

AGREEMENT FOR PAINT AND PAINT CONTRACTOR SERVICES

THIS AGREEMENT ("Agreement") is made and entered into as of the date of execution by both parties, by and between Lee County, a political subdivision of the State of Florida, hereinafter referred to as the "County" and Xcel Painting, Inc., a Florida corporation, whose address is 14620 Bald Eagle Drive, Fort Myers FL 33912, and whose federal tax identification number is 51-0449614, hereinafter referred to as "Vendor."

WITNESSETH

WHEREAS, the County intends to purchase paint and paint contractor services from the Vendor in connection with "Paint and Paint Contractor Services County Wide" (the "Purchase"); and,

WHEREAS, the County issued Solicitation No. RFP170458LKD on November 3, 2017; 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 Proposal Action on January 17, 2018, WAS SIGNED BY PROCUREMENT; 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 section Detailed Scope of Work of Solicitation No. RFP170458LKD, as amended by Addendum No. 1, a photocopy of said section being attached hereto and incorporated herein as Exhibit A. Vendor shall comply strictly with all of the terms and conditions of Solicitation No. RFP170458LKD, a copy of which is on file with the County's Department of Procurement Management and is deemed incorporated into this Agreement.

II. TERM AND DELIVERY

A. This Agreement shall commence immediately upon execution by both the County and the Vendor, and shall continue for a period of two (2) years

with an option to renew for up to three (3) additional one (1)-year periods upon the mutual written agreement of both parties.

- B. A purchase order must be issued by the County before commencement of any work or purchase of any goods related to this Agreement.
- C. Products and services shall be delivered in accordance with Exhibit B, Fee Schedule, attached hereto and incorporated herein.

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 Solicitation No. RFP170458LKD, 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 work under this Agreement until receipt of a purchase order from the County. Vendor acknowledges and agrees that no minimum order or amount of product or work is guaranteed under this Agreement and County may elect to issue no purchase orders. If a purchase order is issued, the County reserves the right to amend, reduce, or cancel the purchase order 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 nonappropriation 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 address indicated on the purchase order on a monthly basis for those specific products and services as described in Exhibit A (and the corresponding fees as described in Exhibit B) that were provided during that invoicing period.
- C. For partial shipments or deliveries, progress payments shall be paid monthly in proportion to the percentage of products and services delivered on those specific line items as approved in writing by the County.

V. ADDITIONAL PURCHASES

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

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

VI. LIABILITY OF VENDOR

- A. The Vendor shall indemnify and hold harmless Lee County Government from liabilities, damages, losses, and costs, including but not limited to attorney's reasonable fees to the extent caused by the negligence, recklessness, or intentional wrongful conduct of the Vendor and persons employed or utilized by the Vendor in the performance of this Agreement.
- B. This section shall survive the termination or expiration of this Agreement.

VII. VENDOR'S INSURANCE

- A. Vendor shall procure and maintain insurance as specified in Exhibit C, Insurance Requirements, attached hereto and made a part of this Agreement.
- B. Vendor shall, on a primary basis and at its sole expense, maintain in full force and effect, at all times during the life of this Agreement, insurance coverage (including endorsements) and limits as described in Exhibit C. These requirements, as well as the County's review or acceptance of insurance maintained by Vendor, are not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by Vendor under this Agreement. Insurance carriers providing coverage required herein must be licensed to conduct business in the State of Florida and must possess a current A.M. Best's Financial Strength Rating of A- Class VII 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, publicrecords@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.

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.
- 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 fifteen (15) days' written notice to the Vendor to terminate this Agreement in whole or in part for any reason whatsoever. In the event of such termination, the County shall be responsible to Vendor only for fees and compensation earned by the Vendor, in accordance with Section III, prior to the effective date of said termination. In no event shall the County be responsible for lost profits of Vendor or any other elements of breach of contract.
- B. After receipt of a notice of termination, except as otherwise directed, the Vendor shall stop work on the date of receipt of the notice of termination or other date specified in the notice; place no further orders or subcontracts for materials, services, or facilities except as necessary for completion of such portion of the work not terminated; terminate all vendors and subcontracts; and settle all outstanding liabilities and claims.
- C. The County reserves the right to require Vendor to repay amounts previously paid by the County to the Vendor due to untimely completion of services, inadequate completion of services, or lack of completion of services and the Vendor shall comply with such demand within 15 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 XI. 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 A) 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.
- C. Vendor shall secure from the applicable third party manufacturers, and assign and pass through to the County, at no additional cost to the County, such warranties as may be available with respect to the products and services provided through the Purchase.
- D. The Vendor shall warranty all work performed under this Agreement to be free from workmanship defects for a minimum period of one (1) year from the date of acceptance by the County or the entire manufacturer specified term, whichever is longer.
- E. In the event that any painted surface fails to maintain its integrity during the manufacturer's warranty period due to improper installation, the Vendor shall supply all labor and materials necessary to return the surface to its condition as accepted by the County. All repaired areas shall be indiscernible from adjacent non-repaired areas; this may require repainting an entire surface. All warranty work shall be accomplished in a timely manner at no cost to the County.
- F. In the event that any painted surface fails to maintain its integrity during the manufacturer's warranty period for any reason, other than improper installation, the Contractor shall coordinate with the manufacturer/supplier to supply all materials necessary to return the surface to its condition as accepted by the County. All repaired areas shall be indiscernible from adjacent non-repaired areas; this may require repainting an entire surface. All warranty work shall be accomplished in a timely manner at no material cost to the County. Installation cost would be negotiated with the Vendor.

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. 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: David N Sax
Title: Project Manager
Address: 14620 Bald Eagle Drive
Fort Myers FL 33912
Telephone: 239 561 1887
Facsimile: 239 561 1887
E-mail: xcelpainting@gmail.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 mtucker@leegov.com</u>	

- I. Any change in the County's or the Vendor's Representative will be promptly communicated by the party making the change.
- J. Paragraph headings are for the convenience of the parties and for reference purposes only and shall be given no legal effect.
- K. In the event of conflicts or inconsistencies, the documents shall be given precedence in the following order:
1. Agreement
 2. County's Purchase Order
 3. Solicitation No. RFP170458LKD
 4. Vendor's Submittal in Response to Solicitation No. RFP170458LKD

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

WITNESS:

Xcel Painting, Inc.

Signed By: Doris Chouiniere Signed By: [Signature]

Print Name: DORIS CHOUINIÈRE Print Name: Gretchen C Sax

Title: President

Date: 2.2.18

LEE COUNTY

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: [Signature]
CHAIR

DATE: 3-28-18

ATTEST:
CLERK OF THE CIRCUIT COURT
Linda Doggett, Clerk

BY: Joyce Townsend
DEPUTY CLERK

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



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

BY: [Signature]
OFFICE OF THE COUNTY ATTORNEY

EXHIBIT A DETAILED SCOPE OF WORK

RFP170458LKD Revised 11/22/2017 issued with Addendum 1

Detailed Scope of Work Paint and Paint Contractor Services

Lee County Board of County Commissioners is seeking Contractor(s) that offer professional painting services and materials for painting facilities countywide on an as needed basis.

The work shall consist of furnishing all labor, materials, equipment and incidentals required to complete execution of all work specified for each project. Materials and workmanship shall be in accordance with industry standards such as ASTM International.

The County may require additional items or services of a similar nature, but not specifically listed in the contract. The Contractor agrees to provide such items or services, and will provide the County prices on such additional items or services.

This awarded contract shall serve as a "Master" contract, which is not for any specific project. Work will be negotiated, authorized, scheduled, funded, and accounted for by the issuance of "Purchase Orders" by the requesting department, division or other governmental entity. The County's intent is to award to one or more Contractors who meet the criteria and qualifications herein.

1. General Requirements:

- 1.1. **All Inclusive:** Contractor(s) selected are to provide the performance of all goods and services necessary for the successful completion of the project(s). This will be inclusive of obtaining necessary permits, if applicable.
- 1.2. **Purchase Order(s):** The awarded Contractor(s) will provide an itemized firm price in accordance with each project's scope of work. The award of each project will be to the lowest responsive and responsible quote meeting the project needs and timeline requirements. The Contractor may be required to visit the work site to develop a project specific price based on field verified conditions. The quote shall include the number of calendar days to complete the work, work items required, and the total price to complete in accordance with the scope of work. The County reserves the right to disapprove the quote and shall have no obligation to issue a work authorization for the work.
- 1.3. **Additional Work:** If during performance of the work, additional work is determined to be required, a written quote must be provided and approved by the County before any additional work is performed.
- 1.4. **Work Hours:** Work shall normally be accomplished Monday through Friday between the hours of 7:30 AM and 5:00 PM. However, there are occasions where weekend or off-hours are necessary on certain projects.
- 1.5. **Property Condition:** The Contractor shall be responsible for any damages to property as a result by the Contractor or his employees. Restoration and costs incurred as a result are the responsibility of the Contractor at no additional expense to the County. Conditions shall be the same or better than initially starting the project.
- 1.6. **All furnishings and equipment shall be placed back in the original locations. All spaces must be cleaned and left in acceptable condition.**
- 1.7. **Materials:** The County reserves the right to supply materials and/or equipment for use by the Contractor without affecting any provision of the contract. The County may, at its discretion, purchase materials to save tax dollars. Unused paints and finishes purchased by the County shall remain the property of the County. The County may, at its discretion, pay for any necessary large rental equipment such as lifts and scaffolds. Prior authorization for and special needs equipment or rentals must be approved by the County. Material mark-up may not exceed 10%.
- 1.8. **Sub-Contracting:** No Sub-Contracting permitted without the express written approval of the County. The awarded Contractor must perform a minimum of 51% of the estimated cost of the project. All Sub-Contractors utilized shall be properly certified, registered and/or licensed for the services to be performed. The Contractor has final responsibility for all Sub-Contractors' performance and work provided.
- 1.9. **Related Expenses/Travel Expenses:** All costs including travel are to be included in each project price. The County will not accept additional costs.
- 1.10. **Permit Fees: (if applicable)** The Contractor shall secure all permits and pay all fees initially. Such fees are reimbursable at cost (excludes any mark-up) and is to be itemized when submitted on the billing invoice.
- 1.11. **Bond Requirements:** If a specific project is over \$100,000, bonding requirements provided herein are applicable on that project.
- 1.12. **Workmanship/Warranty:**

EXHIBIT A DETAILED SCOPE OF WORK

RFP170458LKD Revised 11/22/2017 issued with Addendum 1

- 1.12.1. The Contractor shall warranty all work performed under this contract to be free from **workmanship** defects for a minimum period of **one (1) year** from the date of acceptance by the County or manufacturer specified term whichever is longer.
 - 1.12.2. In the event that any painted surface fails to maintain its integrity during the **manufacturer's** warranty period **due to improper installation**, the Contractor shall supply all labor and materials necessary to return the surface to its condition as accepted by the County. All repaired areas shall be indiscernible from adjacent non-repaired areas; this may require repainting an entire surface. All warranty work shall be accomplished in a timely manner at no cost to the County.
 - 1.12.3. **In the event that any painted surface fails to maintain its integrity during the manufacturer's warranty period for any reason, other than improper installation, the Contractor shall coordinate with the manufacturer/supplier to supply all materials necessary to return the surface to its condition as accepted by the County. All repaired areas shall be indiscernible from adjacent non-repaired areas; this may require repainting an entire surface. All warranty work shall be accomplished in a timely manner at no material cost to the County. Installation cost would be negotiated with the Contractor.**
 - 1.12.4. The Contractor shall be responsible for the provision of the adequate and proper safety precautions for both their workers and all persons in or around the work area at all times.
 - 1.12.5. All work shall conform to all existing building codes and regulations. The work must be accomplished with professional methods and standards of the trade.
 - 1.12.6. The Contractor must be mindful of different security protocols at different County locations and abide by them.
 - 1.12.7. All personnel shall maintain proper respectful demeanor around all County employees and general public by maintaining proper clothing standards, language and attitude. All employees shall at all times wear a uniform or visible form of identification identifying the Contractor.
2. **Manufacturer's Specifications/Warranty:**
- 2.1. When a paint manufacturer provides a specification for a painting project, the manufacturers' specification will supersede the general specifications included in this document with regards to surface preparation and material application only. It shall be the Contractor's responsibility to follow the manufacturer's specifications when applicable.
3. **Painting Service Specifications:** All work shall be done in accordance with the paint manufacturer's specification for each product used. Below are general specifications that shall be used for each project:
- 3.1. **Examination-**The Contractor shall examine all substrates prior to application and report any deficiencies to the County representative. Do not proceed with work until all unsatisfactory conditions have been corrected. As part of the examination, the Contractor shall inspect all surfaces for proper installation and suitable for accepting primers, putty, caulking, paints and coatings as required.
 - 3.2. **Surface Conditions-**Proper adhesion is vital to the success of the system and is dependent upon the quality of the substrate to which the new coating system is being applied. For proper adhesion, all surfaces to be coated must be cleaned and free from dirt, mildew, mold, algae, grease, oil, and any loose, powdery, chalky residues that can inhibit poor bonding and adhesion. Each surface shall be cleaned and prepared as specified. The Contractor is responsible for the finish of the work. Would any surface be found unsuitable to produce a proper paint or sealant finish, the County representative shall be notified in writing and no material shall be applied until the unsuitable surfaces have been made satisfactory.
 - 3.3. **Surface Preparations-** Existing painted surfaces to be painted shall be tested for system adhesion. If the existing system is found not to be adhered to the substrate sufficiently, the existing paint shall be removed before the new paint is applied. The Contractor shall feather sand to obtain smooth edges, spot prime and let dry. All previously painted surfaces to receive new paint shall be prepared so as to have a "like new" finish after the new paint is applied and has cured. Preparation shall include the following:
 - 3.3.1. **Interior Cleaning:** Wash substrates with Trisodium Phosphate or a good grease cutting detergent as approved by County Representative and wipe dry. Make sure all grease, oil, etc. has been removed.
 - 3.3.2. **Exterior Cleaning:** All exterior surfaces to be painted shall be properly pressure cleaned to remove dirt, mildew, chalked paint, and foreign materials. All exterior surfaces to be painted shall be water blasted at 2000 PSI or more depending upon substrate conditions with the following solution to remove mildew,

EXHIBIT A

DETAILED SCOPE OF WORK

RFP170458LKD Revised 11/22/2017 Issued with Addendum 1

- mildew spores, and other surface contaminants: Mix 1 part bleach to 3 parts water and mix thoroughly. Let solution remain on surface one half hour and then thoroughly rinse with clean water. If dirt remains, wash with non-sudsing detergent. Rinse thoroughly and allow surface to dry before painting. Minor cracks in exposed block or poured concrete shall be patched with Elastomeric Patching Compound. Finished patches shall be closely matched to existing surface.
- 3.3.3. Metal prep: Metals shall be mechanically hand-tooled to bright metal, treat with a phosphoric acid based metal prep or converter and primed with an Industrial Acrylic Rust Inhibitive Primer, following label directions.
 - 3.3.4. Hand Scrapping: wire brushing or other suitable power tool cleaning shall remove any loose and scaling paint not removed by pressure washing.
 - 3.3.5. Masonry Surfaces: All masonry surfaces are to be cleaned and bonded with Latex Surface Conditioner, white or clear prior to patching, unless specified otherwise.
 - 3.3.6. Wood Inspection: Painted wood surfaces shall be carefully inspected for evidence of deterioration or surface imperfections.
 - 3.3.7. Final Surface Prep: Sandpaper any hard glossy surfaces to ensure proper adhesion. Fill nail holes, imperfections and cracks with putty. Edges, corners and raised grain shall be eased by sanding. Each coat required shall be sanded except the last.
- 3.4. Hardware Protection- Remove hardware and accessories such as plates, lighting fixtures, hinges, etc., that are not to be painted, or provide surface protection prior to surface preparation or painting. Hardware and accessories shall be reinstalled by the Contractor unless otherwise specified and agreed upon.
- 3.5. Priming and Sealing- Primer and sealers should be applied exactly as specified on the data sheet or product label and shall only be thinned where indicated. Do not prime or seal areas that are damp or wet and when rain is imminent. The use of a moisture meter is required when surfaces are of questionable moisture content.
- 3.6. Patching and Caulking- All door jambs, baseboards, and interior window casings shall be properly caulked with Acrylic Siliconized Latex Caulk unless otherwise specified or specifically excluded. Minor puttying and filling may be necessary on trim and door jambs. The Contractor shall use urethane caulk on all exterior surfaces unless directed otherwise.
- All construction joints, expansion joints, window and door perimeters shall be carefully inspected for caulking deterioration, loss of adhesion, cracking or loss of properties. Failing caulking shall be removed and the area cleaned prior to re-caulking to assure desired adhesion to both surfaces. Where the existing caulking is removed, a Neoprene rope shall be installed as a back-up surface to ensure proper sealant compaction. In the areas listed above, there may be no caulking or sealant at all. If this condition does exist, the Contractor shall clean the area prior to caulking to ensure adhesion. A neoprene rope shall be installed as a back-up surface if openings are more than 1/4 inch.
- Prior to commencing the painting operation, the Contractor shall repair all existing exterior defective caulking and defective building joints, as well as any new openings. All masonry cracks of hairline nature or less shall be patched with Elastomeric Patching Compound. Masonry cracks of more than 1/8 inch in width shall be cut out, cleaned, Neoprene rope installed, filled with one part Polyurethane Sealant to meet Federal Spec. TT-S-00230C, Type II, Class A, USDA approved and FDA approved and to match adjacent surfaces in texture and uniformity. All applications of Elastomeric Patching Compound shall result in a minimum 1/8 inch build-up of material over the cracked areas and feathered and textured into adjacent surfaces. Sound out all masonry cracks to determine bond to substrate. If hollow sound or disbanding is present, remove loose substrate and prime with concrete-to-concrete primer. Apply concrete patching material in void and finish with Elastomeric Patching Compound to match the adjacent to match the adjacent substrate in texture and uniformity. Remove all tape, patching compound, caulking or sealant in any previously patched areas and re-patch and repaint as specified.
- 3.7. Coating Applications- The Contractor shall check to verify that the coating is of proper color. Proper measures shall be taken to insure that surrounding areas not to be coated are protected by appropriate means. The Contractor shall insure that cars, boats and other vehicles are parked sufficiently distant, or are covered, so as not to be hit with coating, splatter or drips.
 - 3.8. Do not coat in high winds or if rain is imminent.
 - 3.9. Use and maintain quality installation tools including brushes, rollers, airless sprayers, tips, etc.
 - 3.10. All coatings shall be applied to specific dry film thickness indicated by the paint manufacturer of the product being applied.
 - 3.11. All coatings shall be applied to full opacity without runs, sags, pinholes, lap marks, etc.

EXHIBIT A DETAILED SCOPE OF WORK

RFP170458LKD Revised 11/22/2017 issued with Addendum 1

- 3.12. All coatings are to be applied according to specifications and label directions.
Special Note: Apply second top coat material to all substrates where necessary to obtain complete hiding.
- 3.13. Periodic and Final Cleanup- Upon completion of the work and before acceptance and final payment is made, the Contractor shall clean and remove from the premises all surplus and discarded materials, rubbish and temporary structures. All property, both public and private, which has been damaged during the prosecution of the work shall be restored in an acceptable manner and the Contractor shall leave the work area in a neat and presentable condition. All buildings and grounds shall be left in the same or better state of cleanliness as was found before job commencement.
The Contractor shall schedule periodic cleaning to keep the worksite and adjacent properties free from accumulations of waste materials, rubbish and debris resulting from the painting process. The Contractor shall leave all work sites in a neat and orderly fashion at the end of each work day.

End of section

EXHIBIT B FEE SCHEDULE

1. This Agreement shall serve as a “master” contract, which is not for any specific project. Work awarded under this contract, if any, shall be negotiated, authorized, scheduled, funded, and accounted for by the issuance of purchase orders by the County.
 - 1.1. The Vendor shall provide quotes for all products and services as requested by the County. The County’s request for a quote does not authorize or otherwise guarantee issuance of a purchase order for the work.
 - 1.2. The Vendor’s quote for each project/task negotiated shall provide, at a minimum:
 - 1.2.1. Project Detailed Scope of Work
 - 1.2.2. Itemized pricing
 - 1.2.3. Term: Number of calendar days to complete the project. If omitted, the default schedule shall commence on the date of the purchase order and not exceed thirty (30) calendar days.
2. **Award of Projects**
 - 2.1. No individual project/task authorized under this Agreement shall exceed \$200,000.00.
 - 2.2. Any project/task with a cost of \$25,000.00 or less may be awarded to any vendor holding a valid contract under Solicitation No. RFP170458LKD able to meet the required schedule.
 - 2.3. For any project/task with a cost over \$25,000.00, but less than \$200,000.00, the County will request quotes from a minimum of three (3) awarded vendors holding a valid contract under Solicitation No. RFP170458LKD. The vendor with the lowest price able to meet the required schedule will be awarded the project/task.
3. **Notice to Proceed (NTP)**
 - 3.1.1. Any project/task \$25,000.00 or less will use the purchase order as the notice to proceed. The start date and date or the number of days to complete the project must be included on the purchase order. If omitted, the default schedule shall commence on the date of the purchase order and not exceed the number of calendar days provided by the Vendor’s quote for the work.
 - 3.1.2. Any project/task order \$25,000.01 or greater will have a formal NTP issued through the Department of Procurement Management.
4. **Liquidated Damages:** The County and the Vendor recognize that, since time is of the essence for any work authorized by this Agreement, the County will suffer financial loss if the work is not completed within the time specified as described above. Should the Vendor fail to complete the work within the time period noted above, the County shall be entitled to assess, as Liquidated Damages, but not as a penalty, an amount based on the project cost for each calendar day thereafter until the work is completed. The Work shall be deemed to be complete on the date the County accepts it. Liquidated damages shall apply to each project. Liquidated damages are based on the entire project amount per calendar day using the table below.

Estimated Project Cost Over	Estimated Project Cost But Less than	Daily Charge Per Calendar Day
\$0.00	\$50,000.00	\$645.00
\$50,000.01	\$250,000.00	\$760.00

EXHIBIT C INSURANCE REQUIREMENTS

1. Insurance Guide:



Major Insurance Requirements

Minimum Insurance Requirements: *Risk Management in no way represents that the insurance required is sufficient or adequate to protect the Vendor's 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, and contractual liability exposures with minimum limits of:

\$1,000,000 per occurrence
\$2,000,000 general aggregate
\$1,000,000 products and completed operations
\$1,000,000 personal and advertising injury

- b. **Business Auto Liability** - The following Automobile Liability will be required and coverage shall apply to all owned, hired and non-owned vehicles use with minimum limits of:

\$1,000,000 combined single limit (CSL) or
\$500,000 bodily injury per person
\$1,000,000 bodily injury per accident
\$500,000 property damage per accident

- c. **Workers' Compensation** - Statutory benefits as defined by Chapter 440, Florida Statutes, encompassing all operations contemplated by this Contract or Agreement to apply to all owners, officers, and employees regardless of the number of employees. Workers' Compensation exemptions may be accepted with written proof of the State of Florida's approval of such exemption. Employers' liability will have minimum limits of:

\$500,000 per accident
\$500,000 disease limit
\$500,000 disease – policy limit

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

EXHIBIT C INSURANCE REQUIREMENTS

Verification of Coverage:

1. Coverage shall be in place prior to the commencement of any work and throughout the duration of the Contract. A certificate of insurance will be provided to the Risk Manager for review and approval. The certificate shall provide for the following:

- a. The certificate holder shall read as follows:

Lee County Board of County Commissioners
P.O. Box 398
Fort Myers, Florida 33902

- b. *“Lee County, a political subdivision and Charter County of the State of Florida, its agents, employees, and public officials”* will be named as an "Additional Insured" on the General Liability policy, including Products and Completed Operations coverage.

Special Requirements:

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

End of Insurance Guide section

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
02/21/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER PREMIER INSURANCE CORP., INC. 1326 CAPE CORAL PKWY E., SUITE 1 CAPE CORAL, FL 33904	CONTACT NAME: AILEEN ERNEST PHONE (A/C No., Ext.): 239-542-7101 FAX (A/C No.): 239-542-0693 E-MAIL ADDRESS: aileen@premierinsurancecorp.com														
INSURED XCEL PAINTING, INC. 14620 BALD EAGLE DRIVE FORT MYERS, FL 33912	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: left;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: left;">NAIC #</th> </tr> <tr> <td>INSURER A: OHIO SECURITY INSURANCE COMPANY</td> <td>24082</td> </tr> <tr> <td>INSURER B: OHIO CASUALTY INSURANCE COMPANY</td> <td>24074</td> </tr> <tr> <td>INSURER C:</td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: OHIO SECURITY INSURANCE COMPANY	24082	INSURER B: OHIO CASUALTY INSURANCE COMPANY	24074	INSURER C:		INSURER D:		INSURER E:		INSURER F:	
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INSURER C:															
INSURER D:															
INSURER E:															
INSURER F:															

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY			BKS 57804976	03/15/2018	03/15/2019	EACH OCCURRENCE
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						\$ 1,000,000
	<input checked="" type="checkbox"/> Contractual Liability						DAMAGE TO RENTED PREMISES (Ea occurrence)
							\$ 300,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						MED EXP (Any one person)
	POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						\$ 15,000
	OTHER:						PERSONAL & ADV INJURY
							\$ 1,000,000
							GENERAL AGGREGATE
							\$ 2,000,000
							PRODUCTS - COMP/OP AGG
							\$ 2,000,000
							\$
A	AUTOMOBILE LIABILITY			BAS 57804976	03/15/2018	03/15/2019	COMBINED SINGLE LIMIT (Ea accident)
	<input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY						\$ 1,000,000
	<input checked="" type="checkbox"/> Hired AUTOS ONLY						BODILY INJURY (Per person)
							\$
							BODILY INJURY (Per accident)
							\$
							PROPERTY DAMAGE (Per accident)
							\$
							\$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB			USO 57804976	03/15/2018	03/15/2019	EACH OCCURRENCE
	<input type="checkbox"/> CLAIMS-MADE						\$ 1,000,000
	DED <input checked="" type="checkbox"/> RETENTION \$10,000						AGGREGATE
							\$
							\$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			XWS 57804976	03/15/2018	03/15/2019	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	Y/N					E.L. EACH ACCIDENT
	if yes, describe under DESCRIPTION OF OPERATIONS below	Y	N/A				\$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE
							\$ 1,000,000
							E.L. DISEASE - POLICY LIMIT
							\$ 1,000,000
A	INLAND MARINE			BKS 57804976	03/15/2018	03/15/2019	RENTED/LEASED
							\$100,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Lee County, a political subdivision and Charter County of the State of Florida, its agents, employees, and public officials are named as additional insured in regards to general liability.

30 day notice of cancellation provided except for non-payment which is 10 days

B170458LKD Paint and Paint contractor services.

GRETCHEN SAX IS EXCLUDED OFFICER ON WORKERS COMPENSATION POLICY

CERTIFICATE HOLDER

CANCELLATION

LEE COUNTY BOARD OF COUNTY COMMISSIONERS PO BOX 398 FORT MYERS, FL 33902-0398 Phone: (239)533-5899 Fax: (239)485-8383	<p>SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.</p> <p>AUTHORIZED REPRESENTATIVE <u>Lawrence M. Wien</u> <ARC></p>
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