pricing shall be allowed to vary one time per day based on OPIS. Total price shall be firm and effective for all orders delivered before the following day.

13.2 The "Base Price per Gallon" price shall be based upon the average Tampa, Florida price as reported in "OPIS" through a daily report for Unleaded 87 Octane, and #2 Ultra Low Sulfur Diesel Clear and #2 Ultra Low Sulfur Diesel Dyed. Prices shall be based upon delivery date only (not invoice date).

14. PAYMENT

14.1 The County shall process all invoices within 30 calendar days of receipt. From fuel delivery date to invoicing date, shall be no more than three (3) business days. (It is preferred that the invoice date be the same as the delivery date if possible.) Invoices shall fully itemize all charges including taxes, temperature correction, time of delivery, before and after delivery stick readings, net and gross gallons, and segregate them by tank, date and location. If any split loads are received, the Vendor must provide

separate invoices for each fuel type. Any penalties or late fees assessed by Lee County because of late invoicing on part of the Vendor be the responsibility of the Vendor's.

- 14.2 NOTE: The County's payment terms are NET 30 – no exceptions. Credit cards may not and shall not be used for the payment of fuel under this contract.

15. SUB-CONTRACTORS

- 16.1 The use of sub-contractors to transport fuel will be allowed under this bid; however, the primary vendor shall be responsible for all deliveries from fueling location to the Lee County facility including unloading of fuel. The Lee County contract shall be exclusively with the Vendor of record. All sub-contractors must comply with the terms and conditions of this bid.

16. MAJOR BREAKDOWNS/NATURAL DISASTERS

- 17.1 The 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, to this product or service in the event of major breakdowns or natural disasters. Lee Tran must receive priority for fuel as they are classified as first responders for the evacuation of individuals during a disaster.
- 17.2 The County reserves the right to purchase the product or service listed in this bid outside of the resulting contract or contracts in an emergency situation. The County reserves the right to purchase the fuel for their mobile fuel truck or trucks/trailers outside of this contract, if purchasing outside of the contract to fuel the County's fuel truck/trucks/trailer is found in the best interest of the County; e.g. cost savings.

End of Scope of Work and Specifications Section

SUPPLEMENTAL INFORMATON

1. **ALTERNATE FUNDING**

- 1.1 As stated herein, purchases under this agreement may be funded in whole or in part with Federal and/or State Funds through the Federal Emergency Management Agency (FEMA), Florida Department of Transportation (FDOT) and/or the Federal Transit Administration (FTA).
- 1.2 The Vendor agrees to abide by and comply with all Federal terms, conditions, provisions, certifications, affidavits, or otherwise as applicable and stated within this solicitation package and further agrees to incorporate all such clauses, provisions, and regulations into any sub-contracted agreements or relationships Vendor creates to support Vendor's servicing to County under this Agreement..
- 1.3 The Purchase Order will list any alternate funding sources such as FEMA, FDOT or FTA should they apply to that particular Purchase Order.
- 1.4 In the event of a conflict between the Contract Document terms, Federal Guidelines, State, Local, or other applicable requirements associated with this project that is unable to be resolved through the Order of Precedence as defined herein, the CONSULTANT/CONTRACTOR/VENDOR should provide a written description of such conflict to the County Project Manager/Purchase Point of Contact in order to receive final guidance on proceeding with conflicted items.

2. **STATE FUNDING (FDOT)**

- 2.1 When a Purchase Order is issued for services that indicate State Funding usage, the following clauses shall apply in addition to all regular clauses and specification details stated herein.

2.1.1 **INSPECTOR GENERAL**

- 2.1.1.1 Pursuant to Florida Statute 20.055(5), CONSULTANT/CONTRACTOR/VENDOR shall cooperate and comply with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to Florida Statute 20.055.

- 2.1.1.2 By participating in this solicitation the CONSULTANT/CONTRACTOR/VENDOR shall permit the State of Florida Department of Transportation authorized representatives to inspect all work, materials, payrolls, records; and to audit the books, records and accounts pertaining to the financing and development of the project.

2.1.2 **RESTRICTIONS, PROHIBITS, CONTROLS, AND LABOR PROVISIONS.**

- 2.1.2.1 A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a CONSULTANT/CONTRACTOR/VENDOR, or under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

- 2.1.2.2 In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a CONSULTANT/CONTRACTOR/VENDOR, supplier, SUBCONSULTANT/CONTRACTOR/VENDOR, or consultant under a contract with any public entity, and may not transact business with any public entity.

- 2.1.2.3 An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied or have further been determined by the Department to be a non-responsible CONSULTANT/CONTRACTOR/VENDOR may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the Agency.

2.1.2.4 Neither the Agency nor any of its CONSULTANT/CONTRACTOR/VENDOR or their SUB-CONSULTANT/CONTRACTOR/VENDOR shall enter into any contract, subcontract or arrangement in connection with the Project or any property included or planned to be included in the Project in which any member, officer, or employee of the Agency or the locality during tenure or for two (2) years thereafter has any interest, direct or indirect. If any such present or former member, officer or employee involuntarily acquires or had acquired prior to the beginning of tenure any such interest, and if such interest is immediately disclosed to the Agency, the Agency, with prior approval of the Department, may waive the prohibition contained in this paragraph provided that any such present member, officer or employee shall not participate in any action by the Agency or the locality relating to such contract, subcontract or arrangement. The Agency shall insert in all contracts entered into in connection with the Project or any property included or planned to be included in any Project, and shall require CONSULTANT/CONTRACTOR/VENDOR to insert in each of their subcontracts, the following provision: "No member, officer or employee of the County, Proposer, or of the locality during his tenure or for 2 years thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof."

2.1.2.5 The provisions of this paragraph shall not be applicable to any agreement between the COUNTY and its fiscal depositories or to any agreement for utility services the rates for which are fixed or controlled by a governmental agency.

2.1.3 EMPLOYMENT ELIGIBILITY (USING E-VERIFY).

2.1.3.1 Shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Agency during the term of the Agreement; and

2.1.3.2 Shall expressly require any CONSULTANT/CONTRACTOR/VENDOR S/consultants and SUB-CONSULTANT/CONTRACTOR/VENDOR performing work or providing services pursuant to the Agreement to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the CONSULTANT/CONTRACTOR/VENDOR /consultant and SUB-CONSULTANT/CONTRACTOR/VENDOR during the Agreement term.

2.1.3.3 Participating CONSULTANT/CONTRACTOR/VENDOR are required to enroll in the E-Verify program and the County requests CONSULTANT/CONTRACTOR/VENDOR provide acceptable evidence of their enrollment. Acceptable evidence consists of a copy of the properly completed E-Verify Company Profile page or a copy of the fully executed E-Verify Memorandum of Understanding for the company.

2.1.3.4 Additionally, CONSULTANT/CONTRACTOR/VENDOR shall require all SUB-CONSULTANT/CONTRACTOR/VENDOR to use the E-Verify system. For additional information regarding the Employment Eligibility Verification System (E-Verify) program visit the following website: <https://www.dhs.gov/E-Verify>. It shall be the CONSULTANT/CONTRACTOR/VENDOR's responsibility to familiarize themselves with all rules and regulations governing this program.

2.1.4 AMERICANS WITH DISABILITIES ACT

2.1.4.1 All design must be accessible to individuals with disabilities pursuant to Titles II and III of the Americans with Disabilities Act.

2.1.5 NO GOVERNMENT OBLIGATION TO THIRD PARTIES

2.1.5.1 CONSULTANT/CONTRACTOR/VENDOR acknowledge and agree that, notwithstanding any concurrence by the State of Florida Department of Transportation in, or approval of the solicitation or award of the underlying Contract, absent the express written consent of the State of Florida Department of Transportation, the State of Florida Department of Transportation is not a party to the Contract and shall not be subject to any obligations or liabilities to the CONSULTANT/CONTRACTOR/VENDOR or any other party pertaining to any matter resulting from the underlying Contract.

2.1.5.2 The CONSULTANT/CONTRACTOR/VENDOR agrees to include the above clause in each subcontract financed in whole or in part with State assistance provided by State of Florida Department of Transportation. It

is further agreed that the clause shall not be modified, except to identify the SUB-CONSULTANT/CONTRACTOR/VENDOR who will be subject to its provisions.

2.1.6 **DISADVANTAGED BUSINESS ENTERPRISE (DBE)**

2.1.6.1 The CONSULTANT/CONTRACTOR/VENDOR and/or SUB-CONSULTANT/CONTRACTOR/VENDOR shall not discriminate on the basis of race, color, national origin, or sex in the award and the performance of this contract.

2.1.6.2 The CONSULTANT/CONTRACTOR/VENDOR shall carry out applicable requirements of 49 C.F.R. part 26 in the award and administration of DOT-assisted contracts. Failure by the CONSULTANT/CONTRACTOR/VENDOR to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the County deems appropriate, which may include, but is not limited to:

- Withholding monthly progress payments;
- Assessing sanctions;
- Liquidated damages; and/or
- Disqualifying the CONSULTANT/CONTRACTOR/VENDOR from future bidding as non-responsible. 49 C.F.R. § 26.13(b).
- FDOT link to DBE Directory:
<https://fdotxwp02.dot.state.fl.us/EqualOpportunityOfficeBusinessDirectory/>

2.1.7 **EQUAL EMPLOYMENT OPPORTUNITY**

2.1.7.1 The CONSULTANT/CONTRACTOR/VENDOR and/or SUB-CONSULTANT/CONTRACTOR/VENDOR shall not discriminate against any employee or applicant for employment because of race, age, creed, color, sex or national origin. The CONSULTANT/CONTRACTOR/VENDOR and/or SUB-CONSULTANT/CONTRACTOR/VENDOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, age, creed, color, sex, or national origin. Such action shall include, but not be limited to, the following: Employment upgrading, demotion, or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

2.1.7.2 The CONSULTANT/CONTRACTOR/VENDOR agrees to include the above clause in each subcontract financed in whole or in part with State assistance provided by State of Florida Department of Transportation. It is further agreed that the clause shall not be modified, except to identify the SUB-CONSULTANT/CONTRACTOR/VENDOR who will be subject to its provisions.

2.1.8 **LOBBYING**

2.1.8.1 No funds received pursuant to this solicitation and Agreement may be expended for lobbying the Legislature, the judicial branch or a state agency.

2.1.9 **CONE OF SILENCE**

2.1.9.1 Per Florida Statute 287.057 (23): "Respondents to this solicitation or persons acting on their behalf may not contact, between the release of the solicitation and the end of the 72-hour period following the agency posting the notice of intended award, excluding Saturdays, Sundays, and state holidays, any employee or officer of the executive or legislative branch concerning any aspect of this solicitation, expect in writing to the procurement officer or as provided in the solicitation documents. Violation of this provision may be grounds for rejecting a response."

2.1.10 **INDEMNIFICATION & INSURANCE**

2.1.10.1 "To the extent provided by law, CONSULTANT/CONTRACTOR/VENDOR shall indemnify, defend, and hold harmless the COUNTY and the State of Florida, Department of Transportation, including the Department's officers, agents, and employees, against any actions, claims, or damages arising out of, relating to, or resulting from negligent or wrongful act(s) of CONSULTANT/CONTRACTOR/VENDOR, or any of its officers, agents, or employees, acting within the scope of their office or employment, in connection with the rights granted to or

exercised by CONSULTANT/CONTRACTOR/VENDOR hereunder, to the extent and within the limitations of Section 768.28, Florida Statutes.

- 2.1.11 The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28. Nor shall the same be construed to constitute agreement by CONSULTANT/CONTRACTOR/VENDOR to indemnify COUNTY for the negligent acts or omissions of COUNTY, its officers, agents, or employees, or third parties. Nor shall the same be construed to constitute agreement by CONSULTANT/CONTRACTOR/VENDOR to indemnify the Department for the negligent acts or omissions of the Department, its officers, agents, or employees, or third parties. This indemnification shall survive the termination of this Agreement.”

3. **FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)**

- 3.1 When a Purchase Order is issued for services that indicate Federal Emergency Management Agency (FEMA) Funding usage the following clauses apply in addition to all regular clauses and specifications stated herein.

- 3.1.1 When property or services are procured using funds derived from a Federal grant or agreement whether direct to the County or “pass-through” from another entity, the County is required to and will follow the Federal procurement standards in the “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards”, 2 C.F.R. Sections 200.213 and 200.317 through 200.326.

- 3.1.2 Federally funded Purchases are further subject to federal requirements including, but no limited to, those set forth in 2 C.F.R. Part 200, Appendix II and as otherwise may be listed below.

- 3.2 Contract Cost and Price: For every procurement in excess of \$100,000, including contract modifications or change orders greater than \$100,000, the County shall perform a cost or price analysis in connection with every procurement subject to Federal procurement guidelines, which shall include an independent estimate of cost prior to issuing bids or proposals. For proposals where price is not considered in the award, profit shall be negotiated as a separate element of the price. In determining whether profit is fair and reasonable, the County shall consider the complexity of work, the risk to be borne by the contractor, the contractor’s investment, the amount of subcontracting necessary, the quality of the contractor’s record and past performance, and industry profit rates for the surrounding geographical area. “Cost Plus Percentage” methods for determining profit may not be used.

3.3 **EQUAL EMPLOYMENT OPPORTUNITY:**

- 3.3.1 During the performance of this contract, the contractor agrees as follows:

- A. The CONSULTANT/CONTRACTOR/VENDOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The CONSULTANT/CONTRACTOR/VENDOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONSULTANT/CONTRACTOR/VENDOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- B. The CONSULTANT/CONTRACTOR/VENDOR will, in all solicitations or advertisements for employees placed by or on behalf of the CONSULTANT/CONTRACTOR/VENDOR, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- C. The CONSULTANT/CONTRACTOR/VENDOR will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This

provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the CONSULTANT/CONTRACTOR/VENDOR's legal duty to furnish information.

- D. The CONSULTANT/CONTRACTOR/VENDOR will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the CONSULTANT/CONTRACTOR/VENDOR's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- E. The CONSULTANT/CONTRACTOR/VENDOR will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- F. The CONSULTANT/CONTRACTOR/VENDOR will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- G. In the event of the CONSULTANT/CONTRACTOR/VENDOR's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the CONSULTANT/CONTRACTOR/VENDOR may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- H. The CONSULTANT/CONTRACTOR/VENDOR will include the provisions of paragraphs (a) through (h) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each sub-CONSULTANT/CONTRACTOR/VENDOR. The CONSULTANT/CONTRACTOR/VENDOR will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the CONSULTANT/CONTRACTOR/VENDOR becomes involved in, or is threatened with, litigation with a sub-CONSULTANT/CONTRACTOR/VENDOR as a result of such direction, the CONSULTANT/CONTRACTOR/VENDOR may request the United States to enter into such litigation to protect the interests of the United States.

3.4. MAINTENANCE OF RECORDS:

- 3.4.1. The CONSULTANT/CONTRACTOR/VENDOR will keep and maintain adequate records and supporting documentation applicable to all of the services, work, information, expense, costs, invoices and materials provided and performed pursuant to the requirements of this agreement. Said records and documentation will be retained by the CONSULTANT/CONTRACTOR/VENDOR for a minimum of five (5) years from the date of termination of this agreement, or for such period is required by law.
- 3.4.2. CONSULTANT/CONTRACTOR/VENDOR shall provide, when requested, access by the County, Federal granting agency, the Comptroller General of the United States, or any of their duly authorized representatives

to any books, documents, papers, and records of the CONSULTANT/CONTRACTOR/VENDOR which are directly pertinent to this contract for the purpose of making audit, examination, excerpts, and transcriptions.

- 3.4.3. CONSULTANT/CONTRACTOR/VENDOR agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- 3.4.4. CONSULTANT/CONTRACTOR/VENDOR agrees to provide the FEMA Administrator or his authorized representatives' access to construction or other work sites pertaining to the work being completed under the contract.
- 3.4.5. CONSULTANT/CONTRACTOR/VENDOR shall retain all records associated with this solicitation and any agreements that are created in response to the solicitation for a period of no less than five (5) years after final payments and all other pending matters are closed.
- 3.4.6. The County and its authorized agents shall, with reasonable prior notice, have the right to audit, inspect and copy all such records and documentation as often as the County deems necessary during the period of this agreement, and during the period as set forth in the paragraphs above; provided, however, such activities shall be conducted only during normal business hours of the CONSULTANT/CONTRACTOR/VENDOR and at the expense of the County.

3.5. DHS SEAL, LOGO, AND FLAGS

- 3.5.1. The CONSULTANT/CONTRACTOR/VENDOR shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

3.6. LOCAL VENDOR PREFERENCE EXCLUSION

- 3.6.1. Local Vendor Preference Ordinance has been waived for this service/purchase request and any and all references contained herein are non-applicable to this request and subsequent contract and/or purchase order(s).

3.7. COMPLIANCE WITH FEDERAL LAW, REGULATIONS, and EXECUTIVE ORDERS

- 3.7.1. This is an acknowledgment that FEMA financial assistance will be used only to fund the services requested. The CONSULTANT/CONTRACTOR/VENDOR will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

3.8. NO OBLIGATION BY THE FEDERAL GOVERNMENT

- 3.8.1. The Federal Government is not a party to this solicitation and is not subject to any obligations or liabilities to the non-Federal entity, CONSULTANT/CONTRACTOR/VENDOR, or any other party pertaining to any matter resulting from the Solicitation.

3.9. FRAUD and FALSE OR FRAUDULENT OR RELATED ACTS

- 3.9.1. The CONSULTANT/CONTRACTOR/VENDOR acknowledges that 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims and Statements) applies to the CONSULTANT/CONTRACTOR/VENDORS actions pertaining to this solicitation.

3.10. SUBCONTRACTS

- 3.10.1. The selected firm must require compliance with all federal requirements of all sub-CONSULTANT/CONTRACTOR/VENDORS performing work for Prime CONSULTANT/CONTRACTOR/VENDOR under this Agreement, by including these federal requirements in all contracts with sub-CONSULTANT/CONTRACTOR/VENDORS.

3.11. CONFLICT OF INTEREST:

- 3.11.1. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officers, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity must neither solicit nor accept gratuities, favors, or anything of monetary value from CONSULTANT/CONTRACTOR/VENDORS or parties to subcontracts.

3.12. EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM (E-VERIFY):

- 3.12.1. Statutes and Executive Orders require employers to abide by the Immigration laws of the United States and to employ only individuals who are eligible to work in the United States. The Employment Eligibility Verification System (E-Verify) operated by the U.S. Department of Homeland Security (DHS) in partnership with the Social Security Administration (SSA) to provides an internet-based means of verifying employment eligibility of workers in the united States; it is not a substitute for any other employment eligibility verification requirements.
- 3.12.2. Sub-CONSULTANT/CONTRACTOR/VENDOR requirement: Vendors shall require all subcontracted vendors to flow down the requirement to use E-Verify to sub-CONSULTANT/CONTRACTOR/VENDORS.
- 3.12.3. It shall be the vendor's responsibility to familiarize themselves with all rules and regulations governing this program.
- 3.12.4. For additional information regarding the Employment Eligibility Verification System (E-Verify) program visit the following website: <http://www.dhs.gov/E-Verify>.

3.13. ENERGY POLICY AND CONSERVATION ACT

- 3.13.1. CONSULTANT/CONTRACTOR/VENDOR must follow any mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).
- 3.13.2. **SMALL AND MINORITY BUSINESS, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS:**
- 3.13.3. Place qualified small and minority businesses and women's business enterprises on solicitation lists.
- 3.13.4. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources.
- 3.13.5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.
- 3.13.6. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises.
- 3.13.7. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises.
- 3.13.8. Requiring the prime CONSULTANT/CONTRACTOR/VENDOR, if subcontracts are to be let, to take the five previous affirmative steps.

3.14. TERMINATION FOR CAUSE AND/OR CONVENIENCE:

- 3.14.1. The County, by written notice to the CONSULTANT/CONTRACTOR/VENDOR, may terminate this Agreement with or without cause (for convenience), in whole or in part, when the County determines in its sole discretion that it is in the County's best interest to do so. In the event of termination the CONSULTANT/CONTRACTOR/VENDOR will not incur any new obligations for the terminated portion of the Agreement after the CONSULTANT/CONTRACTOR/VENDOR has received notification of termination.
- 3.14.2. If the Agreement is terminated before performance is completed, the CONSULTANT/CONTRACTOR/VENDOR shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed an amount that is the same percentage of the Agreement price as the amount of work satisfactorily completed is a percentage of the total work called for by this Agreement. All work in progress shall become the property of the County and shall be turned over promptly by the CONSULTANT/CONTRACTOR/VENDOR.

3.15. SUSPENSION AND DEBARMENT

- 3.15.1. This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the CONSULTANT/CONTRACTOR/VENDOR is required to verify that none of the CONSULTANT/CONTRACTOR/VENDOR, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- 3.15.2. The CONSULTANT/CONTRACTOR/VENDOR must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- 3.15.3. This certification is a material representation of fact relied upon by the awarded CONSULTANT/CONTRACTOR/VENDOR. If it is later determined that the CONSULTANT/CONTRACTOR/VENDOR did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to Lee County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- 3.15.4. The CONSULTANT/CONTRACTOR/VENDOR agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

3.16. RECOVERED MATERIALS

- 3.16.1. In the performance of this contract, the CONSULTANT/CONTRACTOR/VENDOR shall make maximum use of products containing recovered material that are EPA-designated items unless the product cannot be acquired:
- Competitively within a timeframe providing for compliance with the contract performance schedule;
 - Meeting contract performance requirements; or
 - At a reasonable price.
- 3.16.2. Information about this requirement is available EPA'S Comprehensive Procurement Guidelines web site, <http://www.epa.gov/cpg/> The list of EP A- designate items is available at <http://www.epa.gov/cpg/products/htm>

3.17. REMEDIES

3.17.1. In the event the CONSULTANT/CONTRACTOR/VENDOR fails to satisfactorily perform or has failed to adhere to the terms and conditions under this Agreement, the County may, upon fifteen (15) calendar days written notice to the CONSULTANT/CONTRACTOR/VENDOR and upon the CONSULTANT/CONTRACTOR/VENDOR's failure to cure within those fifteen (15) calendar days, exercise any one or more of the following remedies, either concurrently or consecutively:

3.17.1.1. Withhold or suspend payment of all or any part of a request for payment.

3.17.1.2. Require that the CONSULTANT/CONTRACTOR/VENDOR refund to the County any monies used for ineligible purposes under the laws, rules and regulations governing the use of these funds.

3.17.1.3. Exercise any corrective or remedial actions, to include but not be limited to:

3.17.1.4. Requesting additional information from the CONSULTANT/CONTRACTOR/VENDOR to determine the reasons for or the extent of non-compliance or lack of performance;

3.17.1.5. Issuing a written warning to advise that more serious measures may be taken if the situation is not corrected;

3.17.1.6. Advising the CONSULTANT/CONTRACTOR/VENDOR to suspend, discontinue or refrain from incurring costs for any activities in question; or

3.17.1.7. Requiring the CONSULTANT/CONTRACTOR/VENDOR to reimburse the County for the amount of costs incurred for any items determined to be ineligible.

3.18. OTHER REMEDIES AND RIGHTS:

3.18.1. Pursuing any of the above remedies will not keep the County from pursuing any other rights or remedies, which may be otherwise available under law or in equity. If the County waives any right or remedy in this Agreement or fails to insist on strict performance by the CONSULTANT/CONTRACTOR/VENDOR, it will not affect, extend or waive any other right or remedy of the County, or affect the later exercise of the same right or remedy by the County for any other default by the CONSULTANT/CONTRACTOR/VENDOR.

3.18.2. Unless otherwise provided by the Contract, all claims, counter-claims, disputes and other matters in question between the County and the CONSULTANT/CONTRACTOR/VENDOR arising out of or relating to the Agreement between the parties, or the breach of it, that cannot be resolved by and between the parties after conferring in good faith, will be decided by a court of competent jurisdiction pursuant to Florida law. If such dispute is in state court, venue shall be in the Twentieth Judicial Circuit Court in and for Lee County, Florida. If in federal court, venue shall be in the U.S. District Court for the Middle District of Florida, Ft. Myers Division.

3.19. CONTRACT WORK HOURS & SAFETY STANDARDS (40 U.S.C. 3701-3708).:

3.19.1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

- 3.19.2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
- 3.19.3. Withholding for unpaid wages and liquidated damages. The State of Florida Division of Emergency Management shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
- 3.19.4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.
- 3.20. **CLEAN AIR ACT**
- 3.20.1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- 3.20.2. The contractor agrees to report each violation to the FEMA and the Regional Office of the Environmental Protection Agency and understands and agrees that the FEMA and the Regional Office of the Environmental Protection Agency will, in turn, report each violation as required to assure notification to the County, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- 3.20.3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.
- 3.21. **FEDERAL WATER POLLUTION CONTROL ACT**
- 3.21.1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- 3.21.2. The contractor agrees to report each violation to the FEMA and the Regional Office of the Environmental Protection Agency and understands and agrees that the FEMA and the Regional Office of the Environmental Protection Agency will, in turn, report each violation as required to assure notification to the County, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- 3.21.3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

3.21.4. **BYRD ANTI-LOBBYING AMENDMENT**

3.21.4.1. CONSULTANT/CONTRACTOR/VENDORS who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with nonfederal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

3.22. **DOMESTIC PREFERENCES FOR PROCUREMENT (2 C.F.R. § 200.322)**

3.22.1. As appropriate and to the greatest extent consistent with law, state and non-state entities should, to the greatest extent practicable under its FEMA award, provide a preference for the purchase of goods, products or materials produced in the United States (including but not limited to iron, aluminum, steel, cement and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award. 2 C.F.R. § 200.322 also provides specific definitions for “Produced in the United States” and “manufactured products” that states should review.

3.23. **PROHIBITION ON CONTRACTING FOR COVERED TELECOMMUNICATIONS OR SERVICES (2 C.F.R. § 200.216)**

3.23.1.2 C.F.R. § 200.216 prohibits state and non-state entities from obligating or expending loan or grant funds to procure or obtain, extend or renew a contract to procure or obtain, or enter into a contract (or extend or renew a contract) to procure or obtain, equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as a critical technology as part of any system as identified in Section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (FY 2019 NDAA), Pub. L. No. 115-232 (2018) and 2 C.F.R. §§ 200.216, 200.327, 200.471, and Appendix II to 2 C.F.R. Part 200. See Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services- Interim Policy for additional information.

4. **FEDERAL TRANSIT AUTHORITY**

4.1 When a Purchase Order is issued for services that indicate Federal Transit Authority (FTA) Funding usage the clauses of this section apply in addition to all regular clauses and specification stated herein.

4.1.1 Provided with this solicitation is the *Lee County Transit Grant-Funded Procurement General Provisions*. The Vendor shall be required to abide by and comply with all terms, conditions, provisions, and equivalent as found therein and associated with the *Procurement Type – MATERIALS & SUPPLIES* as found on page 31 of the referenced document. All such referenced terms and clauses shall be passed down from Prime Vendor to all sub-contractors/consultants as described herein.

4.1.1.1 Fuel is not subject to Buy America. Therefore it's notation as applicable on the matrix may be excluded.

4.1.2 By participating in this solicitation the Vendor shall comply with all federal, state, and local regulations, including, but not limited to, nondiscrimination, wages, social security, worker's compensation, licenses, and registration requirements.

4.1.3 No person, on the grounds of race, creed, color, religion, national origin, age, gender, or disability, shall be excluded from participation in; be denied the proceeds or benefits of; or be otherwise subjected to discrimination in performance of this Agreement.

4.1.4 This solicitation shall be governed by and construed in accordance with all applicable State and Federal laws, rules, and regulations, included those identified in the solicitation package. Any express reference in this solicitation and any related Agreements/Contracts executed between the prime Vendor and sub-contractors/consultants to a particular statute, rule, or regulation in no way implies that no other statute, rule, or regulation applies.

- 4.1.5 The Vendor shall be bound by the terms as stated within this solicitation package, any and all associated Agreement(s), and by all applicable state and federal laws and regulations, and the Vendor shall hold the Federal Transit Authority and Lee County harmless against all claims of whatever nature arising out of the Vendor's performance of work under this solicitation, to the extent allowed and required by law.
- 4.1.6 The Vendor shall indicate whether the Vendor and/or sub-contractors/consultants are Disadvantaged Business Enterprises (DBE). The County encourages the utilization and participation of DBEs in procurements, and evaluation proceedings will be conducted within the established guidelines regarding equal employment opportunity and nondiscriminatory action based upon the grounds of race, color, sex or national origin. Interested certified Disadvantaged Business Enterprise (DBE) firms as well as other minority-owned firms are encouraged to respond.

END OF SUPPLEMENTAL INFORMATON

FORMS DESCRIPTION & INSTRUCTIONS

INVITATION TO BID

This table provides a brief list, description, and instructions regarding the standard requested forms that should be submitted with all bids or proposals. This is not intended to be an all-inclusive list of forms required for your submission, but rather a guide to assist in completion of the County's standard forms.

<u>Form #</u>	<u>Title/Description</u>
1	<p><u>Solicitation Response Form</u></p> <p>All signatures must be by a corporate authorized representative, witnessed, and corporate and/or notary seal (as applicable.) The corporate or mailing address must match the company information as it is listed with the Florida Department of State Division of Corporations. Attach a copy of the web-page(s) from http://www.sunbiz.org as certification of this required information. Sample attached for your reference.</p> <p>Verify that all Addenda and tax identification number have been provided.</p>
1a	<p><u>Bid/Proposal Form</u></p> <p>This form is used to provide itemization of project cost. A more detailed "schedule of values" may be requested by the County.</p>
*	<p><u>Business Relationship Disclosure Requirement</u></p> <p>Sections 112.313(3) and 112.313(7), F.S., prohibit certain business relationships on the part of public officers and employees, their spouses, and their children. If this <u>disclosure is applicable, the Bidder must request the form</u> entitled "INTEREST IN COMPETITIVE BID FOR PUBLIC BUSINESS" (Required by § 112.313(12)(b), F.S.) to be completed and <u>returned with the Solicitation Response</u>. It is the Bidder's responsibility to request the form and disclose this relationship; failure to do so may result in being declared non-responsive.</p> <p>NOTICE: UNDER THE PROVISIONS OF § 112.317, F.S., A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR, AND MAY BE PUNISHED BY, ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.00.</p>
2	<p><u>Affidavit Certification Immigration Laws</u></p> <p>Submission of this form constitutes acknowledgement that the Bidder is in compliance in regard to all applicable immigration laws.</p>
3	<p><u>Reference Survey</u></p> <p>Provide this form to reference respondents. <u>For Bids, this form will be requested from the apparent low Bidder prior to the award. (not required to submit with bid)</u></p> <ol style="list-style-type: none"> Section 1: Bidder/Proposer to complete with <u>reference respondent's</u> information prior to providing to them for their response. (This is not the Bidder/Proposer's information.) Section 2: Enter the name of the Bidder/Proposer; provide the project information in which the reference respondent is to provide a response. The <u>reference respondent</u> should complete "Section 3." Section 4: The reference respondent to print and sign name Three (3) Reference responses are to be provided upon request. Failure to obtain reference surveys may make your company non-responsive.

4 *Negligence or Breach of Contract Disclosure Form*

The form may be used to disclose negligence or breach of contract litigation that your company may have been a part of over the past ten (10) years. You may need to duplicate this form to list all history. If the Bidder has more than ten (10) lawsuits, you may narrow them to litigation of the company or subsidiary submitting the Solicitation Response. Include, at a minimum, litigation for similar projects completed in the State of Florida. Final outcome should include in whose favor the litigation was settled and whether a monetary amount was awarded. The settlement amount may remain anonymous.

If you have **no litigation**, enter **"None"** in the first **"type of incident"** block of the form. Please do not write N/A on this form.

5 *Affidavit - Principal Place of Business*

Certifies Bidder's location information.

6 *Sub-Contractor/Consultant List*

To be completed and returned when sub-contractors/consultants are to be utilized and are known at the time of the submission.

7 *Public Entity Crime Form*

Any person or affiliate, as defined by statute, who has been placed on the convicted vendor list following a conviction for a public entity crime, may not submit a Bid on a Contract to provide any goods or services to the County; may not submit a Bid on a contract with the County for the construction or repair of a public building or a public work; may not submit Bids or leases of real property to the County; may not be Awarded or perform Work as a contractor, supplier, subcontractor, or consultant under a contract with the County, and may not transact business with the County in excess of \$25,000.00 for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

*** *Bid/Proposal Label***

Self-explanatory. Please affix to the outside of the sealed submission documents.

8 *Lobbying***9 *Debarment and Suspension****** *E-Verify*****10 *Immigration Law Affidavit Certification*****11 *Federal Certification regarding lobbying*****12 *Certification Regarding Debarment, Suspension, Ineligibility And Voluntary Exclusion***

Local Business Tax Account (as applicable) issued by City and/or County entity. This is necessary for all Florida vendors.

It is the Bidder's responsibility to ensure the Solicitation Response is mailed or delivered in time to be received no later than the specified opening date and time. (If Solicitation is not received prior to the deadline, it cannot be considered or accepted)

Form 1 – Solicitation Response Form

V09/12/2016



LEE COUNTY PROCUREMENT MANAGEMENT
SOLICITATION RESPONSE FORM

Date Submitted: 8/5/21 Bid Due Date: 8/10/2021

SOLICITATION IDENTIFICATION: B200480ANB

SOLICITATION NAME: Fuel Purchase - Annual

COMPANY NAME: Palm Dale Oil Company Inc.

NAME & TITLE: (TYPED OR PRINTED) Lochlan Cheatham President

BUSINESS ADDRESS: (PHYSICAL) 2958 Fowler St. Fort Myers FL 33901

CORPORATE OR MAILING ADDRESS:

☐ SAME AS PHYSICAL 911 N. 2nd Street Fort Pierce FL 34950

ADDRESS MUST MATCH SUNBIZ.ORG

E-MAIL ADDRESS: lch@palmdaleoil.com

PHONE NUMBER: 561 722 0402 FAX

NOTE REQUIREMENT: IT IS THE SOLE RESPONSIBILITY OF THE BIDDER/PROPOSER TO CHECK LEE COUNTY PROCUREMENT MANAGEMENT WEB SITE FOR ANY ADDENDA ISSUED FOR THIS PROJECT. THE COUNTY WILL POST ADDENDA TO THIS WEB PAGE, BUT WILL NOT NOTIFY.

By responding to this sealed solicitation, the Bidder/Proposer makes all representations required by the instructions and further warrants and represents that: Bidder/Proposer has examined copies of all the solicitation documents and of the following addenda:

No. _____	Dated: _____	No. _____	Dated: _____	No. _____	Dated: _____
No. _____	Dated: _____	No. _____	Dated: _____	No. _____	Dated: _____

Tax Payer Identification Number: 59-2358666

(1) Employer Identification Number -OT- (2) Social Security Number:

**** Lee County collects your social security number for tax reporting purposes only**

Please submit a copy of your registration from the website www.sunbiz.org establishing your firm as authorized (including authorized representatives) to conduct business in the State of Florida, as provided by the *Florida Department of State, Division of Corporations*. (a sample is attached for your reference)

1 **Collusion Statement:** Lee County, Florida The undersigned, as Bidder/Proposer, hereby declares that no person or other persons, other than the undersigned, are interested in this solicitation as Principal, and that this solicitation is submitted without collusion with others; and that we have carefully read and examined the specifications or scope of work, and with full knowledge of all conditions under which the services herein is contemplated must be furnished, hereby bid/propose and agree to furnish this service according to the requirements set out in the solicitation documents, specifications or scope of work for said service for the prices as listed on the county provided price sheet or (CCNA) agree to negotiate prices in good faith if a contract is awarded.

2 **Scrutinized Companies Certification:**

Section 287.135, FL §, "Prohibition against contracting with scrutinized companies." Prohibits agencies from contracting with companies, for goods or services over \$1,000,000, that are on the Scrutinized Companies with Activities in Sudan List, the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, Scrutinized Companies that Boycott Israel List, have been engaged in a boycott of Israel, or been engaged in business operations in Cuba or Syria. The County reserves the right to review, on a case-by-case basis, and waive this stipulation if it is deemed to advantageous to the County.

As the person authorized to sign on behalf of Respondent, I hereby certify that the company identified above is in compliance with Section 287.135, FL §. I understand that submission of a false certification may subject company to contract termination, civil penalties, attorney's fees, and/or costs.

Form#1 – Solicitation Form, Page 2

- 3 Business Relationship Disclosure Requirement:** Sections 112.313(3) and 112.313(7), FL §, prohibit certain business relationships on the part of public officers and employees, their spouses, and their children. See Part III, Chapter 112, FL §, and/or the brochure entitled "A Guide to the Sunshine Amendment and Code of Ethics for Public Officers, Candidates and Employees" for more details on these prohibitions. However, Section 112.313(12), FL § (1983), provides certain limited exemptions to the above-referenced prohibitions, including one where the business is awarded under a system of sealed, competitive bidding; the public official has exerted no influence on bid negotiations or specifications; and where disclosure is made, prior to or at the time of the submission of the bid, of the official's or his spouse's or child's interest and the nature of the intended business. The Commission on Ethics has promulgated this form for such disclosure, if and when applicable to a public officer or employee.

If this disclosure is applicable request form "INTEREST IN COMPETITIVE BID FOR PUBLIC BUSINESS" (Required by 112.313(12)(b), FL § (1983)) to be completed and returned with solicitation response. It is the bidder/proposer's responsibility to disclose this relationship, failure to do so could result in being declared non-responsive.

☐ Business Relationship Applicable (request form)

☒ Business Relationship NOT Applicable

- 4** Disadvantaged, Minority, Women, Veterans Business Enterprise (DBE, MBE, WBE, VBE) Proposer? If yes, please attach a current certificate.

<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No
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ALL SUBMISSIONS MUST BE EXECUTED BY AN AUTHORIZED AUTHORITY OF THE BIDDER/PROPOSER. WITNESSED AND SEALED (AS APPLICABLE)

Palmdale Oil Company Inc
Company Name (Name printed or typed)

Lochlan Cheatham
Authorized Representative Name (printed or typed)

President
Authorized Representative's Title (printed or typed)

[Signature]
Authorized Representative's Signature

(Affix Corporate Seal, as applicable)

[Signature]
Witnessed/Attested by: (Witness/Secretary name and title printed or typed)

Witness/Secretary Signature

Any blank spaces on the form(s), qualifying notes or exceptions, counter offers, lack of required submittals, or signatures, on County's Form may result in the submission being declared non-responsive by the County.



**PROCUREMENT MANAGEMENT DEPARTMENT
BID/PROPOSAL FORM**

COMPANY NAME: Pa'mda's Oil Company Inc

SOLICITATION: B200480ANB, Fuel Purchase - Countywide

Having carefully examined the Contract Documents, Contractor/Vendor proposes to furnish the following which meeting these specifications.

PRICING

Pricing shall be 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. All Unit Prices will be bid at the nearest whole penny. The Excel document contains formulas for convenience, however it is the Contractor's/Vendor's responsibility to verify all pricing and calculations are CORRECT. Lee County is not responsible for errors in formulas or calculations contained within Excel document(s).

In the event there is a discrepancy between a subtotal or total amount and the unit prices and extended amounts, the unit prices will prevail and the corrected extension(s) and total(s) will be considered the price.

The County will only accept bids submitted on bid forms provided by the County. Bids submitted on other forms, other than those provided by the County, will be deemed non-responsive and ineligible for award.

PLEASE ENSURE you have provided a printed copy of the Bid Schedule with your hard copy submission packages and provided the excel version with your digital submission package.

FUEL PURCHASE - COUNTYWIDE

CATEGORY A - FUEL BY TRANSPORT DELIVERY (Please specify minimum size of a Transport Load: 7500 Gallons)

Item	Description	Unit of Measure	Column A	Column B	Column C
			Base Price per Gallon	Vendor Flat Rate Markup per Gallon (excluding tax)	Total Cost per Gallon (add Column A + B)
Unleaded Gasoline-E10 Delivered via Transport					
1	Unleaded 87 Octane	Per Gallon	\$ 2.16950	\$ 0.01694	\$ 2.18644
Diesel Fuel-Delivered Via Transport					
2	#2 Ultra Low Diesel Clear	Per Gallon	\$ 2.18070	\$ 0.03051	\$ 2.21121
3	#2 Ultra Low Sulfur Diesel Dyed	Per Gallon	\$ 2.17950	\$ 0.03521	\$ 2.21471
SUBTOTAL: CATEGORY A (ITEMS 1-3)					\$ 6.61236

BID SUMMARY

CATEGORY A TOTAL **6.61236**

**Quantities are not guaranteed. Final payment will be based on actual quantities.

PROJECT TOTAL: Six point six one two three six

(Use Words to Write Total)

The Base price per gallon will be filled in by the Vendor and will be based upon the average Tampa, Florida price as reported in the "Oil Price Information Services (OPIS)" on August 3, 2021 at 10:00am.



LEE COUNTY
SOUTHWEST FLORIDA

PROCUREMENT MANAGEMENT DEPARTMENT
BID/PROPOSAL FORM

COMPANY NAME: Palmdale Oil Company Inc.

SOLICITATION: B200480A/HB, Fuel Purchase - Countywide

Having carefully examined the Contract Documents, Contractor/Vendor proposes to furnish the following which meeting these specifications.

PRICING

Pricing shall be 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. All Unit Prices will be bid at the nearest whole penny. The Excel document contains formulas for convenience, however it is the Contractor's/Vendor's responsibility to verify all pricing and calculations are CORRECT. Lee County is not responsible for errors in formulas or calculations contained within Excel document(s).

In the event there is a discrepancy between a subtotal or total amount and the unit prices and extended amounts, the unit prices will prevail and the corrected extension(s) and total(s) will be considered the price.

The County will only accept bids submitted on bid forms provided by the County. Bids submitted on other forms, other than those provided by the County, will be deemed non-responsive and ineligible for award.

PLEASE ENSURE you have provided a printed copy of the Bid Schedule with your hard copy submission packages and provided the excel version with your digital submission package.

FUEL PURCHASE - COUNTYWIDE

CATEGORY B - FUEL BY TANK WAGON DELIVERY (Please specify maximum size of a tank wagon load: 400 Gallons)

Item	Description	Unit of Measure	Column A	Column B	Column C
			Base Price per Gallon	Vendor Flat Rate Markup per Gallon (excluding tax)	Total Cost per Gallon (add Column A + B)
Unleaded Gasoline-E10 Delivered via Tank Wagon					
1	Unleaded 87 Octane	Per Gallon	\$ 2.16950	\$ 0.14989	\$ 2.31919
Diesel Fuel-Delivered via Tank Wagon					
2	#2 Ultra Low Diesel Clear	Per Gallon	\$ 2.18070	\$ 0.16785	\$ 2.34855
3	#2 Ultra Low Sulfur Diesel Dyed	Per Gallon	\$ 2.17950	\$ 0.17198	\$ 2.35148
SUBTOTAL: CATEGORY B (ITEMS 1-3)					\$ 7.01920

BID SUMMARY

CATEGORY B TOTAL	7.01920
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**Quantities are not guaranteed. Final payment will be based on actual quantities.

PROJECT TOTAL: Seven point zero one nine two zero

(Use Words to Write Total)

The Base price per gallon will be filled in by the Vendor and will be based upon the average Tampa, Florida price as reported in the "Oil Price Information Services (OPIS)" on August 3, 2021 at 10:00

CATEGORY B: ADDITIONAL INFORMATION

THE FUEL WILL BE DELIVERED WITHIN 1 CALENDAR DAYS AFTER ORDER IS PLACED BY DEPARTMENT.

Number of tank wagons owned: 110

Total fuel capacity of all owned tank wagon trucks in gallons: 440,000

Capacity in gallons of fixed fuel storage tanks: 1,200,000

Is your supply point equipped with an emergency generator? yes



**PROCUREMENT MANAGEMENT DEPARTMENT
BID/PROPOSAL FORM**

COMPANY NAME: Palmdale Oil Company Inc.

SOLICITATION: B200480ANB, Fuel Purchase - Countywide

Having carefully examined the Contract Documents, Contractor/Vendor proposes to furnish the following which meeting these specifications.

PRICING

Pricing shall be 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. All Unit Prices will be bid at the nearest whole penny. The Excel document contains formulas for convenience, however it is the Contractor's/Vendor's responsibility to verify all pricing and calculations are CORRECT. Lee County is not responsible for errors in formulas or calculations contained within Excel document(s).

In the event there is a discrepancy between a subtotal or total amount and the unit prices and extended amounts, the unit prices will prevail and the corrected extension(s) and total(s) will be considered the price.

The County will only accept bids submitted on bid forms provided by the County. Bids submitted on other forms, other than those provided by the County, will be deemed non-responsive and ineligible for award.

PLEASE ENSURE you have provided a printed copy of the Bid Schedule with your hard copy submission packages and provided the excel version with your digital submission package.

FUEL PURCHASE - COUNTYWIDE

CATEGORY C - OPIS-Annual Subscription

Item	Description	Unit of Measure	
Subscription			
1	OPIS-Annual Subscription	Each	\$ 1,836.00
SUBTOTAL: CATEGORY C (ITEM 1)			\$ 1,836.00

BID SUMMARY

CATEGORY C TOTAL		\$1,836.00
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**Quantities are not guaranteed. Final payment will be based on actual quantities.

PROJECT TOTAL: one thousand eight hundred and thirty six

(Use Words to Write Total)

The Base price per gallon will be filled in by the Vendor and will be based upon the average Tampa, Florida price as reported in the "Oil Price Information Services (OPIS)" on August 3, 2021 at 10:00am.



LEE COUNTY
SOUTHWEST FLORIDA

PROCUREMENT MANAGEMENT DEPARTMENT
BID/PROPOSAL FORM

COMPANY NAME: Palmdate Oil Company Inc.

SOLICITATION: B200480ANB, Fuel Purchase - Countywide

Having carefully examined the Contract Documents, Contractor/Vendor proposes to furnish the following which meeting these specifications.

PRICING

Pricing shall be 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. All Unit Prices will be bid at the nearest whole penny. The Excel document contains formulas for convenience, however it is the Contractor's/Vendor's responsibility to verify all pricing and calculations are CORRECT. Lee County is not responsible for errors in formulas or calculations contained within Excel document(s).

In the event there is a discrepancy between a subtotal or total amount and the unit prices and extended amounts, the unit prices will prevail and the corrected extension(s) and total(s) will be considered the price.

The County will only accept bids submitted on bid forms provided by the County. Bids submitted on other forms, other than those provided by the County, will be deemed non-responsive and ineligible for award.

PLEASE ENSURE you have provided a printed copy of the Bid Schedule with your hard copy submission packages and provided the excel version with your digital submission package.

FUEL PURCHASE - COUNTYWIDE

CATEGORY D - OPTIONAL ITEMS - FUEL FOR PICKUP BY COUNTY IN MOBILE FUEL TRUCK/TRAILER AS NEEDED BY COUNTY

Item	Description	Unit of Measure	Column A	Column B	Column C
			Base Price per Gallon	Vendor Flat Rate Markup per Gallon (excluding tax)	Total Cost per Gallon (add Column A + B)
Unleaded Gasoline-E10 Pickup by County					
1	Unleaded 87 Octane	Per Gallon	\$ 2.1695	\$ 0.1063	\$ 2.2758
Diesel Fuel-Pickup by County					
2	#2 Ultra Low Diesel Clear	Per Gallon	\$ 2.1807	\$ 0.1110	\$ 2.2917
3	#2 Ultra Low Sulfur Diesel Dyed	Per Gallon	\$ 2.1795	\$ 0.1197	\$ 2.2992
SUBTOTAL: CATEGORY D (ITEMS 1-3)					\$ 6.8667

BID SUMMARY

CATEGORY D TOTAL	6.8667
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**Quantities are not guaranteed. Final payment will be based on actual quantities

PROJECT TOTAL: Six point eight six six seven

(Use Words to Write Total)

The Base price per gallon will be filled in by the Vendor and will be based upon the average Tampa, Florida price as reported in the "Oil Price Information Services (OPIS)" on August 3, 2021 at 10:00am.



LEE COUNTY
SOUTHWEST FLORIDA

PROCUREMENT MANAGEMENT DEPARTMENT
BID/PROPOSAL FORM

COMPANY NAME: Palmdale Oil Company Inc.

SOLICITATION: B200480AHB, Fuel Purchase - Countywide

Having carefully examined the Contract Documents, Contractor/Vendor proposes to furnish the following which meeting these specifications.

PRICING

Pricing shall be 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. All Unit Prices will be bid at the nearest whole penny. The Excel document contains formulas for convenience, however it is the Contractor's/Vendor's responsibility to verify all pricing and calculations are CORRECT. Lee County is not responsible for errors in formulas or calculations contained within Excel document(s).

In the event there is a discrepancy between a subtotal or total amount and the unit prices and extended amounts, the unit prices will prevail and the corrected extension(s) and total(s) will be considered the price.

The County will only accept bids submitted on bid forms provided by the County. Bids submitted on other forms, other than those provided by the County, will be deemed non-responsive and ineligible for award.

PLEASE ENSURE you have provided a printed copy of the Bid Schedule with your hard copy submission packages and provided the excel version with your digital submission package.

FUEL PURCHASE - COUNTYWIDE

CATEGORY E - OPTIONAL ITEMS - EMERGENCY DELIVERY

Item	Description	Unit of Measure	Column A	Column B	Column C
			Base Price per Gallon	Vendor Flat Rate Markup per Gallon (excluding tax)	Total Cost per Gallon (add Column A + B)
Emergency Delivery Rate					
1	#2 Ultra Low Sulfur Diesel Dyed-500 Gallons or Less Delivered	Per Gallon	\$ 2.1795	\$ 0.3600	\$ 2.5395
SUBTOTAL: CATEGORY E (ITEM 1)					\$ 2.5395

BID SUMMARY

CATEGORY A TOTAL **2.5395**

**Quantities are not guaranteed. Final payment will be based on actual quantities.

PROJECT TOTAL: two point five three nine five

(Use Words to Write Total)

The Base price per gallon will be filled in by the Vendor and will be based upon the average Tampa, Florida price as reported in the "Oil Price Information Services (OPIS)" on August 3, 2021 at 10:00am.

Form 5 - Affidavit Principal Place of Business



Lee County
Southwest Florida

AFFIDAVIT PRINCIPAL PLACE OF BUSINESS

Instructions: Please complete all information that is applicable to your firm

Company Name: Palmdale Oil Company Inc.

Lachlan Cheatham

Printed name of authorized signer

President

Title

[Signature]

Authorized Signature

8/5/21

Date

The signer of this Affidavit guarantee, as evidenced by the sworn affidavit required herein, the truth and accuracy of this affidavit to interrogatories hereinafter made. **LEE COUNTY RESERVES THE RIGHT TO REQUEST SUPPORTING DOCUMENTATION, AS EVIDENCE OF SERVICES PROVIDED, AT ANY TIME.**

The foregoing instrument was signed and acknowledged before me, by means of ☒ physical presence or ☐ online notarization, this 5th day of August 2021, by Lachlan Cheatham who has produced

(Print or Type Name)

Known personally as identification.
(Type of Identification and Number)

Notary:

State of

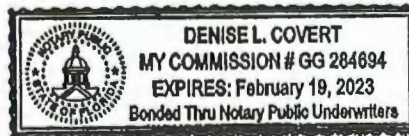
Florida

County of

Palm Beach

[Signature]

Notary Public Signature



Notary Commission Number and expiration

1. Principal place of business is located within the boundaries of: ☒ Lee County
☐ Collier County
☐ Non-Local

Local Business Tax License #

0100767

2. Address of Principal Place of Business:

2958 Fowler St. Ft. Myers FL 33901

3. Number of years at this location

22 years

4. Have you provided goods or services to Lee County on a regular basis within the past 3 consecutive years

☒ Yes*

☐ No

*If yes, attach contractual history for past 3 consecutive years

5. Number of available employees for this contract

25

6. Does your company have a Drug Free Workplace Policy

☒ Yes

☐ No



Local Business Tax Receipt

Dear Business Owner:

Your 2020-2021 Lee County Local Business Tax Receipt is attached below for account number **0100767**.

If there is a change in one of the following, refer to the instructions on the back of this receipt.

- Business name
- Ownership
- Physical location
- Business closed

This is not a bill. Detach the bottom portion and display in a public location.

I hope you have a successful year.

Sincerely,

Lay D. Hart

Lee County Tax Collector

pd 8/5

2020 - 2021

LEE COUNTY LOCAL BUSINESS TAX RECEIPT

Account Number: 0100767

Account Expires: September 30, 2021

Location:
2961 ROYAL PALM AVE
FT MYERS FL 33901

PALMDALE OIL CO INC
PALMDALE OIL CO INC
2958 FOWLER ST
FT MYERS FL 33901

May engage in the business of:
OIL OR FUEL DEALER - WHOLESALE
THIS LOCAL BUSINESS TAX RECEIPT IS NON REGULATORY

Payment Information:	
PAID 560376-48-1	08/05/2020 10:00 AM
	\$50.00



The City of Fort Myers, Florida

Community Development Department
1825 Hendry Street, #101
Fort Myers, Florida 33901
239-321-7990

ADMINISTRATOR (BUSINESS ADMINISTRATOR)

Effective 8/11/2020: For Year October 1, 2020 through September 30, 2021

PALMDALE OIL CO.

2958 FOWLER ST.

FORT MYERS FL 33916

Business Tax #: BUS2011-00349

Dear Business Owner:

The City of Fort Myers wishes you success with your business. The Business Tax Receipt below is current for the Fiscal Year 2020-2021.

Annual renewal notices are mailed in July to the address of record at that time. If you need to change the business name, mailing address, contact data, location and/or closing the business please contact our office.

CDD/Business Tax
1825 Hendry Street
Suite 101
Fort Myers, FL 33901
(239) 321-7990

Description: THIS IS AN EXTENTION FROM THE 2961 ROYAL PALM ADDRESS NEXT DOOR FROM THIS PROPERTY FOR ADMIN. OFFICE



CITY OF FORT MYERS FLORIDA Business Tax Receipt 2020 - 2021



Effective 8/11/2020 For Receipt Year October 1, 2020 through September 30, 2021

2958 FOWLER ST

**PALMDALE OIL COMPANY
Business Tax #: BUS2011-00349**

Is hereby registered* business, profession, or occupation of:

ADMINISTRATOR (BUSINESS ADMINISTRATOR)

ALCOHOL SALES PERMITTED: NO

HOMEBASED: NO

Owner: PALMDALE OIL CO., 2958 FOWLER ST., FORT MYERS FL 33916

*Any violation of applicable chapter of the City Code Of Ordinances will cancel and nullify this receipt



DIVISION of
CORPORATIONS
an official State of Florida website

[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Search by FEI/EIN Number](#) /

Detail by FEI/EIN Number

Florida Profit Corporation
PALMDALE OIL COMPANY, INC.

Filing Information

Document Number	G87603
FEI/EIN Number	59-2358666
Date Filed	01/12/1984
State	FL
Status	ACTIVE

Principal Address

911 NORTH 2ND STREET
FT PIERCE,, FL 34950

Changed: 07/06/2004

Mailing Address

911 NORTH 2ND STREET
FT PIERCE,, FL 34950

Changed: 01/15/2009

Registered Agent Name & Address

BEER, JERALD SESQ
515 NORTH FLAGLER DRIVE
SUITE 2000
WEST PALM BEACH, FL 33401

Name Changed: 01/25/2008

Address Changed: 03/31/2016

Officer/Director Detail

Name & Address

Title President

CHEATHAM, LACHLAN L
911 N. 2ND STREET
FT PIERCE, FL 34950

Title VP

CHEATHAM, KENDALL
911 N. 2ND STREET
FT PIERCE, FL 34950

Title Secretary

DOREMUS, MALLORY
911 N. 2ND STREET
FT PIERCE, FL 34950

Title Treasurer

CHIVERS, BILLY L, Jr.
911 N. 2ND STREET
FT PIERCE, FL 34950

Annual Reports

Report Year	Filed Date
2019	03/07/2019
2020	03/10/2020
2021	01/18/2021

Document Images

01/18/2021 -- ANNUAL REPORT	View image in PDF format
03/10/2020 -- ANNUAL REPORT	View image in PDF format
03/07/2019 -- ANNUAL REPORT	View image in PDF format
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02/15/2017 -- ANNUAL REPORT	View image in PDF format
03/31/2016 -- ANNUAL REPORT	View image in PDF format
01/12/2015 -- ANNUAL REPORT	View image in PDF format
01/09/2014 -- ANNUAL REPORT	View image in PDF format
01/24/2013 -- ANNUAL REPORT	View image in PDF format
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01/07/2011 -- ANNUAL REPORT	View image in PDF format
01/06/2010 -- ANNUAL REPORT	View image in PDF format
01/15/2009 -- ANNUAL REPORT	View image in PDF format
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04/20/2006 -- ANNUAL REPORT	View image in PDF format
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01/23/1998 -- ANNUAL REPORT	View image in PDF format
04/18/1997 -- ANNUAL REPORT	View image in PDF format
04/24/1996 -- ANNUAL REPORT	View image in PDF format

8/5/2021

Detail by FEI/EIN Number

[04/22/1990 -- ANNUAL REPORT](#)

[view image in PDF format](#)

[03/31/1995 -- ANNUAL REPORT](#)

[View image in PDF format](#)

Florida Department of State - Division of Corporation



include sub-contractor/consultant name, area of work (i.e. mechanical, electrical, etc.) and a **valid** phone number and/or email. A dollar value or percentage that the sub-contractor/consultant will be performing. If sub-contractor/consultant qualifies as a current Florida Certified Business Enterprise such as MBE, WBE, DBE, VBE or similar please indicate such above and provide proof of certification.

This form must be signed and sworn to in the presence of a notary public or other officer authorized to administer oaths.

1. This sworn statement is submitted to Lee County
 (Print name of the public entity)
 by Lachlan Cheatham President
 (Print individual's name and title)
 for Palmdale Oil Company Inc.
 (Print name of entity submitting sworn statement)
 whose business address is 911 N. 1st Street Ft. Pierce FL 34850
 (If applicable) its Federal Employer Identification Number (FEIN) is 59-2358666

(If the entity has no FEIN, include the Social Security Number of the individual signing this sworn statement: On the attached sheet.) Required as per IRS Form W-9.

2. I understand that a "public entity crime" as defined in Paragraph 287.133(1) (g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States, including but not limited to, and bid or contract for goods or services to be provided to any public entity or agency or political subdivision or any other state or of the United States, and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.
3. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1) (b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.
4. I understand that "affiliate" as defined in Paragraph 287.133(1)(a), Florida Statutes, means:
1. A predecessor or successor of a person convicted of a public entity crime:
or:
 2. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those offices, directors, executives, partners, shareholders, employees, members and agents who are active in the management of the affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not fair market value under an arm's length Agreement/Contract, shall be a facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.
5. I understand that a "person" as defined in Paragraph 287.133(1) (c), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of the entity.
6. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting those sworn statement. (Please indicate which statement applies.)
- ☒ Neither the entity submitted this sworn statement, nor any officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity nor affiliate of the entity have been charged with and convicted of a public entity crime subsequent to July 1, 1989.

Public Entity Crime Form

Page 2 of 2

_____ The entity submitting this sworn statement, or one or more of the officers, directors, executives, partners, shareholders, employees, member, or agents who are active in management of the entity, or an affiliate of the entity have been charged with and convicted of a public entity crime subsequent to July 1, 1989.

_____ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, member, or agents who are active in management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. However, there has been subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearing and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list. (Attach a copy of the final order)

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 (ONE) ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND, THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES, FOR CATEGORY TWO OR ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

J. Cheatham
(Signature)
8/5/21
(Date)

STATE OF FloridaCOUNTY OF Palm Beach

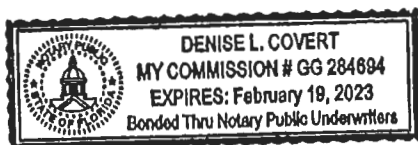
Sworn to (or affirmed) and subscribed before me, by means of ☒ physical presence or ☐ online notarization, this 5th day of August 2021, by Lachlan Cheatham who has produced
(Print or Type Name)

Known personally as identification.
(Type of Identification and Number)

Denise L. Covert
Notary Public Signature

Denise Covert
Printed Name of Notary Public

Notary Commission Number/Expiration



**AFFIDAVIT CERTIFICATION IMMIGRATION LAWS**

SOLICITATION NO.: B200480ANB SOLICITATION NAME: Fuel Purchase - Annual

LEE COUNTY WILL NOT INTENTIONALLY AWARD COUNTY CONTRACTS TO ANY CONTRACTOR WHO KNOWINGLY EMPLOYS UNAUTHORIZED ALIEN WORKERS, CONSTITUTING A VIOLATION OF THE EMPLOYMENT PROVISIONS CONTAINED IN 8 U.S.C. SECTION 1324 a(e) {SECTION 274A(e) OF THE IMMIGRATION AND NATIONALITY ACT ("INA").

LEE COUNTY MAY CONSIDER THE EMPLOYMENT BY ANY CONTRACTOR OF UNAUTHORIZED ALIENS A VIOLATION OF SECTION 274A(e) OF THE INA. **SUCH VIOLATION BY THE RECIPIENT OF THE EMPLOYMENT PROVISIONS CONTAINED IN SECTION 274A(e) OF THE INA SHALL BE GROUNDS FOR UNILATERAL CANCELLATION OF THE CONTRACT BY LEE COUNTY.**

BIDDER/PROPOSER ATTESTS THAT THEY ARE FULLY COMPLIANT WITH ALL APPLICABLE IMMIGRATION LAWS (SPECIFICALLY TO THE 1986 IMMIGRATION ACT AND SUBSEQUENT AMENDMENTS).

Company Name: Palmdale Oil Company Inc.
[Signature] President 8/5/21
 Signature Title Date

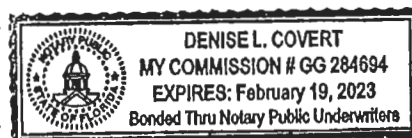
STATE OF Florida
 COUNTY OF Palm Beach

The foregoing instrument was signed and acknowledged before me, by means of ☒ physical presence or ☐ online notarization, this 5th day of August 2021, by Lachlan Cheatham who has produced
 (Print or Type Name)

Known personally as identification.
 (Type of Identification and Number)

[Signature]
 Notary Public Signature

Denise Covert
 Printed Name of Notary Public



Notary Commission Number/Expiration

The signee of this Affidavit guarantee, as evidenced by the sworn affidavit required herein, the truth and accuracy of this affidavit to interrogatories hereinafter made. **LEE COUNTY RESERVES THE RIGHT TO REQUEST SUPPORTING DOCUMENTATION, AS EVIDENCE OF SERVICES PROVIDED, AT ANY TIME.**

Lee County
Seventeenth Florida

Company Name: Palmdale Oil Company Inc.

[illegible]

as many copies of this sheet as necessary in order to provide a 10 year history of the requested information. If there is no action or action taken in the last 10 years, complete the company name and write "NONE" in the first "Type of Incident" box of this return with your submission package. This form should also include the primary partners listed in your submission. Do not include litigation with your company as the plaintiff. Final outcome should include who prevailed and what method of settlement was made. Monetary settlement was made the amount may remain anonymous. Please do not modify this form (expansion of spacing allowed) submit your own variation.

Number: _____ Of _____ Total pages _____

the page number to reflect the current page and the total number of pages. Example: Page 3, of 5 total submitted pages of this for

Sealed Bid Label

**Cut along the outer border and affix this label to
your sealed solicitation envelope to identify it as
a “Sealed Bid”.**

SEALED BID DOCUMENTS • DO NOT OPEN	
BID NO.:	B200480ANB
BID TITLE:	Fuel Purchase - Annual
DATE DUE:	Tuesday, August 10, 2021
TIME DUE:	Prior to: 2:30 PM
SUBMITTED BY:	_____ (Name of Company)
e-mail address	Telephone
DELIVER TO:	Lee County Procurement Management 2115 Second Street, 1st Floor Fort Myers, FL 33901



*Notice: the Date Due/Bid Due Date/Opening Date as stated on this label and other forms contained herein may have been updated via issuance of Addenda against this project. It is the sole responsibility of the Contractor/Vendor to monitor the County project webpage for any updates to the Date Due/Bid Due Date/Opening Date via Addenda. This label nor other original forms may not be updated. Contractor/Vendor may strike through and update Date Due/Bid Due Date/Opening Date at their discretion to match any updates to this date that have been published via Addenda.

Submission received after the time and date of the Date Due/Bid Due Date/Opening Date will not be accepted at the sole discretion of the County.

PLEASE PRINT CLEARLY



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: August 5, 2021

Solicitation No.: B200480ANB

Solicitation Name: Fuel Purchase - Annual

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:

- a. **Attachment 1. Fleet Invoices and Bills of Lading**
- b. **Attachment 2. DBE Good Faith Efforts Forms**
- c. **Attachment 3. Lee County Transit System Annual Report**
- d. **Attachment 4. Lee County Transit Invoice and Bill of Lading**

2. QUESTIONS/ANSWERS

1.	In the bid OPIS pricing using Port Tampa 10am is specified but I don't see which price will be used i.e.(Rack Avg, Low Rack..). Can you please define?
Answer	Lee County uses the Rack Avg. price to determine the price paid daily for fuel.
2.	Please provide tabulations from the most current fuel bid.
Answer	You can find the current contract and pricing at the attached link <u>B180281TJM - Fuel Annual Purchase</u>
3.	How often are deliveries split between multiple locations?
Answer	This contract is for all of the County's annual fuel purchases on an as needed basis. Deliveries will be split between multiple locations across Lee County.
4.	Will a metered bill of lading from the terminal be accepted in lieu of a metered delivery ticket for transport deliveries?
Answer	The bill of ladings from the terminal are acceptable for Lee County Fleet Management. Solid Waste locations – For transport loads only. Tank wagons need to be metered from the tank wagon.
5.	Please provide estimated annual usage for each location.
Answer	Approximate Totals: 1. Fleet Management: Annual Unleaded – 176,500 gal; Diesel – 77,000 gal. 2. Billy Creek: Annual Unleaded – 134,500 gal; Diesel – 220,250 gal. 3. Evergreen: Annual Unleaded – 83,000 gal; Diesel – 41,000 gal. 4. Govt. Complex: Annual Unleaded – 42,000 gal; Diesel – 40,000 gal. 5. Century Link Sports Complex: Annual Unleaded – 2,000 gal; Diesel 2,000 gal. 6. Jet Blue Park: Annual Unleaded – 2,500 gal; Diesel – 2,000 gal. Other two ball field avg. 1,000 gallons each of Unleaded and Diesel. Solid Waste – FY20 – est. Diesel, 371,000 gallons – est. Unleaded Gasoline, 30,000 gallons

	Lee County Transit annual totals may be found in the associated report provided as an attachment to this addendum.
6.	Please provide estimated annual usage for each generator.
Answer	This contract is for all of the County's annual fuel purchases on an as needed basis. No estimated usage is available at this time.
7.	Please provide addresses for each generator.
Answer	The County has locations all across Lee County. Attachment B – Generator List in the solicitation package contains the generator location, kw, fuel type, fuel capacity and the approximate fuel consumption gal/hr.
8.	Please provide generators that are difficult to access (ie. gated, locked, keypad).
Answer	All County locations have various forms of security, ranging from gates, locks, and secured access.
9.	Please provide a current gas and diesel invoice.
Answer	See attachment for Fleet Management and Lee County Transit
10.	Please provide a current gas and diesel Bill of Lading.
Answer	See attachment for Fleet Management and Lee County Transit.
11.	Will sites call in to the awarded vendor to schedule a delivery?
Answer	Representative from Fleet, Lee Tran, Solid Waste, Port Authority and Utilities will call or e-mail orders for fuel as needed.
12.	What is the anticipated award date?
Answer	The County anticipates going to the Board for award on September 21, 2021. This date is subject to change at the sole discretion of the County.
13.	Who is the current vendor being used to meet the 4% DBE goal?
Answer	The current 4% DBE goal is not being met by any vendor.
14.	Will the supplier be permitted to remotely monitor the telemetry system?
Answer	No
15.	Will site employees be available to provide tank inventories over the phone?
Answer	Fleet Management can provide this. However, the County historically calls in a specified quantity of fuel to be delivered to the site. Solid Waste locations: Yes
16.	Will site employees be available to provide tank inventories via email?
Answer	See response for #15.
17.	Per Lee County Transit Policies and Procedures, pg. 16, Section B: Bonding Requirements, are bid bonds required for this bid?
Answer	No
18.	Per Lee County Transit Policies and Procedures, pg. 16, Section B: Bonding Requirements, are performance bonds required for this bid?
Answer	No

19.	Per Lee County Transit Policies and Procedures, pg. 16, Section B: Bonding Requirements, are payment bonds required for this bid?
Answer	No
20.	How do vendors receive approval for subcontractors?
Answer	List anticipated sub contractor's on Form 6 of the submission package. Upon review of the proposals with the County approve/reject subcontractors.
21.	Does Lee County runs biocide with its fuel management program?
Answer	Biocide usage is department specific and may not be utilized throughout all departments/request for fuel.
22.	Our past records show your office hours for bid delivery via FedEx or UPS are M-F 0730-1630. Is this still accurate? If not, what are your office hours for bid delivery?
Answer	Our office is open until 5:00PM eastern.
23.	When is the first board meeting after the opening?
Answer	The first board meeting is 8/17/2021
24.	When is the anticipated award date?
Answer	Please see answer to question 12.
25.	What is the anticipated start date for the three (3) year initial contract term?
Answer	The anticipated start date of the contract is 10/2/2021. This date is subject to change at the sole discretion of the County.
26.	Have you ever had cause to cancel a fuel contract for convenience?
Answer	No
27.	What is your current turnaround on payment of invoices?
Answer	Please see the solicitation for invoice specifications. Per article 14.1, the County shall process all invoices within 30 calendar days of receipt.
28.	The bid states that a performance bond may be required. Will you require a performance bond?
Answer	No
29.	Do you consider common carriers to be subcontractors? If so, how would we obtain prior written authorization to use them? Will the inclusion of carriers to be used on the Sub-Contractor List (page 44) be sufficient?
Answer	Yes. Submit the Subcontractor form completed with subcontractor information. If awarded a contract, then the County has approved those carriers for use.
30.	Review of invoices and Bills of Lading provided through an open records request, it appears that the metered BoL is sufficient for meeting the metered requirements. Will this continue to be acceptable?
Answer	Metered bill of lading will be acceptable.
31.	Review of the invoices provided shows that Palmdale Oil is making the Transport deliveries currently. Our records show they were the secondary vendor awarded in 2018. Is there a reason the primary vendor (Southern Petroleum) is not making the Transport deliveries?

Answer	The current primary provider is Palmdale Oil Company. Lee County and Southern Petroleum failed to enter into a final valid contract; removing their primary status.
32.	As we are a Non-Local business and do not have a Local Business Tax License number, should that be left blank on page 43, or would you like us to include our FEIN there?
Answer	Please list the local business tax license number from your county or municipality where applicable.
33.	The Lee County Transit and Procedures General Provisions document states that there is a 4% DBE participation goal. Does that goal apply to the entire contract, or just to the Lee Tran portion?
Answer	The goal applies to the whole contract. This is a goal and not a requirement of the contract.
34.	The Lee County Transit and Procedures General Provisions document page 4-5 requests a DBE letter of intent and a DBE Affidavit (both items state to 'see below') be submitted with the bid. Neither of these items is seen in the document. Can you provide appropriate documentation to be filled out and submitted with the bid?
Answer	LeeTran's DBE Good Faith Efforts form and Letter of Intent are attached.
35.	Page 7 item 17 encourages use of Florida Certified Enterprises (DBE/MBE/WBE/VBE). The Lee Tran General Provisions page 4 states a certified out of state firm would be acceptable. Will an out of state Veteran Owned Small Business qualify as a DBE for this contract?
Answer	Yes
36.	What information will you be reading out loud at the bid opening?
Answer	The names of the firms and the category total for each category will be read aloud at the opening.
37.	If we attend the bid opening, will we be able to review other submitted bids?
Answer	No
38.	If we do not attend the bid opening, how and when will we be notified of the low bidder and can we receive a copy of the bid tabulations?
Answer	It is the sole responsibility of the Vendor to monitor the County project webpage for posting of project related information. The Bid Tabulation will be posted to the County project webpage at the earliest opportunity following the bid opening. The release of documents and records related to this project will be conducted in accordance with Public Records regulations upon request of specific documentation.
39.	Please provide a current invoice for each fuel grade on this solicitation.
Answer	See Attachment for Fleet Management.
40.	Please provide bill of lading for all fuel grades on this solicitation.
Answer	See Attachment for Fleet Management.
41.	Please provide the tabulations for the current contract.
Answer	See question 2.
42.	Please provide tax exemptions / certificates.
Answer	Tax exempt certificates will be provided to the awarded Vendor.

43.	Who is the current vendor?
Answer	See question 2.
44.	What is the expected start date for deliveries?
Answer	See question 25.
45.	Would the Lee County BOC consider extending the due date?
Answer	No.
46.	Will bids be considered responsive if electronic signatures are used? (i.e. DocuSign) or are wet signatures required for bids to be considered responsive?
Answer	Electronic signatures on bid submissions are acceptable.
47.	Please provide all bid submission and contract documents from the last awarded bidder.
Answer	See question 2.
48.	Are gas and diesel delivered together on the same shipment?
Answer	For County Fleet Management and Lee County Transit gas and diesel may be received in the same shipment. For County Solid Waste gas and diesel are not expected to be delivered in the same shipment. All purchases are made on an as-needed basis and such elements of ordering are specific to each County department's needs at the time of purchase.
49.	If a split occurs, is the fee to be included in the bid differential pricing or a separate line item on the invoice?
Answer	Invoice should reflect the separate cost for gas and diesel delivered for each order.
50.	Are bidders required to submit a certificate of insurance with their bid submittal?
Answer	The certificate of insurance is not required at time of bid submission, but requested to expedite processing.
51.	Are bidders required to submit a bid bond with their bid submittal?
Answer	A bid bond is not required for this project.
52.	Would you be able to provide each site's individual annual volume?
Answer	See response to question 5 for Fleet Management locations.
53.	Would you be able to provide monthly total usage volumes?
Answer	Response to question 5 was annual average. Divide by 12 for monthly volumes/usage.
54.	Are bidders required to submit Safety Data Sheets with their bid submittal?
Answer	Not at time of bid submission, but may be requested at a later date.
55.	Will there be a public bid opening? If so, can you please provide the call in number or weblink for the bid opening?
Answer	Please see the cover page of the solicitation for the opening information. There is not an option for a virtual presence or call in number. At the time of the publishing of this addendum, the opening meeting will be held in person on 8/10/2021 at 2:30PM at 2115 Second Street, Fort Myers, FL 33901.
56.	Does the Lee County BOC subscribe to OPIS?

Answer	A requirement of the awarded contract is that the awarded vendor provide the BOCC with a subscription to OPIS.
57.	Which sites require a tank wagon for deliveries?
Answer	The following sites are known to require tank wagon delivery: Evergreen, Government Complex, Lehigh Depot and 4 Ball Fields, all Solid Waste locations. Fort Myers, Felda, Labelle, Clewiston and 3401 Metro Parkway for generator deliveries.
58.	Which sites require a transport truck for deliveries?
Answer	The following sites are known to require transport truck delivery: Fleet Management and Billy Creek Sites. Solid Waste – 10500 Buckingham Rd, Fort Myers FL, Lee Hendry Landfill/Compost Site, 5500 Church Rd, Felda FL and 3401 Metro Parkway.
59.	Will a transport tractor-trailer be permitted for all delivery locations?
Answer	Several locations are too tight for Tractor-Trailer access. Smaller Tank wagon style truck would be required. No tractor-trailer will be permitted at Solid Waste locations. Purchases are made throughout the County on an as-needed basis. The Vendor shall ensure any such delivery concerns are covered with acceptance of purchase order request.
60.	Will the above ground tanks require the delivery truck to provide a pump for offloading?
Answer	Yes, the delivery truck for above ground tanks will require the vendor provide a pump for offloading.
61.	Can the contract award be split between multiple vendors?
Answer	Please see page 15 2. Basis of Award.
62.	Is it the intent to award to a single vendor?
Answer	Please see page 15 2. Basis of Award.
63.	Is the subcontractor form – Certification Debarment, Suspension, Ineligibility and Voluntary Exclusion form to be completed by the potential subcontract and submitted with the bid?
Answer	No, only the Prime Contractor needs to complete the required forms in the solicitation package.

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.

Laura L. Parks for

Adam Brooke, Procurement Analyst Supervisor
Procurement Analyst Direct Line: 239-533-8851
Lee County Procurement Management

REQUIRED CERTIFICATIONS

Federally Required Certifications

1. Lobbying* (over \$100,000)
2. Debarment and Suspension* (over \$25,000)
3. E-Verify (all with the exception of commodity purchase)

Included: Lee County Transit Grant-Funded Procurement General Provisions

(Dated December 30, 2019)

*** Please sign and return the applicable Certifications**

LOBBYING

For contracts over \$100,000

31 U.S.C. 1352

49 CFR Part 19

49 CFR Part 20

The Lobbying requirements apply to Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operational Service Contract/Turnkey contracts.

The Lobbying requirements mandate the maximum flow down, pursuant to Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352(b)(5) and 49 C.F.R. Part 19, Appendix A, Section 7.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor, Palmdale Oil Company Inc., certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

Date 8/5/21

Print Name of Authorized Official Lochlan Cheatham

Title President

Signature of Authorized Official [Signature]

Company Name Palmdale Oil Company Inc.

Company Address 911 N. 2nd St. Ft. Pierce FL 34950

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C.1352

Approved by OMB
4040-0013

1. * Type of Federal Action: <input type="checkbox"/> a. contract <input checked="" type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	2. * Status of Federal Action: <input type="checkbox"/> a. bid/offer/application <input checked="" type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	3. * Report Type: <input checked="" type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change
4. Name and Address of Reporting Entity: <input checked="" type="checkbox"/> Prime <input type="checkbox"/> SubAwardee * Name: _____ * Street 1: _____ Street 2: _____ * City: _____ State: _____ Zip: _____ Congressional District, if known: _____		
5. If Reporting Entity in No.4 is Subawardee, Enter Name and Address of Prime: <div style="text-align: center; font-size: 2em; color: blue;">N/A</div>		
6. * Federal Department/Agency: _____		7. * Federal Program Name/Description: _____ CFDA Number, if applicable: _____
8. Federal Action Number, if known: _____		9. Award Amount, if known: \$ _____
10. a. Name and Address of Lobbying Registrant: Prefix: _____ * First Name: _____ Middle Name: _____ * Last Name: _____ Suffix: _____ * Street 1: _____ Street 2: _____ * City: _____ State: _____ Zip: _____		
b. Individual Performing Services (including address if different from No. 10a) Prefix: _____ * First Name: _____ Middle Name: _____ * Last Name: _____ Suffix: _____ * Street 1: _____ Street 2: _____ * City: _____ State: _____ Zip: _____		
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the Government when the transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure. * Signature: _____ * Name: Prefix: _____ * First Name: _____ Middle Name: _____ * Last Name: _____ Suffix: _____ Title: _____ Telephone No.: _____ Date: _____		
Federal Use Only:		Authorized for Local Reproduction Standard Form - LLL (Rev. 7-87)

DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION
REQUIREMENTS for Contracts over \$25,000

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

The bidder or proposer certifies as follows:

1. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, Lee County may pursue available remedies, including suspension and/or debarment.
2. The prospective lower tier participant shall provide immediate written notice to Lee County if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
3. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "persons," "lower tier covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549 [49 CFR Part 29]. You may contact Lee County for assistance in obtaining a copy of those regulations.
4. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by Lee County.
5. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction", without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
6. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List issued by U.S. General Service Administration.
7. Nothing contained in the foregoing shall be construed to require establishment of system of records in order to render in good faith the certification required by this clause. The knowledge and

Form 9 - Debarment and Suspension* (over \$25,000)

information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

8. Except for transactions authorized under Paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to all remedies available to the Federal Government, Lee County may pursue available remedies including suspension and/or debarment.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters

(Contracts over \$25,000).

The contractor certifies, that neither it nor its "principals" as defined in CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any governmental department or agency.

Date 8/5/21

Print Name of Authorized Official Lachlan Cheatham

Title President

Signature of Authorized Official [Signature]

Company Name Palmdale Oil Company Inc.

Company Address 911 N. 2nd St. Ft. Pierce FL 34950

Immigration Law Affidavit Certification

Statutes and executive orders require employers to abide by the immigration laws of the United States and to employ only individuals who are eligible to work in the United States. The Employment Eligibility Verification System (E-Verify) operated by the Department of Homeland Security (DHS) in partnership with the Social Security Administration (SSA), provides an Internet-based means of verifying employment eligibility of workers in the United States; it is not a substitute for any other employment eligibility verification requirements. The program will be used for Lee County formal Invitations to Bid (ITB) and Request for Proposals (RFP) including professional services and construction services.

Exceptions to the program:

- Commodity based procurement where no services are provided.

Vendors / Bidders are required to enroll in the E-Verify program. Acceptable evidence consists of a copy of the properly completed E-Verify Company Profile page or a copy of the fully executed E-Verify Memorandum of Understanding for the company. Vendors are also required to provide the Lee County Purchasing Department an executed affidavit certifying they shall comply with the E-Verify Program. The affidavit is attached to the solicitation documents.

Additionally, vendors shall require all subcontracted vendors to use the E-Verify system for all purchases not covered under the "Exceptions to the program" clause above.

For additional information regarding the Employment Eligibility Verification System (E-Verify) program visit the following website: <http://www.dhs.gov/E-Verify>. It shall be the vendor's responsibility to familiarize themselves with all rules and regulations governing this program.

Vendor acknowledges, and without exception or stipulation, any firm(s) receiving an award shall be fully responsible for complying with the provisions of the Immigration Reform and Control Act of 1986 as located at 8 U.S.C. 1324, et seq. and regulations relating thereto, as either may be amended and with the provisions contained within this affidavit. Failure by the awarded firm(s) to comply with the laws referenced herein or the provisions of this affidavit shall constitute a breach of the award agreement and the County shall have the discretion to unilaterally terminate said agreement immediately.

Contractors/Consultant shall be required to provide the County a copy of the Memorandum of Understanding required by Department of Homeland Security (DHS) when signing up for the program and an executed affidavit vowing they will comply with the E-Verify program for each service/project. An affidavit must be executed each time a proposer submits a proposal.

Form 10 - Immigration Law Affidavit Certification

Attachment: Immigration Law Affidavit Certification

Solicitation # and Title : RFP200360ANB Professional Planning Services for LeeTran

This Affidavit is required and should be signed, notarized by an authorized principal of the firm and submitted with formal Invitations to Bid (ITB's) and Request for Proposals (RFP) submittals. Further, Vendors / Bidders are required to enroll in the E-Verify program, and provide acceptable evidence of their enrollment. Acceptable evidence consists of a copy of the properly completed E-Verify Company Profile page or a copy of the fully executed E-Verify Memorandum of Understanding for the company.

Lee County will not intentionally award County contracts to any vendor who knowingly employs unauthorized alien workers, constituting a violation of the employment provision contained in 8 U.S.C. Section 1324 a(e) Section 274A(e) of the Immigration and Nationality Act ("INA").

Lee County may consider the employment by any vendor of unauthorized aliens a violation of Section 274A (e) of the INA. Such Violation by the recipient of the Employment Provisions contained in Section 274A (e) of the INA shall be grounds for unilateral termination of the contract by Lee County.

Vendor attests that they are fully compliant with all applicable immigration laws (specifically to the 1986 Immigration Act and subsequent Amendment(s)) and agrees to comply with the provisions of the Memorandum of Understanding with E-Verify and to provide proof of enrollment in The Employment Eligibility Verification System (E-Verify), operated by the Department of Homeland Security in partnership with the Social Security Administration at the time of submission of the Vendor's / Bidder's proposal.

Company Name Palmdale Oil Company Inc.
Print Name Lachlan Cheatham Title President
Signature [Signature] Date 8/5/21
State of Florida
County of Palm Beach

The foregoing instrument was signed and acknowledged before me, by means of ☐ physical presence or ☐ online notarization, this 5th day of August, 2021, by

Lachlan Cheatham who has produced Known personally as identification.
(Print or Type Name) (Type of Identification and Number)

[Signature]
Notary Public Signature

Denise Covert
Printed Name of Notary Public

Notary Commission Number/Expiration



The signee of these Affidavit guarantees, as evidenced by the sworn affidavit required herein, the truth and accuracy of this affidavit to interrogatories hereinafter made

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents of all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, United States Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor/Consultant, Palmdale Oil Company, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 *et seq.*, apply to this certification and disclosure, if any.


Signature of Contractor/Consultant's Authorized Official

Lochlan Cheatham President
Name & Title of Contractor/Consultant's Authorized Official

8/5/21
Date

**Certification Regarding
Debarment, Suspension, Ineligibility
And Voluntary Exclusion**

Subcontractor Covered Transactions

- (1) The prospective subcontractor, _____, of the Sub-Recipient certifies, by submission of this document, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the Sub-Recipient's subcontractor is unable to certify to the above statement, the prospective subcontractor shall attach an explanation to this form.

SUBCONTRACTOR

By: _____
Signature

Name and Title

Street Address

City, State, Zip

Date



Company ID Number:260033

Client Company ID Number:1351754

**THE E-VERIFY
MEMORANDUM OF UNDERSTANDING
FOR EMPLOYERS USING AN E-VERIFY EMPLOYER AGENT**

**ARTICLE I
PURPOSE AND AUTHORITY**

The parties to this agreement are the Department of Homeland Security (DHS), the Palmdale Oil Company, Inc (Employer), and the E-Verify Employer Agent. The purpose of this agreement is to set forth terms and conditions which the Employer and the E-Verify Employer Agent will follow while participating in E-Verify.

E-Verify is a program that electronically confirms an employee's eligibility to work in the United States after completion of Form I-9, Employment Eligibility Verification (Form I-9). This Memorandum of Understanding (MOU) explains certain features of the E-Verify program and describes specific responsibilities of the Employer, the E-Verify Employer Agent, the Social Security Administration (SSA), and DHS.

Authority for the E-Verify program is found in Title IV, Subtitle A, of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. 104-208, 110 Stat. 3009, as amended (8 U.S.C. § 1324a note). The Federal Acquisition Regulation (FAR) Subpart 22.18, "Employment Eligibility Verification" and Executive Order 12989, as amended, provide authority for Federal contractors and subcontractors (Federal contractor) to use E-Verify to verify the employment eligibility of certain employees working on Federal contracts.

**ARTICLE II
RESPONSIBILITIES**

A. RESPONSIBILITIES OF THE EMPLOYER

1. The Employer agrees to display the following notices supplied by DHS in a prominent place that is clearly visible to prospective employees and all employees who are to be verified through the system:
 - A. Notice of E-Verify Participation
 - B. Notice of Right to Work
2. The Employer agrees to provide to the SSA and DHS the names, titles, addresses, and telephone numbers of the Employer representatives to be contacted about E-Verify. The Employer also agrees to keep such information current by providing updated information to SSA and DHS whenever the representatives' contact information changes.
3. The Employer shall become familiar with and comply with the most recent version of the E-Verify User Manual. The Employer will obtain the E-Verify User Manual from the E-Verify Employer Agent.
4. The Employer agrees to comply with current Form I-9 procedures, with two exceptions:
 - A. If an employee presents a "List B" Identity document, the Employer agrees to only accept "List B" documents that contain a photo. (List B documents identified in 8 C.F.R. 274a.2(b)(1)(B)) can be presented during the Form I-9 process to establish identity.) If an employee objects to the photo requirement for religious reasons, the Employer should contact E-Verify at 1-888-464-4218.
 - B. If an employee presents a DHS Form I-551 (Permanent Resident Card), Form I-766 (Employment Authorization Document), or U.S. Passport or Passport Card to complete I-Form I-9, the Employer agrees to make a photocopy of the document and to retain the photocopy with the employee's Form I-9. The Employer will use the photocopy to verify the photo and to assist DHS with its review of photo mismatches that employees contest. DHS may in the future designate other documents that activate the photo screening tool.

Note: Subject only to the exceptions noted previously in this paragraph, employees still retain the right to present any List A, or List B and List C, document(s) to complete the Form I-9.

5. The Employer agrees to record the case verification number on the employee's Form I-9 or to print the screen containing the case verification number and attach it to the employee's Form I-9.

**LEE COUNTY TRANSIT POLICIES
AND
PROCEDURES**

**GRANT-FUNDED PROCUREMENTS (500-11)
GENERAL PROVISIONS**



**3401 Metro Parkway
Fort Myers, FL 33901**

Revision Date: December 30, 2019

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LEE COUNTY TRANSIT GRANT-FUNDED PROCUREMENT GENERAL PROVISIONS

I. PROVISIONS APPLICABLE TO ALL CONTRACTS

A. Americans with Disabilities Act

The Americans with Disabilities Act of 1990 (ADA) prohibits discrimination and ensures equal opportunity and access for persons with disabilities. All design and construction must be accessible to individuals with disabilities pursuant to Titles II and III of the Americans with Disabilities Act.

B. Application of Federal Laws Clause

Contractor understands that Federal, state and local laws, regulations, policies, and related administrative practices ("Laws") applicable to the Contract on the date the Contract was executed (the "Execution Date") may be modified from time to time, or new Laws may be established after the Execution Date. Contractor agrees that the most recent of such Laws will govern the administration of the Contract at any particular time, unless there is sufficient evidence in the Contract of a contrary intent. Such contrary intent might be evidenced by express language in the Contract, or a letter signed by the Federal Transit Administrator, the language of which modifies or otherwise conditions the text of a particular provision of the Contract.

C. Access to Records and Reports

(49 U.S.C. § 5325(g), 2 C.F.R. § 200.333, 49 C.F.R. part 633)

1. Record Retention. The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third party agreements of any type, and supporting materials related to those records.
2. Retention Period. The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.333. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.
3. Access to Records. The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.
4. Access to the Sites of Performance. The Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract as reasonably may be required.

Federal Changes (49 C.F.R. Part 18)

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

LEE COUNTY TRANSIT GRANT-FUNDED PROCUREMENT GENERAL PROVISIONS

D. Civil Rights Requirements

Civil Rights and Equal Opportunity

The AGENCY is an Equal Opportunity Employer. As such, the AGENCY agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the AGENCY agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications.

Under this Agreement, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

1. **Nondiscrimination.** In accordance with Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
2. **Race, Color, Religion, National Origin, Sex.** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e *et seq.*, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
3. **Age.** In accordance with the Age Discrimination I Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 *et seq.*, U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
4. **Disabilities.** In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 *et seq.*, the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 *et seq.*, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

LEE COUNTY TRANSIT GRANT-FUNDED PROCUREMENT GENERAL PROVISIONS

E. Contracts Involving Federal Privacy Act Requirements

The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any Contract:

1. The Contractor agrees to comply with, and assures the compliance of its employees with the information restrictions and other applicable requirements of the Privacy Act of 1974, U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying Contract.
2. The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

F. Disadvantaged Business Enterprise (DBE)

(49 C.F.R. part 26)

The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 C.F.R. part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

1. Withholding monthly progress payments;
2. Assessing sanctions;
3. Liquidated damages; and/or
4. Disqualifying the contractor from future bidding as non-responsible. 49 C.F.R. § 26.13(b).

The text of 49 CFR Part 26 can be found at the following link: <https://ecfr.io/Title-49/pt49.1.26>

FDOT's website DBE Directory is located at:

<https://fdotxwp02.dot.state.fl.us/EqualOpportunityOfficeBusinessDirectory/CustomSearch.aspx>

Overview

It is the policy of the AGENCY and the United States Department of Transportation ("DOT") Enterprises ("DBE's"), as defined herein and in the Federal regulations published at 49 C.F.R. part 26, shall have equal opportunity to participate in DOT-assisted contracts. It is also the policy of the AGENCY to:

1. Ensure nondiscrimination in the award and administration of DOT-assisted contracts;
2. Create a level playing field on which DBE's can compete fairly for DOT-assisted contracts;
3. Ensure that the DBE program is narrowly tailored in accordance with applicable law;
4. Ensure that only firms that fully meet 49 C.F.R. part 26 eligibility standards are permitted
5. Help remove barriers to the participation of DBEs in DOT assisted contracts;
6. To promote the use of DBEs in all types offederally assisted contracts and procurement a

LEE COUNTY TRANSIT GRANT-FUNDED PROCUREMENT GENERAL PROVISIONS

7. Assist in the development of firms that can compete successfully in the marketplace outside the DBE program.

This Contract is subject to 49 C.F.R. part 26. Therefore, the Contractor must satisfy the requirement as set forth herein. These requirements are in addition to all other equal opportunity employment Contract. The AGENCY shall make all determinations with regard to whether or not a Bidder the requirements stated herein. In assessing compliance, the AGENCY may consider Bidder/Offeror's submission package, the Bidder/Offeror's documented history of non-comp on previous contracts with the AGENCY.

Contract Assurance

The Contractor, sub recipient or subcontractor shall not discriminate on the basis of race, c the performance of this Contract. The Contractor shall carry out applicable requirements of and administration of DOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other r appropriate.

DBE Participation

For the purpose of this Contract, the AGENCY will accept only DBE's who are:

1. Certified, at the time of bid opening or proposal evaluation, by the *[certifying agency or the Unified Certification Program (UCP)]*; or
2. An out-of-state firm who has been certified by either a local government, state government or Federal government entity authorized to certify DBE status or an agency whose DBE certification process has received FTA approval; or
3. Certified by another agency approved by the AGENCY.

DBE Participation Goal

The DBE participation goal for this Contract is set at 4%. This goal represents those element performed by qualified Disadvantaged Business Enterprises for amounts totaling **not less** price. Failure to meet the stated goal at the time of proposal submission **may** render the Bidder/Offeror non-responsive.

Proposed Submission

Each Bidder/Offeror, as part of its submission, shall supply the following information:

1. A completed **DBE Utilization Form** (see below) that indicates the percentage and dollar value of the total bid/contract amount to be supplied by Disadvantaged Business Enterprises under this Contract.
2. A list of those qualified DBE's with whom the Bidder/Offeror intends to contract for the performance of portions of the work under the Contract, the agreed price to be paid to each DBE for work, the Contract items or parts to be performed by each DBE, a proposed timetable for the performance or delivery of the Contract item, and other information as required by the **DBE Participation Schedule** (see below). No work shall be included in the Schedule that the Bidder/Offeror has reason to believe the listed DBE will subcontract, at any tier, to other than another DBE. If awarded the Contract, the Bidder/Offeror may not deviate from the DBE Participation Schedule submitted in response to the bid. Any subsequent changes and/or substitutions of DBE firms will require review and written approval by the AGENCY.
3. An original **DBE Letter of Intent** (see below) from each DBE listed in the **DBE Participation Schedule**.

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4. An original **DBE Affidavit** (See below) from each DBE stating that there has not been any change in its status since the date of its last certification.

Good Faith Efforts

If the Bidder/Offeror is unable to meet the goal set forth above (DBE Participation Goal), the AGENCY will consider the Bidder/Offeror's documented good faith efforts to meet the goal in determining responsiveness. The types of actions that the AGENCY will consider as part of the Bidder/Offeror's good faith efforts include, but are not limited to, the following:

1. Documented communication with the AGENCY's DBE Coordinator (questions of IFB or RFP requirements, subcontracting opportunities, appropriate certification, will be addressed in a timely fashion);
2. Pre-bid meeting attendance. At the pre-bid meeting, the AGENCY generally informs potential Bidder/Offeror's of DBE subcontracting opportunities;
3. The Bidder/Offeror's own solicitations to obtain DBE involvement in general circulation media, trade association publication, minority-focus media and other reasonable and available means within sufficient time to allow DBEs to respond to the solicitation;
4. Written notification to DBE's encouraging participation in the proposed Contract; and
5. Efforts made to identify specific portions of the work that might be performed by DBE's.

The Bidder/Offeror shall provide the following details, at a minimum, of the specific efforts it made to negotiate in good faith with DBE's for elements of the Contract:

1. The names, addresses, and telephone numbers of DBE's that were contacted;
2. A description of the information provided to targeted DBE's regarding the specifications and bid proposals for portions of the work;
3. Efforts made to assist DBE's contacted in obtaining bonding or insurance required by the Bidder or the Authority.

Further, the documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted when a non-DBE subcontractor was selected over a DBE for work on the contract. 49 C.F.R. § 26.53(b) (2) (VI). In determining whether a Bidder has made good faith efforts, the Authority may take into account the performance of other Bidders in meeting the Contract goals. For example, if the apparent successful Bidder failed to meet the goal, but meets or exceeds the average DBE participation obtained by other Bidders, the Authority may view this as evidence of the Bidder having made good faith efforts.

Administrative Reconsideration

Within five (5) business days of being informed by the AGENCY that it is not responsive or responsible because it has not documented sufficient good faith efforts, the Bidder/Offeror may request administrative reconsideration. The Bidder should make this request in writing to the AGENCY's [Contact Name]. The [Contact Name] will forward the Bidder/Offeror's request to a reconsideration official who will not have played any role in the original determination that the Bidder/Offeror did not document sufficient good faith efforts.

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As part of this reconsideration, the Bidder/Offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The Bidder/Offeror will have the opportunity to meet in person with the assigned reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. The AGENCY will send the Bidder/Offeror a written decision on its reconsideration, explaining the basis for finding that the Bidder/Offeror did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

Termination of DBE Subcontractor

The Contractor shall not terminate the DBE subcontractor(s) listed in the DBE Participation Schedule (see below) without the AGENCY's prior written consent. The AGENCY may provide such written consent only if the Contractor has good cause to terminate the DBE firm. Before transmitting a request to terminate, the Contractor shall give notice in writing to the DBE subcontractor of its intent to terminate and the reason for the request. The Contractor shall give the DBE five days to respond to the notice and advise of the reasons why it objects to the proposed termination. When a DBE subcontractor is terminated or fails to complete its work on the Contract for any reason, the Contractor shall make good faith efforts to find another DBE subcontractor to substitute for the original DBE and immediately notify the AGENCY in writing of its efforts to replace the original DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the Contract as the DBE that was terminated, to the extent needed to meet the Contract goal established for this procurement. Failure to comply with these requirements will be in accordance with Section 8 below (Sanctions for Violations).

Continued Compliance

The AGENCY shall monitor the Contractor's DBE compliance during the life of the Contract. In the event this procurement exceeds ninety (90) days, it will be the responsibility of the Contractor to submit quarterly written reports to the AGENCY that summarize the total DBE value for this Contract. These reports shall provide the following details:

- DBE utilization established for the Contract;
- Total value of expenditures with DBE firms for the quarter;
- The value of expenditures with each DBE firm for the quarter by race and gender;
- Total value of expenditures with DBE firms from inception of the Contract; and
- The value of expenditures with each DBE firm from the inception of the Contract by race and gender.

Reports and other correspondence must be submitted to the DBE Coordinator with copies provided to the [Agency Name] and [Agency Name2]. Reports shall continue to be submitted quarterly until final payment is issued or until DBE participation is completed.

The successful Bidder/Offeror shall permit:

- The AGENCY to have access to necessary records to examine information as the AGENCY deems appropriate for the purpose of investigating and determining compliance with this provision, including, but not limited to, records of expenditures, invoices, and contract between the successful Bidder/Offeror and other DBE parties entered into during the life of the Contract.
- The authorized representative(s) of the AGENCY, the U.S. Department of Transportation, the Comptroller General of the United States, to inspect and audit all data and record of the Contractor

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relating to its performance under the Disadvantaged Business Enterprise Participation provision of this Contract.

- All data/record(s) pertaining to DBE shall be maintained as stated in Section [insert reference to record keeping requirements for the Project.]

Sanctions for Violations

If at any time the AGENCY has reason to believe that the Contractor is in violation of its obligations under this Agreement or has otherwise failed to comply with terms of this Section, the AGENCY may, in addition to pursuing any other available legal remedy, commence proceedings, which may include but are not limited to, the following:

- Suspension of any payment or part due the Contractor until such time as the issues concerning the Contractor's compliance are resolved; and
- Termination or cancellation of the Contract, in whole or in part, unless the successful Contractor is able to demonstrate within a reasonable time that it is in compliance with the DBE terms stated herein.

DBE UTILIZATION FORM

The undersigned Bidder/Offeror has satisfied the requirements of the solicitation in the following manner (please check the appropriate space):

_____ The Bidder/Offer is committed to a minimum of _____% DBE utilization on this contract.
_____ The Bidder/Offeror (if unable to meet the DBE goal of _____%) is committed to a minimum of _____% DBE utilization on this contract and submits documentation demonstrating good faith efforts.

DBE PARTICIPATION SCHEDULE

The Bidder/Offeror shall complete the following information for all DBE's participating in the contract that comprises the DBE Utilization percent stated in the DBE Utilization Form. The Bidder/Offeror shall also furnish the name and telephone number of the appropriate contact person should the Authority have any questions in relation to the information furnished herein.

DBE IDENTIFICATION AND INFORMATION FORM				
Name and Address	Contact Name and Telephone Number	Participation Percent (Of Total Contract Value)	Description of Work to be Performed	Race and Gender of Firm

G. Energy Conservation

(42 U.S.C. 6321 et seq.; 49 C.F.R. part 622, subpart C)

Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the Florida energy conservation plan issued in compliance with the Energy Policy and Conservation Act, as amended, 42 USC § 6321 et seq., and perform an energy assessment for any building

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constructed, reconstructed, or modified with FTA funds required under FTA regulations, "Requirements for Energy Assessment," 49 CFR part 622, subpart C.

H. False or Fraudulent Statements or Claims – Civil and Criminal Fraud

(49 U.S.C. § 5323(l) (1); 31 U.S.C. §§ 3801-3812; 18 U.S.C. § 1001; and 49 C.F.R. part 31)

1. The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801-3812 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31 apply to its actions pertaining to the Contract. Upon execution of the underlying Contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it makes, it may make, or causes to be made, pertaining to the underlying Contract or the FTA assisted project for which the Contract Work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.
2. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a Contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l)(1) on the Contractor, to the extent the Federal Government deems appropriate.
3. The Contractor agrees to include the above two clauses in each subcontract financed in which whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified except to identify the subcontractor who will be subject to the provisions.

I. Federal Assistance and Incorporation of FTA Terms

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E or subsequent revisions, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.

J. Federal Changes

(49 C.F.R. part 18)

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

K. Fly America Requirements

(49 U.S.C. § 40118; 41 C.F.R. part 301-10; and 48 C.F.R. part 47.4)

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The Contractor agrees to comply with 49 U.S.C. § 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 C.F.R. Part 301-10, which provide that recipients and sub recipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

L. No Government Obligation to the Third Parties

1. Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in, or approval of the solicitation or award of the underlying Contract, absent the express written consent of the Federal Government, the Federal Government is not a party to the Contract and shall not be subject to any obligations or liabilities to the Contractor or any other party pertaining to any matter resulting from the underlying Contract.
2. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

M. Termination

(2 C.F.R § 200.339; 2 C.F.R. part 200, Appendix II (B))

1. **Termination for Convenience.** LCBOCC may terminate the Contract, in whole or in part, at any time and for any reason by written notice to the Contractor when it is in the best interest of LCBOCC, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA. The Contractor shall be paid its costs, including Contract close-out costs, and profit on Work performed up to the time of termination. The Contractor shall promptly submit its termination claim to LCBOCC to be paid to the Contractor. If the Contractor has any property in its possession belonging to LCBOCC, the Contractor will account for the same, and dispose of it in the manner LCBOCC directs.
2. **Termination for Default.** If the Contractor fails to make delivery of the goods or to perform the services within the time specified herein or any extension thereof; or if the Contractor fails to perform any of the other provisions of the Contract, or so fails to make progress as to endanger performance of the Contract in accordance with its terms and, in either of these two circumstances, does not cure such failure within a period of ten (10) days after receiving such notice from LCBOCC, thereafter, LCBOCC may terminate the Contract for default and have the Work completed and the Contractor shall be liable for any resulting cost to LCBOCC. In the event of termination for default, the Contractor will only be paid the Contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the Contract. If, after termination for failure to fulfill Contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of LCBOCC.
3. **Termination Due to Insufficient Funds.** If at any time during the term of the Contract the LCBOCC Governing Board makes a determination that LCBOCC has insufficient funds with which to carry

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out its performance and obligations under the Contract, then LCBOCC may terminate the Contract by delivering a notice of termination to the Contractor. The effective date of any termination shall be the date which is thirty (30) days following the delivery of the notice of termination or such later date, if any, specified in the notice of termination. The Contractor shall be paid its costs, including Contract closeout costs, and profit on Work performed up to the time of termination. The Contractor shall promptly submit its claim for final payment to LCBOCC.

4. **Termination Due to Failure to Receive a Grant or other Funding Device.** If at any time during the term of the Contract LCBOCC ceases to receive a grant or other funding device from a third party with which it intended to pay for the goods or services Contracted for, then, unless otherwise directed by the LCBOCC Governing Board, LCBOCC may terminate the Contract by delivering a notice of termination to the Contractor. The effective date of any termination shall be the date which is thirty (30) days following the delivery of the notice of termination or such later date, if any, specified in the notice of termination. The Contractor shall be paid its costs, including Contract closeout costs, and profit on Work performed up to the time of termination. The Contractor shall promptly submit its claim for final payment to LCBOCC.
5. **Damages upon Termination.** Any damages to be assessed to the Contractor as a result of a default termination or any claim by Contractor for costs resulting from a termination for convenience by LCBOCC, a termination due to insufficient funds by LCBOCC, or a termination due to a failure to receive a grant or other funding device by LCBOCC will be computed and allowable in accordance with federal regulations in effect at the time of termination.

N. Conformance with Intelligent Transportation System (ITS) National Architecture

For all respect to all Contracts involving the provision of Intelligent Transportation Systems ITS property and services the Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the National ITS Architecture and Standards to the extent required by 23 USC Section 517 (d) and 23 CFR Part 655 and 940.

O. Cargo Preference (Required for Transport of materials by Ocean Vessels)

(46 U.S.C. § 55305; 46 C.F.R. part 381)

The Cargo Preference requirements apply to all contracts involving equipment, materials, or commodities which may be transported by ocean vessels.

Use of United States – Flag Vessels:

- a. The Contractor agrees to use privately owned United States- Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying Contract to the extent such vessels are available at fair and reasonable rates for United States- Flag commercial vessels
- b. Furnish within twenty (20) business days following the date of loading for shipments originating within the United States or within thirty (30) business days following the date of leading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of -lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration,

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Washington, DC 20590 and to LCBOCC (through the Contractor in the case of a subcontractor's bill-of-lading.)

- c. Include these requirements in all subcontracts issued pursuant to the Contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

P. Recycled Products

(42 U.S.C. § 6962; 40 C.F.R. part 247; and 2 C.F.R. part § 200.322)

With respect to contracts for items designated by the Environmental Protection Agency, when LCBOCC procures at least Ten Thousand Dollars (\$10,000) of such materials per year, the Contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 C.F.R. Part 247.

Q. Program Funding

LCBOCC's performance and obligations to pay under the Contract are contingent upon the availability of various Federal, State and local funding.

R. Immigration Law Affidavit Certification (E-Verify Requirement)

Statutes and Executive Orders require employers to abide by the Immigration laws of the United States and to employ only individuals who are eligible to work in the United States. The Employment Eligibility Verification System (E-Verify) operated by the U.S. Department of Homeland Security (DHS) in partnership with the Social Security Administration (SSA) to provides an internet-based means of verifying employment eligibility of workers in the united States; it is not a substitute for any other employment eligibility verification requirements. Vendors/bidders are required to enroll in the E-Verify program and provide acceptable evidence of their enrollment, at the time of the submission of the vendor's/bidder's proposal. Exceptions to the program: Commodity based procurement where no services are provided.

II. PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING TWENTY FIVE THOUSAND DOLLARS (\$25,000)

A. Suspension and Debarment

(2 C.F.R. part 180; 2 C.F.R. part 1200; 2 C.F.R. § 200.213; 2 C.F.R. part 200 Appendix II (I); Executive Order 12549; and Executive Order 12689)

The Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. As such, the Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

- a) Debarred from participation in any federally assisted Award;
- b) Suspended from participation in any federally assisted Award;

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- c) Proposed for debarment from participation in any federally assisted Award;
- d) Declared ineligible to participate in any federally assisted Award;
- e) Voluntarily excluded from participation in any federally assisted Award; or
- f) Disqualified from participation in any federally assisted Award.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the AGENCY. If it is later determined by the AGENCY that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the AGENCY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

III. PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING ONE HUNDRED THOUSAND DOLLARS BY STATUTE (\$100,000)

A. Byrd Anti-Lobbying Amendment

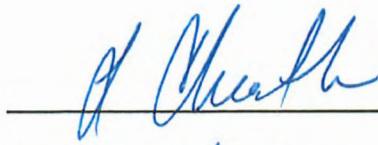
Lobbying Restrictions

(31 U.S.C. § 1352; 2 C.F.R. § 200.450; 2 C.F.R. part 200 appendix II (J); and 49 C.F.R. part 20)

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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Signature of Contractor's authorized Official

Lachlan Cheatham Pres.

Name and Title of Contractor's Authorized Official

8/5/21

Date

(End of statement)

e) The Contractor shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase under this contract that may involve international air transportation.

B. Contract Work Hours and Safety Standards

(40 U.S.C §§ 3701-3708; and 29 C.F.R. part 5)

The following provisions shall apply with respect to all U.S. federal government financed contracts and subcontracts in excess of \$100,000, involving employment of laborers or mechanics, including watchmen and guards, provided, however, that these provisions shall not apply to contracts for transportation by land, air, or water, or for the transmission of intelligence, or for the purchase of supplies or materials or articles ordinarily available in the open market.

1. **Overtime requirements** - No Contractor or subcontractor contracting for any part of the Contract Work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such Work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
2. **Violation; liability for unpaid wages; liquidated damages** - In the event of any violation of the clause set forth in paragraph (a) of this section the Contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
3. **Withholding for unpaid wages and liquidated damages** - LCBOCC shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of Work performed by the Contractor or subcontractor under any such Contract or any other Federal contract with the same prime Contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

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4. **Subcontracts** - The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (3) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

C. **Bonding Requirements (all construction or facility improvement contracts)** (2 C.F.R. § 200.325; 31 C.F.R. part 223)

Bid Guarantee

Bidders shall furnish a bid guaranty in the form of a bid bond, or certified treasurer's or cashier's check issued by a responsible bank or trust company, made payable to the RECIPIENT. The amount of such guaranty shall be equal to \$\$\$\$ or X% of the total bid price.

In submitting this bid, it is understood and agreed by bidder that the RECIPIENT reserves the right to reject any and all bids, or part of any bid, and it is agreed that the Bid may not be withdrawn for a period of [90] days subsequent to the opening of bids, without the written consent of RECIPIENT.

It is also understood and agreed that if the undersigned bidder should withdraw any part or all of his bid within [90] days after the bid opening without the written consent of the RECIPIENT, or refuse or be unable to enter into this Contract as provided above, or refuse or be unable to furnish adequate and acceptable Performance and Payment Bonds, or refuse or be unable to furnish adequate and acceptable insurance, as provided above, it shall forfeit its bid guaranty to the extent RECIPIENT'S damages occasioned by such withdrawal, or refusal, or inability to enter into an agreement, or provide adequate security thereof.

It is further understood and agreed that to the extent the defaulting bidder's bid guaranty shall prove inadequate to fully recompense RECIPIENT for the damages occasioned by default, then the undersigned bidder agrees to indemnify RECIPIENT and pay over to RECIPIENT the difference between the bid guarantee and RECIPIENT'S total damages so as to make RECIPIENT whole.

The undersigned understands that any material alteration of any of the above or any of the material contained herein, other than that requested will render the bid unresponsive.

Performance Guarantee

A Performance Guarantee in the amount of 100% of the Contract value is required by the Recipient to ensure faithful performance of the Contract. Either a Performance Bond or an Irrevocable Stand-By Letter of Credit shall be provided by the Contractor and shall remain in full force for the term of the Agreement. The successful Bidder shall certify that it will provide the requisite Performance Guarantee to the RECIPIENT within ten (10) business days from Contract execution. The RECIPIENT requires all Performance Bonds to be provided by a fully qualified surety company acceptable to the RECIPIENT and listed as a company currently authorized under 31 C.F.R. part 22 as possessing a Certificate of Authority as described hereunder. RECIPIENT may require additional performance bond protection when the contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. The RECIPIENT may secure additional protection by directing the Contractor to increase the amount of the existing bond or to obtain an additional bond.

If the Bidder chooses to provide a Letter of Credit as its Performance Guarantee, the Bidder shall furnish with its bid, certification that an Irrevocable Stand-By Letter of Credit will be furnished should the Bidder become the successful Contractor. The Bidder shall also provide a statement

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from the banking institution certifying that an Irrevocable Stand-By Letter of Credit for the action will be provided if the Contract is awarded to the Bidder. The Irrevocable Stand-By Letter of Credit will only be accepted by the RECIPIENT if:

1. A bank in good standing issues it. The RECIPIENT will not accept a Letter of Credit from an entity other than a bank.
2. It is in writing and signed by the issuing bank.
3. It conspicuously states that it is an irrevocable, non-transferable, "standby" Letter of Credit.
4. The RECIPIENT is identified as the Beneficiary.
5. It is in an amount equal to 100% of the Contract value. This amount must be in U.S. dollars.
6. The effective date of the Letter of Credit is the same as the effective date of the Contract
7. The expiration date of the Letter of Credit coincides with the term of this Agreement.
8. It indicates that it is being issued in order to support the obligation of the Contractor to perform under the Contract. It must specifically reference the Contract between the RECIPIENT and the Contractor the work stipulated herein.

The issuing bank's obligation to pay will arise upon the presentation of the original Letter of Credit and a certificate and draft (similar to the attached forms contained in Sections X and Y) to the issuing bank's representative at a location and time to be determined by the parties. This documentation will indicate that the Contractor is in default under the Contract.

Payment Bonds

A Labor and Materials Payment Bond equal to the full value of the contract must be furnished by the contractor to Recipient as security for payment by the Contractor and subcontractors for labor, materials, and rental of equipment. The bond may be issued by a fully qualified surety company acceptable to (Recipient) and listed as a company currently authorized under 31 C.F.R. part 223 as possessing a Certificate of Authority as described thereunder.

IV. PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING THE SIMPLIFIED ACQUISITION THRESHOLD – ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000)

A. Buy America

The Contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA - funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, microcomputer equipment, software, and small purchases (currently less than \$150,000). Separate requirements for rolling stock are set out at U.S.C. 5323(j) (C) and 49 CFR 661.11. Rolling stock must be assembled in the United States and have a 60 percent domestic content. Contractor must submit to LCBOCC a Buy America

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certification with respect to all FTA funded contracts, except those subject to a general waiver. This requirement does not apply to lower tier subcontractors.

B. Bonding Requirements (Non-Construction)

Contractor may be required to obtain performance and payment bonds when necessary to protect LCBOCC's interest.

1. The following situation may warrant a performance bond:
 - a. LCBOCC property or funds are to be provided to the Contractor for use in performing the contract or as partial compensation (as in retention of salvaged material).
 - b. Contractor sells assets to or merges with another concern, and LCBOCC, after recognizing the later concern as the successor in interest, desires assurance that it is financially capable.
 - c. Substantial progress payments are made before delivery of end items starts.
 - d. Contracts are for dismantling, demolition, or removal of improvements.
2. When determined that a performance bond is required, the Contractor shall be required to obtain performance bonds as follows:
 - a. The penal amount of performance bonds shall be 100 percent of the original contract price, unless LCBOCC determines that a lesser amount would be adequate for the protection of LCBOCC.
 - b. LCBOCC may require additional performance bond protection when a contract price is increased. The increase in protection shall generally equal 100 percent of the increased contract price. LCBOCC may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.
3. A payment bond is required only when performance bond is required, and if the use of payment bond is in the interest of LCBOCC.
4. When it is determined that a payment bond is required, the Contractor shall be required to obtain payment bond as follows:
 - a. The penal amount of the payment bonds shall equal:
 - i. Fifty percent of the contract price if the contract price is not more than \$1 million.
 - ii. Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
 - iii. Two and half million if the contract price is more than \$5 million.

C. Resolution of Disputes, Breaches, or Other Litigation

(2 C.F.R. § 200.326, 2 C.F.R. part 200, Appendix II (A))

Disputes – Disputes arising in the Performance of the Contract which are not resolved by agreement of the parties shall be decided in writing by the Procurement Director of LCBOCC. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnished a written appeal to the Procurement Director.

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In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence of its position. The decision of the Procurement Director of LCBOCC shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance During Dispute - Unless otherwise directed by LCBOCC, Contractor shall continue performance under the Contract while matters in dispute are being resolved.

Claims for Damages - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

Remedies - Unless the Contract provides otherwise, all claims, counterclaims, disputes and other matters in question between LCBOCC and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within Lee County, Florida.

Rights and Remedies - The duties and obligations imposed by the Contract Documents and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by LCBOCC or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach hereunder, except as may be specifically agreed in writing.

D. Clean Air and Federal Water Pollution Control

(42 U.S.C. §§ 7401 – 7671q; 33 U.S.C. §§ 1251-1387; and 2 C.F.R. part 200, Appendix II (G))

The Contractor agrees:

1. It will not use any violating facilities;
2. It will report the use of facilities placed on or likely to be placed on the U.S. EPA "List of Violating Facilities;"
3. It will report violations of use of prohibited facilities to FTA; and
4. It will comply with the inspection and other requirements of the Clean Air Act, as amended, (42 U.S.C. §§ 7401 – 7671q); and the Federal Water Pollution Control Act as amended, (33 U.S.C. §§ 1251-1387)

V. PROVISIONS APPLICABLE TO ROLLING STOCK PURCHASE CONTRACTS

A. Bus Testing

Contractor agrees to comply with 49 U.S.C. 5323(c) and FTA's implementing regulation at 49 C.F.R. Part 665 and shall perform the following:

1. A manufacturer of a new bus model or a bus produced with a major change in components or configuration shall provide a copy of the final test report to LCBOCC at a point in the procurement process specified by LCBOCC, which will be before LCBOCC's final acceptance of the first vehicle.
2. A manufacturer who releases a report under paragraph (a) above shall provide notice to the operator of the testing facility that the report is available to the public.

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3. If the manufacturer represents that the vehicle was previously tested, the vehicle being sold should have the identical configuration and major components as the vehicle in the test report. This must be provided to LCBOCC before LCBOCC, and A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA's final acceptance of the first vehicle. If the configuration or components are not identical, the manufacturer shall provide a description of the change and the manufacturer's basis for concluding that it is not a major change requiring additional testing.
4. If the manufacturer represents that the vehicle is "grandfathered" (used in mass transit service in the United States before October 1, 1988, and is currently being produced without a major change in configuration or components), the manufacturer shall provide the name and address of the recipient of such a vehicle and the details of that vehicle's configuration and major components.
5. Contractor shall provide a certification of compliance with FTA bus testing requirements on such form as may be required by LCBOCC.

B. Pre-award and Post Delivery Audit Requirements

Contractor agrees to comply with 49 U.S.C. 5323(m) and FTA's implementation regulation at 49 C.F.R. Part 663 and to submit the following certifications: **

1. **Buy America Requirements** - The Contractor shall complete and submit a declaration certifying either compliance or noncompliance with the Buy America requirements. If the Contractor certifies compliance with the Buy America requirements, it shall submit documentation which lists (i) component and subcomponent parts of the rolling stock to be purchased, identified by manufacturer of the parts, their country of origin and costs; and (ii) the location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly.
2. **Solicitation Specification Requirements** - The Contractor shall submit evidence that it will be capable of meeting the bid specifications.
3. **Federal Motor Vehicle Safety Standards ("FMVSS")** - The Contractor shall submit (i) manufacturer's FMVSS self-certification sticker information that the vehicle complies with relevant FMVSS or (ii) manufacturer's certified statement that the Contracted buses will not be subject to FMVSS regulations.

** Buy America requirements are applicable to rolling stock procurements exceeding \$150,000.

VI. PROVISIONS APPLICABLE TO CONSTRUCTION PROJECTS

A. Davis-Bacon Act and Copeland Anti-Kickback Acts

With respect to all construction contracts and subcontracts over two thousand dollars (\$2,000) at least partly financed by a loan or grant from the Federal Government, and including contracts for actual construction, alteration and/or repair, including painting and decorating, the following provisions shall apply.

1. **Minimum wages** – (i) All laborers and mechanics employed or working upon the site of the Work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 C.F.R. part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents

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thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis - Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 C.F.R. Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (a)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(A) The Contracting Officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the Contract shall be classified in conformance with the wage determination. The Contracting Officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

1. Except with respect to helpers as defined as 29 C.F.R. 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and
2. The classification is utilized in the area by the construction industry; and
3. The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and
4. With respect to helpers as defined in 29 C.F.R. 5.2(n) (4), such a classification prevails in the area in which the work is performed.

(B) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Contracting Officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the Contracting Officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

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(C) In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and the Contracting Officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Contracting Officer shall refer the questions, including the views of all interested parties and the recommendation of the Contracting Officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a) (ii) (B) or (C) of this section, shall be paid to all workers performing Work in the classification under the Contract from the first day on which Work is performed in the classification.

2. **Withholding** - LCBOCC shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor under the Contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime Contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the Contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the Work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the Contract, LCBOCC may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.
3. **Payrolls and basic records** - Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the Work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the Work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b) (2) (B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 C.F.R. 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

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(ii) (A) The Contractor shall submit weekly for each week in which any Contract Work is performed a copy of all payrolls to LCBOCC for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under section 5.5(a) (3) (i) of Regulations, 29 C.F.R. part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime Contractor is responsible for the submission of copies of payrolls by all subcontractors.

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the Contract and shall certify the following:

1. That the payroll for the payroll period contains the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 C.F.R. part 5 and that such information is correct and complete;
2. That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the Contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 C.F.R. part 3;
3. That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of Work performed, as specified in the applicable wage determination incorporated into the Contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (c) (i) (B) of this section.

(D) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The Contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 C.F.R. 5.12.

4. **Apprentices and trainees** – (i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the Work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or

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her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire Work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of Work actually performed. In addition, any apprentice performing Work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the Work actually performed. Where a Contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractors registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the Work performed until an acceptable program is approved.

(II) Trainees - Except as provided in 29 C.F.R. 5.16, trainees will not be permitted to work at less than the predetermined rate for the Work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of Work actually performed. In addition, any trainee performing Work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the Work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no

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longer be permitted to utilize trainees at less than the applicable predetermined rate for the Work performed until an acceptable program is approved.

(iii) Equal employment opportunity - The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 C.F.R. part 30.

5. **Compliance with Copeland Act requirements.** The Contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in the Contract.
6. **Subcontracts.** The Contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 C.F.R. 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the Contract clauses in 29 C.F.R. 5.5.
7. **Contract termination: debarment.** A breach of the Contract clauses in 29 C.F.R. 5.5 may be grounds for termination of the Contract, and for debarment as a Contractor and a subcontractor as provided in 29 C.F.R. 5.12.
8. **Compliance with Davis - Bacon and Related Act requirements.** All rulings and interpretations of the Davis - Bacon and Related Acts contained in 29 C.F.R. parts 1, 3, and 5 are herein incorporated by reference in the Contract.
9. **Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of the Contract shall not be subject to the general disputes clause of the Contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 C.F.R. parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the Contracting agency, the U.S. Department of Labor, or the employees or their representatives.
10. **Certification of eligibility –** (i) By entering into the Contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government Contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 C.F.R. 5.12(a)(1).
(ii) No part of the Contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 C.F.R. 5.12(a)(1).
(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

B. Bonding Requirements for Construction Contracts Exceeding One Hundred FIFTY Thousand (\$150,000)

Bid Bond Requirements (Construction)

1. Bid security - A Bid Bond must be issued by a fully qualified surety company acceptable to LCBOCC and listed as a company currently authorized under 31 CFR Part 223 as possessing a Certificate of Authority as described thereunder.

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2. Rights Reserved – In submitting the Bid, it is understood and agreed by bidder that the right is reserved by LCBOCC to reject any and all bids, or part of any bid, and it is agreed that the Bid may not be withdrawn for a period of ninety (90) days subsequent to the opening of bids, without the written consent of LCBOCC. It is also understood and agreed that if the undersigned bidder should withdraw any part or all of his bid within ninety (90) days after the bid opening without the written consent of LCBOCC, shall refuse or be unable to enter into the contract, as LCBOCC provided above, or refuse or be unable to furnish adequate and acceptable Performance Bond and labor and Material Payments Bonds, as provided above, or refuse or be unable to furnish adequate and acceptable insurance, as provided above, bidder shall forfeit the bid security to the extent of LCBOCC's damages occasioned by such withdrawal, or inability to enter into an agreement, or provide adequate security therefor.

It is further understood and agreed that to extent the defaulting bidder's Bid Bond, Certified Check, Cashier's Check, Treasurer's Check, and/or Official Bank Check shall prove inadequate to fully recompense LCBOCC for the damages occasioned by default, then such bidder agrees to indemnify LCBOCC and pay over to LCBOCC the difference between the bid security and LCBOCC's total damages, so as to make LCBOCC whole.

Performance and Payment Bonding Requirements (Construction)

The Contractor shall be required to obtain performance and payment bonds as follows:

1. Performance bonds

- a. The penal amount of performance bonds shall be 100 percent of the original Contract price, unless LCBOCC determines that a lesser amount would be adequate for the protection of LCBOCC.
- b. LCBOCC may require additional performance bond protection when a Contract price is increased. The increase in protection shall generally equal 100 percent of the increase in Contract price. LCBOCC may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

2. Payment bonds

- a. The penal amount of the payment bonds shall equal:
 - i. Fifty percent of the contract price if the contract price is not more than \$1 million.
 - ii. Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
 - iii. Two and half million if the contract price is more than \$5 million.
- b. If the original contract price is \$5 million or less, LCBOCC may require additional protection as required by subparagraph 1 of the contract price is increased.

Advance Payment Bonding Requirements

The Contractor may be required to obtain an advance payment bond if the contract contains an advance payment provision and a performance bond is not furnished. LCBOCC shall determine the amount of the advance payment bond necessary to protect LCBOCC.

Warranty of the Work

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1. The Contractor warrants to LCBOCC, the Architect and/or Engineer that all materials and equipment furnished under the Contract will be of highest quality and new unless otherwise specified by LCBOCC, free from faults and defects and in conformance with the Contract Documents. All Work not so conforming to these standards shall be considered defective. If required by the Project Manager, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.
2. The Work furnished must be of first quality and the workmanship must be the best obtainable in the various trades. The Work must be of safe, substantial and durable construction in all respects. The Contractor hereby guarantees the Work against defective materials or faulty workmanship for a minimum period of one (1) year after Final Payment by LCBOCC and shall replace or repair any defective materials or equipment or faulty workmanship during the period of the guarantee at no cost to LCBOCC.

C. Seismic Safety Requirements for the Construction of New Buildings or Addition to Existing Buildings

(42 U.S.C. 7701 et seq.; 49 C.F.R. part 41; and Executive Order 12699)

Contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 C.F.R. Part 41 and will certify to compliance to the extent required by the regulation. The Contractor also agrees to ensure that all Work performed under the Contract including Work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

VII. PROVISIONS APPLICABLE TO OPERATIONS/MANAGEMENT CONTRACTS

A. Charter Service Operations

(49 U.S.C. 5323(d) and (r); and 49 C.F.R. part 604)

The contractor agrees to comply with 49 U.S.C. 5323(d), 5323(r), and 49 C.F.R. part 604, which provides that recipients and sub recipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except as permitted under:

1. Federal transit laws, specifically 49 U.S.C. § 5323(d);
2. FTA regulations, "Charter Service," 49 C.F.R. part 604;
3. Any other federal Charter Service regulations; or
4. Federal guidance, except as FTA determines otherwise in writing.

The contractor agrees that if it engages in a pattern of violations of FTA's Charter Service regulations, FTA may require corrective measures or impose remedies on it. These corrective measures and remedies may include:

1. Barring it or any subcontractor operating public transportation under its Award that has provided prohibited charter service from receiving federal assistance from FTA;

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2. Withholding an amount of federal assistance as provided by Appendix D to part 604 of FTA's Charter Service regulations; or
3. Any other appropriate remedy that may apply.

The contractor should also include the substance of this clause in each subcontract that may involve operating public transit services.

B. School Bus Requirements

(49 U.S.C. 5323(f); and 49 C.F.R. part 605)

The contractor agrees to comply with 49 U.S.C. 5323(f), and 49 C.F.R. part 604, and not engage in school bus operations using federally funded equipment or facilities in competition with private operators of school buses, except as permitted under:

1. Federal transit laws, specifically 49 U.S.C. § 5323(f);
2. FTA regulations, "School Bus Operations," 49 C.F.R. part 605;
3. Any other Federal School Bus regulations; or
4. Federal guidance, except as FTA determines otherwise in writing.

If Contractor violates this School Bus Agreement, FTA may:

1. Bar the Contractor from receiving Federal assistance for public transportation; or
2. Require the contractor to take such remedial measures as FTA considers appropriate.

When operating exclusive school bus service under an allowable exemption, the contractor may not use federally funded equipment, vehicles, or facilities. The Contractor should include the substance of this clause in each subcontract or purchase under this contract that may operate public transportation services.

C. Transit Employee Protective Agreements Provisions

(49 U.S.C. § 5333(b) ("13(c)"); and 29 C.F.R. part 215)

With respect to Contracts for "transit operations" as classified by the FTA, and performed by employees of a Contractor recognized by FTA to be a transit operator, the Contractor agrees to the comply with applicable transit employee protective requirements as follows:

1. **General Transit Employee Protective Requirements** - To the extent that FTA determines that transit operations are involved, the Contractor agrees to carry out the transit operations Work on the underlying Contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under the Contract and to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. Department of Labor guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. Department of Labor to FTA applicable to LCBOCC's project from which Federal assistance is provided to support Work on the underlying Contract. The Contractor agrees to carry out that Work in compliance with the conditions stated in that U.S. Department of Labor letter. The requirements of this subsection

LEE COUNTY TRANSIT GRANT-FUNDED PROCUREMENT GENERAL PROVISIONS

(a), however, do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for nonurbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (2) and (3) of this Section.

2. **Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5310(a) (2) for Elderly Individuals and Individuals with Disabilities** - If the Contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for LCBOCC, the Contractor agrees to carry out the Work in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. Department of Labor guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. Department of Labor's letter of certification to FTA, the date of which is set forth in the Grant Agreement or Cooperative Agreement with LCBOCC. The Contractor agrees to perform transit operations in connection with the underlying Contract in compliance with the conditions stated in that U.S. Department of Labor letter.
3. **Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5311 in Nonurbanized Areas** - If the Contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, the Contractor agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. Department of Labor or any revision thereto.
4. **Requirements Apply to Subcontracts.** The Contractor agrees to include any applicable requirements in each subcontract involving transit operations financed in whole or in part with assistance provided by FTA.

D. Drug and Alcohol Testing

(49 U.S.C. § 5331; 49 C.F.R. part 655; and 49 C.F.R. part 40)

The Contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 C.F.R. Parts 653 and 654, produce any documentation necessary to establish its compliance with Parts 40 and 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of Florida, or LCBOCC, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 C.F.R. Parts 653 and 654 and review the testing process. The Contractor agrees further to certify annually its compliance with Parts 653 and 654 before March 15th of each year and to submit the Management Information System (MIS) reports before December 31st of each year to LEE COUNTY, LEE COUNTY TRANSIT DIRECTOR, 3401 Metro Parkway, Fort Myers, FL 33901. To certify compliance the Contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.

VIII. PROVISIONS APPLICABLE TO RESEARCH AND DEVELOPMENT CONTRACTS

LEE COUNTY TRANSIT GRANT-FUNDED PROCUREMENT GENERAL PROVISIONS

A. Patent and Rights in Data

(2 C.F.R. part 200, Appendix II (F); 37 C.F.R. part 401)

The following requirements apply to each Contract involving experimental, developmental or research work:

1. Patent Rights

- a. General – If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the Contract to which this section applies and that inventions, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, LCBOCC and Contractor agree to take action necessary to provide immediate notice and a detailed report to the party at a higher tier until FTA is ultimately notified.
- b. Unless the Federal Government later make a contrary determination in writing, irrespective of the Contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individually), LCBOCC and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government grants, Contracts and Cooperative Agreements," 37 CFR Part 401.
- c. The Contractor also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research Work financed in whole or in part with Federal assistance provided by FTA.

2. Rights in Data

- a. The term "subject data" used in this clause means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the Contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.
- b. The following restrictions apply to all subject data first produced in the performance of the Contract to which this Section applies:
 - i. Except for its own internal use, LCBOCC or Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may LCBOCC or Contractor authorize others to do so, without the written consent of the Federal Government, until such time as the Federal Government may have either released or approved the release of such data to the public; this restriction

LEE COUNTY TRANSIT GRANT-FUNDED PROCUREMENT GENERAL PROVISIONS

on publication, however, does not apply to any contract with an academic institution.

- ii. In accordance with 49 CFR § 18.34 and 49 C.F.R. § 19.36, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for "Federal Government purposes," any subject data or copyright described in subsections (b)(ii)(A) and (b)(ii)(B) of this clause below. As used in the previous sentence, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.
 - Any subject data developed under that contract, whether or not a copyright has been obtained; and
 - Any rights of copyright purchased by the Purchaser or Contractor using Federal assistance in whole or in part provided by FTA.
- iii. When FTA awards Federal assistance for experimental, developmental, or research work, it is FTA's general intention to increase transportation knowledge available to the public, rather than to restrict the benefits resulting from the Work to participants in that work. Therefore, unless FTA determines otherwise, LCBOCC and the Contractor performing experimental, developmental, or research Work required by the underlying Contract to which this Attachment is added agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of that Contract, or a copy of the subject data first produced under the Contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the underlying Contract, is not completed for any reason whatsoever, all data developed under that Contract shall become subject data as defined in subsection (i) of this clause and shall be delivered as the Federal Government may direct. This subsection (iii), however, does not apply to adaptations of automatic data processing equipment or programs for LCBOCC or Contractor's use whose costs are financed in whole or in part with Federal assistance provided by FTA for transportation capital projects.
- iv. Unless prohibited by state law, upon request by the Federal Government, LCBOCC, and the Contractor agree to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by LCBOCC or Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that Contract. Neither LCBOCC nor the Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.
- v. Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

LEE COUNTY TRANSIT GRANT-FUNDED PROCUREMENT GENERAL PROVISIONS

- vi. Data developed by LCBOCC or Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into Work required by the underlying Contract to which this Section applies is exempt from the requirements of subsections (ii), (iii), and (iv) of this clause, provided that LCBOCC or Contractor identifies that data in writing at the time of delivery of the Contract work.
 - vii. Unless FTA determines otherwise, the Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research Work financed in whole or in part with Federal assistance provided by FTA.
- c. Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (i.e., a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual, etc.), LCBOCC and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.
- d. The Contractor also agrees to include these requirements in each subcontract for experimental, developmental, or research Work financed in whole or in part with Federal assistance provided by FTA.

LEE COUNTY TRANSIT GRANT-FUNDED PROCUREMENT GENERAL PROVISIONS

Applicability of Third Party Contract Provisions

(excluding micro-purchases, except Davis-Bacon requirements apply to construction contracts exceeding \$2,000)

TYPE OF PROCUREMENT					
PROVISION	PROFESSIONAL SERVICES/A&E	OPERATIONS/MAINTENANCE	ROLLING STOCK PURCHASE	CONSTRUCTION	MATERIALS & SUPPLIES
No Federal Government Obligations to Third Parties (by use of a disclaimer)	All	All	All	All	All
False Statements or Claims Civil and Criminal Fraud	All	All	All	All	All
Access to Third Party Contract Records	All	All	All	All	All
Changes to Federal Requirements	All	All	All	All	All
Termination	>\$10,000 if 49 CFR part 18 applies	>\$10,000 if 49 CFR part 18 applies	>\$10,000 if 49 CFR part 18 applies	>\$10,000 if 49 CFR part 18 applies	>\$10,000 if 49 CFR part 18 applies
Civil Rights (Title VI, ADA, EEO except Special DOL EEO clause for construction projects)	All	All	All >\$10,000	All	All
Special DOL EEO clause for construction projects				>\$10,000	
Disadvantaged Business Enterprises (DBEs)	All	All	All	All	All
Incorporation of FTA Terms	All	All	All	All	All
Debarment and Suspension	>\$25,000	>\$25,000	>\$25,000	>\$25,000	>\$25,000
Buy America			>\$100,000 As of Feb. 2011, FTA has not adopted the FAR 2.101 \$150,000 standard	>\$100,000 As of Feb. 2011, FTA has not adopted the FAR 2.101 \$150,000 standard	>\$100,000 As of Feb. 2011, FTA has not adopted the FAR 2.101 \$150,000 standard
Resolution of Disputes, Breaches, or Other Litigation	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
Lobbying	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
Clean Air	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
Clean Water	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
Cargo Preference			Transport by ocean vessel	Transport by ocean vessel	Transport by ocean vessel
Fly America	Foreign air transport/travel	Foreign air transport/travel	Foreign air transport/travel	Foreign air transport/travel	Foreign air transport/travel
Davis-Bacon Act				>\$2,000 (also ferries)	
Contract Work Hours and Safety Standards Act		>\$100,000 (transportation services excepted)	>\$100,000	>\$100,000 (also ferries)	
Copeland Anti-Kickback Act Section 1 Section 2				All >\$2,000 (also ferries)	
Bonding				\$100,000	
Seismic Safety	A&E for new buildings & additions.			New buildings & additions.	
Transit Employee Protective Arrangements		Transit Operations.			
Charter Service Operations		All			
School Bus Operations		All			
Drug Use and Testing		Transit Operations.			
Alcohol Misuse and Testing		Transit Operations.			
Patent Rights	R & D				
Rights in Data and Copyrights	R & D				
Energy Conservation	All	All	All	All	All
Recycled Products		EPA-selected items \$10,000 or more annually.		EPA-selected items \$10,000 or more annually.	EPA-selected items \$10,000 or more annually.
Conformance with ITS National Architecture	ITS Projects	ITS Projects	ITS Projects	ITS Projects	ITS Projects
ADA Access	A&E	All	All	All	All
Notification of Federal Participation for States	Limited to States	Limited to States	Limited to States	Limited to States	Limited to States

**SPILL
RESPONSE
PLAN**

2. Emergency Response Action Plan

2.1 Notification Procedures.

All spills, regardless of size must be reported to the Driver's Supervisor immediately.

All Drivers are required to follow the Spill Response Guideline set forth in this document.

In the event of a fire emergency, the Person In Charge will secure the affected area and immediately notify the local fire department by dialing 911.

In the event of an oil spill, the Person In Charge will ensure that all the proper authorities have been notified. In addition, the Person In Charge, using the materials on hand, will direct available personnel to assist in the deployment of equipment and corrective actions in order to mitigate damage.

In the event of an accident, the Person In Charge will notify the local emergency medical service and/ or fire department by dialing 911.

At the time of a spill the driver on site shall perform any necessary action to STOP the continuation of the spill.

Disengage pumping system on truck.

Close all drain valves on tanks.

Immediately contain spill.

Divert spill from contacting the soil.

Drivers may carry the liquid clean up and de-volatilizer on their truck. Ask your supervisor to provide.

Utilize booms and pads to prevent run off from contacting the soil.

The QI will evaluate the situation to determine, through documentation, if the spill consist of more than 25 liquid gallons. If so the QI will contact the DEP.

Any spill to the water you must notify the NRC and USCG.

Upon evaluation of the Spill if it is determined to be in excess of 25 liquid gallons and beyond the scope of the on staff PCC contractor, the QI will make arrangements with DEP as well as our contracted Spill Responder.

Preventing a spill is our main goal. Inspect your hose lines and piping daily.

In the event of any spill, mixed product or vehicular accident, the driver is required to immediately contact his/her supervisor. In the event that the immediate supervisor is not available the driver must contact the Qualified Individual (QI) Lach Cheatham directly 561 722 0402. Alternate QI's are Kendall Cheatham 561 722 6862, Robert Talley 561 722 7140, Mallory Cheatham 561 722 1892, Terry Mills 772 834 4345. Terry Mills is also the Spill Response Manager (SRM).

Once the Supervisor is notified, the Supervisor must contact SRM Terry Mills 772 834 4345 **IMMEDIATELY** for consultation and direction. SRM Terry Mills notify QI Lach Cheatham **PROMPTLY**.

An incident report must be filled out by the direct supervisor and sent to the SRM. Driver should always take note when filling tanks in containment that the containments drain valve is securely closed.

Spill Response Plan

Driver should always check the level of the product in the tank, prior to filling. All tanks have a 10% ullage of unavailable tank space. The driver should determine if the product to be delivered is more than 90% of the capacity of the tank. Due caution should be used in the prevention of an over fill.

When accessible, manual tank gauge reading should be utilized and documented. Reading should be gathered before and after delivery. Customer should verify readings.

When a monitoring system is used, the driver should find out if the reading is current. Some system poll at intervals and may be misleading. Once you have confirmed the current reading you need to account for the 10% ullage. Document your reading before and after filling.

With respect to vessel fueling:

The driver of the truck making the vessel delivery is normally the only shore man required for the oil transfer operation and is licensed to serve in the capacity of Person In Charge. On multiple truck deliveries or when special equipment is required, the transfer of the cargo from the truck to the vessel, an additional trained man will be assigned to assist in the transfer, in which case either the driver or the added man may serve as the Person In Charge.

It is the duty of the Person in charge to carry out the shore-related function of the oil transfer operation following the procedures which have been established by Palmdale Oil Company and approved by the Coast Guard with the objective of eliminating any spillage or oil into navigable waters.

Note:

~~We do not transfer to any vessel that is unmanned.~~

Palmdale Oil Company, Inc

Spill Response Plan

Members of the Spill Response Team

(all team members are on call 24 hours per day)

Qualified Individual Lach Cheatham
561-722-0402

Alternate Qualified / Kendall Cheatham
561-722-6268
Mallory Cheatham
561-722-1892
Robert Talley
561-722-7140

Alternate Qualified / Terry Mills
Spill Response Manager 772-834-4345

Facility Response Team (FRT)
(based on facility location)

James Rogers 863-634-1867	Okeechobee
James Mc Intyre 772-577-8900	Ft. Pierce
Dan Foster 561-436-0738	West Pal, Boynton Beach, Riviera Beach, Ft. Lauderdale
Kevin Lomas 561-722-0206	West Pal, Boynton Beach, Riviera Beach, Ft. Lauderdale
Jeff Francis 813-454-4245	Tampa
Andy Olender 813-892-1261	Tampa, Orlando, Cocoa Beach
Jake Chester 772-519-1391	Orlando, Cocoa Beach
Walter Sheppard 239-229-3441	Ft. Myers
Mark Scott 239-284-9602	Ft. Myers
Rob Streicher 954-818-4603	Night Time Fueling

TELEPHONE NUMBERS FOR REPORTING POLLUTANT SPILLS

NATIONAL RESPONSE CENTER

(800) 424-8802 (24 HOURS)

(202) 267-2675 (24 HOURS)

*** Any discharge to water must be reported immediately to the National Response Center.*

U.S. COAST GUARD MARINE SAFETY OFFICE

Sector Miami (305)535-8701(24 Hrs)/ (305)732-0160 /

Sector Jacksonville (904)564-7513 / (904) 564-7511 ext 12 (24 hrs)

Sector St. Petersburg (813)228-4200 / (727) 824-7506 (24 hrs)

Sector Key West (305) 292-8700 / (305) 292-8727 (24 hrs)

Sector Mobile (251) 441-5720 / (251) 441-6211 (24 hrs)

U.S. COAST GUARD MARINE SAFETY DETACHMENTS

Port Canaveral (321)784-6780 / (321)868-4200 (24 Hrs)

Lake Worth (561)848-8868 / (561) 844-4470 (24 hrs)

Panama City (850) 233-0366 ext 176 / (251) 441-6211 (24hrs)

Fort Myers (239) 985-0560 / (727) 824-7506 (24hrs)

STATE WARNING POINT

Florida (800) 320-0519 (24 HRS)

(850) 413-9911 (24 HRS)

Alabama (800) 843-0699 (24hrs)

(334) 271-7700

DEPARTMENT OF NATURAL RESOURCES

FLORIDA FISH AND WILDLIFE

(888) 404-3922 (24 Hours, In State)

EPA REPORTING (404) 562-8700

(404) 562-9900

DOT PIPELINE & (800) 467-4922

SAFETY ADMINISTRATION

OTHER NUMBERS

Emergency Phone Number

Local Fire 911

Local Poli 911

Local Am 911

Spill Response Contr Emergency first responder

Cliff Berr (800) 899- Industrial waste hauler



QUALITY ASSURANCE PROGRAM

Our Quality Assurance Program is in conjunction with our Spill Response Plan, USCG Over-Water Transfers, Employee Training Programs Delivery Procedure Guidelines from Deep Draft Lubricants Association. We follow these procedures to maximize our Customer Satisfaction. We strive to eliminate our spills by not filling tanks beyond 90% of maximum capacity. This requires the tank(s) having a safe platform to stick tanks or accurate tank gauge on the tank(s). To eliminate cross drops, we train our drivers accordingly to prevent this from happening. We also ask the Customer to have their tank(s) clearly marked as to the product they contain. Our Drivers are trained to mark their paperwork so that they know where the product is on their truck and double check themselves before pumping.

A handwritten signature in cursive script that reads "Terry Mills". The signature is written in dark ink and is positioned above a horizontal line.

TERRY MILLS

SAFETY DIRECTOR
772-813-4308 OFFICE
772-834-4345 CELL
terry@palmdaleoil.com

A decorative horizontal line with a wavy, undulating pattern. Along the line, there are several small, stylized circles or bubbles of varying sizes, giving it a water-like or oil-slick appearance.

Where you need it, when you need it.

Orlando • Okeechobee • Fort Pierce • Fort Myers • Tampa • Riviera Beach • Boynton Beach



www.palmdaleoil.com

Emergency Response

In the event of a hurricane or other disasters, Palmdale will provide priority fuel to Lee County. Palmdale has a proven track record of supplying all of our customers during a natural disaster including 6 hurricanes that made landfalls in our marketing areas. Some of the largest companies have depended on and continue to rely on Palmdale Oil for emergency fuel needs such as Florida Power and Light, Tampa Electric, Publix Super Markets, Tenet Health Group, South Florida Water Management and many more.

Palmdale will have Lee County's fuel contracted with refiner suppliers to ensure consistent supply. We will have multiple supply points scattered strategically across the state so that if a hurricane makes landfall we will have multiple options from unaffected terminals and bulk plants. Palmdale will keep our tank capacity at maximum levels throughout hurricane season including our back up hurricane supply terminal in Ft Pierce, Florida which holds over 500,000 gallons. At maximum capacity we have well over 1 million gallons of our own storage. All of our bulk plants have back generators to keep fuel flowing. The size of our fleet allows us the availability to move quickly across Florida to all of the supply terminals if one has been impacted by a storm.

Palmdale has a centralized hurricane emergency response team and center that is staffed by the management of the company to help facilitate supply and priority of delivery. We have the ability to forward communications via the internet to any of our offices in the state as well as various cell phones. Back up phones and two way radio technologies are also used when cellular towers have been disrupted. Lee County will have direct access to our Hurricane Emergency team as well as back up cell phone numbers to our lead managers on the team.

Palmdale strongly recommends that when storm season begins that all emergency generators are topped off in order to avoid any last minute delivery issues. In the event of an approaching storm, we recommend that all tanks are filled at least 72 hours before a storm makes landfall. If the Governor declares a state of Emergency, Palmdale will run the fleet around the clock until the winds are sustained at 45 miles per hour. After the storm passes deliveries will resume as long as there are no natural impediments such as impassable roads or conditions that would endanger the safety of our employees and others. All drivers report to their managers after the storm as long there is communications otherwise they report directly to their local plants for instructions.

Lee County will also have the ability to get fuel at our various gas stations in Charlotte and Lee Counties including our Local Bulk Plant in Ft Myers, FL which includes a commercial card lock and retail station. Palmdale will work closely with Lee County to provide additional equipment for rent such as tanks and pumps, tank wagons, and excess storage trailers.

We at Palmdale are confident that we will be able to supply and service the needs of Lee County in the event of a natural disaster. You can rely on Palmdale.

Where you need it, when you need it.

Orlando • Okeechobee • Fort Pierce • Fort Myers • Tampa • Riviera Beach • Boynton Beach • West Palm Beach