



Board of County Commissioners Meeting Agenda

District #1
John E. Manning

District #2
Cecil L Pendergrass
Chair

District #3
Larry Kiker
Vice Chair

District #4
Tammy Hall

District #5
Frank Mann

Roger Desjarlais
County Manager

Andrea R. Fraser
Interim County Attorney

September 17, 2013

If you plan to address the Board, please complete a blue "Request for Comment" card (located on the table outside the Chamber entrance) or you can submit your comment electronically by clicking [here](#). Completed cards should be returned to the Staff table at the right of the podium prior to the start of the meeting. All back up for this agenda is available on the Internet at <http://www.lee-county.com>. **PLEASE NOTE:** The Board may take action in its capacity as the Port Authority or Government Leasing Corporation.

**COMMISSION CHAMBERS, 2120 MAIN STREET, FORT MYERS, FLORIDA
9:30 AM**

Invocation: Pastor Ryan Deaton, Life Church

Pledge of Allegiance

Ceremonial Presentations

Recap

Public Comment on the Consent and Administrative Agenda

Consent Agenda

- Items to be pulled for discussion by the Board
- Motion to approve balance of items
- Consideration of items pulled for discussion

Administrative Agenda

Walk-ons and Carry-overs

Commissioners' Items/Committee Appointments

County Manager Items

County Attorney Items

Adjourn

9:30 AM CEREMONIAL PRESENTATION

1. Ceremonial presentation recognizing National Recovery Month. (#20130771-Commissioner Hall)
2. Ceremonial presentation recognizing Hispanic Heritage Month. (#20130772-Commissioner Manning)
3. Ceremonial presentation recognizing Falls Prevention Month. (#20130773-Commissioner Mann)

CONSENT AGENDA

1. COUNTY ADMINISTRATION

A) **ACTION REQUESTED/PURPOSE:**

A) Award RFP130487 Tourism Sales and Promotion Representation to the sole proposer Florida Travel Marketing, Inc (a locally owned company and DBE) for a period of one year with the option to renew for four additional one year periods.

B) Grant the Visitor & Convention Bureau Director the authority to renegotiate and renew the contract, with the assistance of Procurement and approval of County Administration, for additional one year periods, if doing so is in the best interest of Lee County.

C) Approve an annual expenditure not-to-exceed \$250,000.00.

D) Authorize Chair on behalf of the Board to execute the Agreements upon receipt.
(#20130760-VISITOR AND CONVENTION BUREAU)

FUNDING SOURCE:

Tourist Development Tax Fund.

WHAT ACTION ACCOMPLISHES:

Approves and places under contract a Consultant for the Visitor & Convention Bureau to perform sales calls, consumer/trade shows, media calls, group tour shows, familiarization tours, follow-up and general consultation and promotional activities.

MANAGEMENT RECOMMENDATION:

Approve.

B) **ACTION REQUESTED/PURPOSE:**

A) Approve the annual contract for Northeast USA Representation N-130482 to Betsy A. Bush in the amount not-to-exceed an annual expenditure of \$125,000.00 for an initial period of one year with an option to re-negotiate and renew for two additional one year periods.

B) Authorize Chair on behalf of the Board to execute the Service Provider Agreement.
(#20130764-VISITOR AND CONVENTION BUREAU)

FUNDING SOURCE:

Tourist Development Tax Trust.

WHAT ACTION ACCOMPLISHES:

Approves and places under contract a Meeting Sales and Promotion Representative with extensive experience in lead generation for the meetings and conferences market that result in definite business and room nights for Lee County accommodations.

MANAGEMENT RECOMMENDATION:

Approve.

C) **ACTION REQUESTED/PURPOSE:**

As required by AC 4-4, approve expenditure of \$3,977,027 for the purchase of Excess Property and Casualty Insurance coverage for FY 13-14. This reflects a reduction in premiums by \$169,000.

(#20130766-COUNTY MANAGER)

FUNDING SOURCE:

Property & Liability Insurance and Bonds Fund.

WHAT ACTION ACCOMPLISHES:

Enables the Risk Management office to purchase necessary insurance in order to provide financial protection to the County against various unexpected property and casualty type losses.

MANAGEMENT RECOMMENDATION:

Approval.

1. **COUNTY ADMINISTRATION (Continued)**

D) **ACTION REQUESTED/PURPOSE:**

As required by Interconnection Agreement between Lee County and FPL, approve expenditure of not to exceed \$178,628 for the purchase of standalone excess insurance coverage for FY 13-14. This reflects an increase in premiums by \$9,476. (#20130767-COUNTY MANAGER)

FUNDING SOURCE:

Solid Waste System Operations; Program: SW Disposal Facilities; Project: Insurance and Bonds.

WHAT ACTION ACCOMPLISHES:

Enables the Risk Management office to purchase necessary insurance in order to provide financial protection to the County against various unexpected property and casualty type losses.

MANAGEMENT RECOMMENDATION:

Approval.

E) **ACTION REQUESTED/PURPOSE:**

As required by AC 4-4, approve expenditure of \$938,641 for the purchase of insurance coverage for the County's Toll Bridges for FY 13-14. This reflects a reduction in premiums of \$19,000. (#20130768-COUNTY MANAGER)

FUNDING SOURCE:

Fund – Transportation Facilities; Program – DOT – Tolls – Cape, Midpoint and Sanibel Bridges; Project – Bridge Insurance.

WHAT ACTION ACCOMPLISHES:

Enables the Budget Services/Risk Management office to purchase necessary insurance in order to provide financial risk transfer to protect the County's assets against various unexpected property and casualty type losses.

MANAGEMENT RECOMMENDATION:

Approval.

F) **ACTION REQUESTED/PURPOSE:**

As required by AC 4-4, approve expenditure of \$70,969 for the purchase of EMS Helicopter Aircraft Hull and Liability Insurance coverage for FY 13-14. This reflects a flat renewal from FY 12-13. (#20130769-COUNTY MANAGER)

FUNDING SOURCE:

General Fund; Program – Public Safety Air Operations.

WHAT ACTION ACCOMPLISHES:

Provides continuous coverage to the EMS helicopter for physical damage and provides financial risk transfer via aircraft hull and liability insurance.

MANAGEMENT RECOMMENDATION:

Approval.

2. **COMMUNITY DEVELOPMENT**

3. **CONSTRUCTION AND DESIGN**

4. **COUNTY COMMISSIONERS**

5. **COUNTY LANDS**

6. **HUMAN SERVICES**

7. **INDEPENDENT**

8. **NATURAL RESOURCES/SOLID WASTE**

A) **ACTION REQUESTED/PURPOSE:**

A) Approve Professional Service Agreement for CN130299 IMPLEMENTATION OF NORTH FORT MYERS SURFACE WATER MANAGEMENT PLAN PHASE ONE, Task Two; Design, Permitting and CEI Services of Nalle Grade Stormwater Park to Hole Montes, Inc., in an amount not-to-exceed \$101,600.00.

B) Authorize Chair to execute Agreement on behalf of the Board.

C) Grant the Director of Natural Resources, with County Administration approval, the discretion to approve a 10% contingency, in the amount of \$10,160.00.

D) Grant the Director of Natural Resources, with County Administration approval, the discretion to administratively extend the time for completion of scheduled tasks identified in the approved scope of work in accordance with standard County procedure, if the Director determines doing so is appropriate and beneficial to the County.

E) Grant the Director of Natural Resources, the discretion to negotiate future design phases of this project to be brought back for Board approval through Supplemental Task Authorization.

(#20130703-NATURAL RESOURCES)

FUNDING SOURCE:

Fund: Capital Improvement Unincorporated MSTU Construction; Program: Water Resources Projects; Project: Nalle Grade Stormwater Park. This is an approved FY 13/14 CIP project and funds are available in the current year budget.

WHAT ACTION ACCOMPLISHES:

Provides Lee County with a professional consultant to provide design, permitting, and CEI services for Nalle Grade Stormwater Park; the primary objective of Phase One is to design a facility within the Bayshore Creek watershed to provide water quality benefits, flood prevention, wildlife habitat, recreation opportunities and reduction of the pollutant load into the Caloosahatchee River. The County has reserved the right to award CEI services to an alternate consultant through the competitive solicitation process. The awarded contract amount of \$101,600 does not include the costs of CEI services and will require further Board approval. The request for contingency funds is not part of the awarded contract amount, though these funds may be paid to the consultant with appropriate approvals, which has the potential to increase the contract amount for Phase One to \$111,760.

This project has been split into phases due to the complex nature of the project. Phase Two of the project, which is encompassed by the competitive solicitation, will involve the refinement of the design alternative chosen by Natural Resources. In conjunction with Phase Two an amendment to the contract for additional funds will be presented to the Board for approval.

MANAGEMENT RECOMMENDATION:

Approve.

9. **PARKS AND RECREATION**

10. **PUBLIC SAFETY**

11. **PUBLIC WORKS ADMINISTRATION**

12. **TRANSPORTATION**

13. **UTILITIES**

14. **COUNTY ATTORNEY**

15. **HEARING EXAMINER**

16. **CONSTITUTIONAL OFFICERS**

A) **ACTION REQUESTED/PURPOSE:**

Request Board approves disbursements. The check and wire registers can now be viewed on the Clerk's website, www.leeclerk.org by accessing the BoCC Minutes and Documents link. (#20130744-FINANCE)

FUNDING SOURCE:

N/A.

WHAT ACTION ACCOMPLISHES:

Florida Statute Chapter 136.06(1) requires that all County disbursements be recorded in the Minutes of the Board.

MANAGEMENT RECOMMENDATION:

Compliance with the requirements of FS 136.06(1).

B) **ACTION REQUESTED/PURPOSE:**

Approve the Minutes for the following meetings of the Board of County Commissioners held during the week of September 2 thru September 6, 2013: September 3, 2013 (Regular), September 4, 2013 (1st Budget Hearing), September 4, 2013 (Transit Hearing). (#20130779-MINUTES)

FUNDING SOURCE:

N/A.

WHAT ACTION ACCOMPLISHES:

Approval of the Board Minutes, pursuant to Florida Statute 286.011.

MANAGEMENT RECOMMENDATION:

Approve.

17. **PORT AUTHORITY AND OTHER GOVERNING BOARDS**

ADMINISTRATIVE AGENDA

1. **COUNTY ADMINISTRATION**
2. **COMMUNITY DEVELOPMENT**
3. **CONSTRUCTION AND DESIGN**
4. **COUNTY COMMISSIONERS**
5. **COUNTY LANDS**
6. **HUMAN SERVICES**
7. **INDEPENDENT**
8. **NATURAL RESOURCES/SOLID WASTE**
9. **PARKS AND RECREATION**
10. **PUBLIC SAFETY**
11. **PUBLIC WORKS ADMINISTRATION**
12. **TRANSPORTATION**
13. **UTILITIES**
 - A) **ACTION REQUESTED/PURPOSE:**

Authorize staff to write off uncollected sewer assessment principal, interest and penalties for the long-term Sewer Projects Special Assessments for East Lee County filed on April 6, 1983; South Fort Myers filed on March 5, 1991; and, McGregor filed on November 21, 1991, as bad debt and remove property liens. (BS 20130752/27075, JR/SDG). (#20130752-UTILITIES)
 - FUNDING SOURCE:**

No funds required for this action.
 - WHAT ACTION ACCOMPLISHES:**

Policy direction regarding uncollected principal, interest and penalties for long-term Sewer Projects Special Assessments. The original amount covered by the bond revenue was \$31,383,675. As of November 2012, 98.7% of the bond revenue amount was collected and the bonds were paid in full when due during 2003, 2010 and 2011.
 - MANAGEMENT RECOMMENDATION:**

Approval to write off uncollected principal, penalty and interest as bad debt. The bonds secured to pay for the expansion of the sewer system have been paid in full, 98.7% of the bond revenue was collected as of November 2012 and the term of installments approved by resolution allows payment terms of 20-years.
14. **COUNTY ATTORNEY**
15. **HEARING EXAMINER**
16. **CONSTITUTIONAL OFFICERS**
17. **PORT AUTHORITY AND OTHER GOVERNING BOARDS**

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

Blue Sheet No. 20130771

ACTION REQUESTED/PURPOSE:
Ceremonial presentation recognizing National Recovery Month.

FUNDING SOURCE:

WHAT ACTION ACCOMPLISHES:

MANAGEMENT RECOMMENDATION:

Departmental Category: CPI

Meeting Date: 9/17/2013

Agenda:
Ceremonial

Requirement/Purpose: *(specify)*

- Statute
- Ordinance
- Admin Code
- Other

**Request Initiated
Commissioner:** All
Department: COUNTY COMMISSIONERS
Division:
By:

Background:

11. Required Review:

12. Commission Action:



LEE COUNTY
SOUTHWEST FLORIDA

The Board of County Commissioners

RESOLUTION

- Whereas, behavioral health is an essential part of health and one's overall wellness; and
- Whereas, prevention of mental and or substance use disorders works, treatment is effective, and people recover in our area and around the nation; and
- Whereas, preventing and overcoming mental and or substance use disorders is essential to achieving healthy lifestyles, both physically and emotionally; and
- Whereas, we must encourage relatives and friends of people with mental and or substance use disorders to implement preventive measures, recognize the signs of a problem, and guide those in need to appropriate treatment and recovery support services; and
- Whereas, in 2011, 2.3 million people aged 12 or older received specialty treatment for a substance use disorder and 31.6 million adults aged 18 or older received mental health services, according to the 2011 National Survey on Drug Use and Health. Given the serious nature of this public health problem, we must continue to reach the millions more who need help; and
- Whereas, to help more people achieve and sustain long-term recovery, the U.S. Department of Health and Human Services, the Substance Abuse and Mental Health Services Administration, the White House Office of National Drug Control Policy, invites all residents to join the Lee County Coalition for a Drug-Free Southwest Florida, the Lee County Sheriff's Office, Lee Memorial Health System and Gwendolyn's Café to participate in National Recovery Month.

NOW, THEREFORE, BE IT RESOLVED THAT THE Board of County Commissioners of Lee County, Florida does hereby proclaim the month of September 2013 as:

NATIONAL RECOVERY MONTH

and calls upon the people of Lee County to observe this month with appropriate programs, activities, and ceremonies to support this year's Recovery Month.

Duly executed this 17th day of September 2013.



**BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA**

Chairman

Lee County Board Of County Commissioners
Agenda Item Summary

Blue Sheet No. 20130772

ACTION REQUESTED/PURPOSE:

Ceremonial presentation recognizing Hispanic Heritage Month.

FUNDING SOURCE:

WHAT ACTION ACCOMPLISHES:

MANAGEMENT RECOMMENDATION:

Departmental Category: CP2

Meeting Date: 9/17/2013

Agenda:

Ceremonial

Requirement/Purpose: *(specify)*

- Statute
- Ordinance
- Admin Code
- Other

Request Initiated

Commissioner: All

Department: COUNTY COMMISSIONERS

Division:

By:

Background:

11. Required Review:

12. Commission Action:



LEE COUNTY
S W E E T F L O R I D A

The Board of County Commissioners

RESOLUTION

- Whereas, each year, Americans observe National Hispanic Heritage Month from September 15 to October 15 by celebrating the histories, cultures and contributions of American citizens whose ancestors came from Spain, Mexico, the Caribbean and Central and South America; and
- Whereas, the observation began in 1968 under President Lyndon Johnson as Hispanic Heritage Week and was expanded to one month and enacted into law by President Ronald Reagan in 1988; and
- Whereas, Hispanic Heritage Month celebrates the contributions that 21 Hispanic countries have made to the United States. Hispanics serve our country making important contributions in the arts, sports, sciences, the business world, academia, government, agriculture, and Armed Forces; and
- Whereas, 2013 marks a significant historical milestone for the state of Florida as it commemorates the 500th Anniversary of Spanish explorer Juan Ponce de León's landing on the coast of Florida, the first European explorer documented to set foot on the continental United States; and
- Whereas, for 500 years the great State of Florida has benefitted from Hispanic contributions to history, culture, and economic development and Lee County residents celebrate this rich and diverse culture and recognize the important role of Hispanics in creating and building our community; and
- Whereas, the Library System provides programs for children and adults such as bilingual storytelling and crafts, Naturalization Information Sessions, foreign films and many enriching programs and events to provide opportunities for Latinos to embrace and learn about their heritage; and
- Whereas, the Lee County Library System touches the lives of Hispanic individuals, families, groups and the entire community, and positively impacts the social and economic quality of our county.

NOW, THEREFORE, BE IT RESOLVED THAT THE Board of County Commissioners of Lee County, Florida does hereby proclaim September 15 to October 15, 2013, as Hispanic Heritage Month in Lee County and encourages all residents to enjoy the local programs and activities being offered throughout the county.

Duly executed this 17th day of September 2013.



**BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA**

Chairman

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

Blue Sheet No. 20130773

ACTION REQUESTED/PURPOSE:
Ceremonial presentation recognizing Falls Prevention Month.

FUNDING SOURCE:

WHAT ACTION ACCOMPLISHES:

MANAGEMENT RECOMMENDATION:

Departmental Category: CP3

Meeting Date: 9/17/2013

Agenda:

Ceremonial

Requirement/Purpose: (specify)

- Statute
- Ordinance
- Admin Code
- Other

**Request Initiated
Commissioner: All
Department: COUNTY COMMISSIONERS
Division:
By:**

Background:

11. Required Review:

12. Commission Action:



LEE COUNTY
SOUTHWEST FLORIDA

The Board of County Commissioners

RESOLUTION

- Whereas, almost 18 percent of Florida residents are 65 years of age or older; and
- Whereas, falls are the leading cause of fatal and non-fatal injuries among Florida's senior population and result in significant physical, personal, social and economic burden; and
- Whereas, it is estimated that annually there are more than 150,000 hospital-treated injuries from falls among Floridians 65 and older, with medical charges exceeding \$2 billion; and
- Whereas, among Floridians 65 and older, falls account for more than 75 percent of all fractures treated in emergency departments; and
- Whereas, falling and the fear of falling can lead to depression, loss of mobility and loss of functional independence; and
- Whereas, injuries from falls are a preventable community health problem; and
- Whereas, falls prevention education is a key first step to increasing public awareness regarding elder falls prevention and home safety; and
- Whereas, cost-effective home modification and community strategies are available to improve safety and lessen the likelihood of falls and the debilitating injuries that can result; and
- Whereas, implementing elder falls prevention strategies is an effective tool for reducing the stresses associated with providing caregiver services; and
- Whereas, the Florida Department of Elder Affairs, the Florida Department of Health/Office of Injury Prevention, the Florida Statewide Falls Prevention Coalition, and state Area Agencies on Aging, in partnership with the Lee Memorial Trauma Center and Lee County communities and residents; are working together to increase awareness of this issue and encourage residents to take steps to protect those who are at risk of falling.

NOW, THEREFORE, BE IT RESOLVED THAT the Board of County Commissioners of Lee County, Florida, does hereby proclaim September 21, 2013, as Falls Prevention Awareness Day in Lee County, and urges all citizens to join in this special observance.

Duly executed this 17th day of September 2013.



**BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA**

Chairman

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

Blue Sheet No. 20130760

ACTION REQUESTED/PURPOSE:

- A) Award RFP130487 Tourism Sales and Promotion Representation to the sole proposer Florida Travel Marketing, Inc (a locally owned company and DBE) for a period of one year with the option to renew for four additional one year periods.
- B) Grant the Visitor & Convention Bureau Director the authority to renegotiate and renew the contract, with the assistance of Procurement and approval of County Administration, for additional one year periods, if doing so is in the best interest of Lee County.
- C) Approve an annual expenditure not-to-exceed \$250,000.00.
- D) Authorize Chair on behalf of the Board to execute the Agreements upon receipt.

FUNDING SOURCE:

Tourist Development Tax Fund

WHAT ACTION ACCOMPLISHES:

Approves and places under contract a Consultant for the Visitor & Convention Bureau to perform sales calls, consumer/trade shows, media calls, group tour shows, familiarization tours, follow-up and general consultation and promotional activities.

MANAGEMENT RECOMMENDATION: Approve

Departmental Category: C1A

Meeting Date: 9/17/2013

Agenda:

Requirement/Purpose: *(specify)*

Consent

- Statute
- Ordinance
- Admin Code AC-4-1
- Other

Request Initiated

Commissioner:

Department: VISITOR AND CONVENTION BUREAU

Division: No Divisions

By: Tamara Pigott

Background:

Proposals were solicited on behalf of the Board of County Commissioners for the project known as Visitor & Convention Bureau Tourism Sales and Promotion Representation.

On July 16, 2013, the Division of Procurement Management received one Proposal. At the Proposal Evaluation Meeting on July 29, 2013 it was the consensus of the Committee to recommend that the Board award the contract to Florida Travel Marketing, Inc., a local business and a DBE. The Committee consisted of the following staff members: Bob Franceschini, Chair; Pamela Johnson, VCB; and, Berta Maldonado, VCB.

Funds are available: HB5520317400 - Tourist Development Tax Fund.

Please see Attachment:

- (1) Service Provider Agreement

11. Required Review:

<i>Tamara Pigott</i>	<i>Robert Franceschini</i>	<i>Dawn Perry-Lehnert</i>	<i>Thelma Davis</i>	<i>Peter Winton</i>	<i>Roger Desjarlais</i>
VISITOR AND CONVENTION BUREAU	Purchasing	County Attorney	Budget Analyst	Budget Services	County Manager

12. Commission Action:

SERVICE PROVIDER AGREEMENT

This SERVICE PROVIDER AGREEMENT is made and entered into this ____ day of _____, 20____, between the Board of County Commissioners of LEE COUNTY, a political subdivision of the STATE OF FLORIDA hereinafter referred to as the "COUNTY", and **Florida Travel** hereinafter referred to as the "PROVIDER".

WITNESSETH

WHEREAS, the COUNTY desires to obtain the services of said PROVIDER as further described herein referred to as **RFP130487 Tourism Sales and Promotion Representation**, and,

WHEREAS, the PROVIDER hereby certifies that it has been granted and possesses valid, current licenses to do business in the State of Florida and in Lee County, Florida, issued by the respective State Board and Government Agencies responsible for regulating and licensing the services to be provided and performed by the PROVIDER pursuant to this Agreement; and,

WHEREAS, the PROVIDER has reviewed the services required pursuant to this Agreement and is qualified, willing and able to provide and perform all such services in accordance with the provisions, conditions and terms hereinafter set forth.

NOW, THEREFORE, in consideration of the foregoing, and the terms and provisions as contained herein, the parties agree that a Contract shall exist between them consisting of the following:

ARTICLE 1.0 - SCOPE OF SERVICES

PROVIDER hereby agrees to provide and perform the Services required and necessary to complete the services and work as set forth in EXHIBIT "A", dated _____ 20____, entitled "SCOPE OF SERVICES", which is attached hereto and made a part of this Agreement.

ARTICLE 2.0 - DEFINITIONS

2.1 COUNTY shall mean the Board of County Commissioners of Lee County, a political subdivision of the State of Florida, and all officials and employees.

2.2 PROVIDER shall mean the individual, firm or entity offering services which, by execution of this Agreement, shall be legally obligated, responsible, and liable for providing and performing any and all of the services, work and materials, including services and/or the work of subcontractors, required under the covenants, terms and provisions contained in this Agreement.

2.3 SERVICES shall mean all services, work, materials, and all related professional, technical and administrative activities that are necessary to perform and complete the services required pursuant to the terms and provisions of this Agreement.

2.4 ADDITIONAL SERVICES shall mean any additional services that the COUNTY may request and authorize, in writing, which are not included in the Scope of Services as set forth in Article 1.0 above.

2.5 CHANGE ORDER shall mean a written document executed by both parties to this Agreement setting forth such changes to the Scope of Services as may be requested and authorized in writing by the COUNTY.

2.6 SUPPLEMENTAL TASK AUTHORIZATION as used refers to a written document executed by both parties to an existing Professional Service Agreement, or Service Provider Agreement, setting forth and authorizing a limited number of Professional Services, tasks, or work. Such Supplemental Task Authorizations are consistent with and have previously been included within the scope of services in the initial Professional Services Agreement, or Service Provider Agreement, for which authorization has not been previously given or budgeted.

ARTICLE 3.0 - OBLIGATIONS OF THE PROVIDER

The obligations of the PROVIDER with respect to all the Basic Services and Additional Services authorized pursuant to this Agreement shall include, but not be limited to the following:

3.1 LICENSES. The PROVIDER agrees to obtain and maintain throughout the terms of this Contract all such licenses as are required to do business in the State of Florida and in Lee County, Florida, including, but not limited to, licenses required by the respective State Boards and other governmental agencies responsible for regulating and licensing the services provided and performed by the PROVIDER.

3.2 QUALIFIED PERSONNEL. The PROVIDER agrees that when the services to be provided and performed relate to a professional service(s) which, under Florida Statutes, requires a license, certificate of authorization, or other form of legal entitlement to practice such services, to employ and/or retain only qualified personnel to be in charge of all Basic Services and Additional Services to be provided pursuant to this Agreement.

3.3 STANDARDS OF PROFESSIONAL SERVICE. The PROVIDER agrees to provide and perform all services pursuant to this Agreement in accordance with generally accepted standards of professional practice and, in accordance with the laws, statutes, ordinances, codes, rules, regulations and requirements of governmental agencies which regulate or have jurisdiction over the services to be provided and/or performed by the PROVIDER.

3.4 CORRECTION OF ERRORS, OMISSIONS OR OTHER DEFICIENCIES

(1) Responsibility to Correct. The PROVIDER agrees to be responsible for the professional quality, technical adequacy and accuracy, timely completion, and the coordination of all data, studies, reports, memoranda, other documents and other services, work and materials performed, provided, and/or furnished by PROVIDER. The PROVIDER shall, without additional compensation, correct or revise any errors, omissions or other deficiencies in such data, studies and other services, work and materials resulting from the negligent act, errors or omissions or intentional misconduct of PROVIDER.

(2) County's Approval Shall Not Relieve Provider of Responsibility. Neither review, approval, or acceptance by COUNTY of data, studies, reports, memoranda, and incidental professional services, work and materials furnished hereunder by the PROVIDER, shall in any way relieve PROVIDER of responsibility for the adequacy, completeness and accuracy of its services, work and materials. Neither the COUNTY'S review, approval or acceptance of, nor payment for, any part of the PROVIDER'S services, work and materials shall be construed to operate as a waiver of any of the COUNTY'S rights under this Agreement, or any cause of action it may have arising out of the performance of this Agreement.

3.5 LIABILITY - PROVIDER TO HOLD COUNTY HARMLESS.

The PROVIDER shall be liable and agrees to be liable for, and shall indemnify, defend and hold the COUNTY harmless for any and all claims, suits, judgments or damages, losses and expenses including court costs, expert witness and professional consultation services, and attorneys' fees arising out of the PROVIDER'S errors, omissions, and/or negligence. The PROVIDER shall not be liable to, nor be required to indemnify the COUNTY for any portions of damages arising out of any error, omission, and/or negligence of the COUNTY, its employees, agents, or representatives.

3.6 NOT TO DIVULGE CERTAIN INFORMATION. PROVIDER agrees, during the term of this Agreement, not to divulge, furnish or make available to any third person, firm, or organization, without the COUNTY'S prior written consent, or unless incident to the proper performance of PROVIDER'S obligations hereunder, or as provided for or required by law, or in the course of judicial or legislative proceedings where such information has been properly subpoenaed; any non-public information concerning the services to be rendered by PROVIDER, AND PROVIDER shall require all of its employees and subcontractor(s) to comply with the provisions of this paragraph.

3.7 RESPONSIBILITY FOR ESTIMATES. In the event the services required pursuant to this Agreement include the PROVIDER preparing and submitting to the COUNTY any cost estimates, the PROVIDER, by exercise of his experience and judgement shall develop its best cost estimates and shall be held accountable, responsible and liable for the accuracy, completeness, and correctness of any and all such cost estimates to the extent provided hereafter.

3.8 ADDITIONAL SERVICES. Should the COUNTY request the PROVIDER to provide and perform professional services under this contract which are not set forth in EXHIBIT "A", the PROVIDER agrees to provide and perform such ADDITIONAL SERVICES as may be agreed to in writing by both parties to this Agreement.

ADDITIONAL SERVICES shall be administered and executed as "CHANGE ORDERS" or "SUPPLEMENTAL TASK AUTHORIZATIONS" under the Agreement. The Provider shall not provide or perform, nor shall the COUNTY incur or accept any obligation to compensate the PROVIDER for any ADDITIONAL SERVICES, unless a written CHANGE ORDER or SUPPLEMENTAL TASK AUTHORIZATION shall be executed by the parties.

Each such CHANGE ORDER or SUPPLEMENTAL TASK AUTHORIZATION shall set forth a description of (1) the Scope of the ADDITIONAL SERVICES requested; (2) the basis of compensation; and (3) the period of time and/or schedule for performing and completing the ADDITIONAL SERVICES.

ARTICLE 4.0 - COMPENSATION AND METHOD OF PAYMENT

4.1 BASIC SERVICES. The COUNTY shall pay the PROVIDER for all requested and authorized basic services rendered hereunder by the PROVIDER and completed in accordance with the requirements, provisions, and/or terms of this Agreement as set forth in EXHIBIT "B" dated _____ 20 , which is attached hereto and made a part of this Agreement.

4.2 ADDITIONAL SERVICES. The COUNTY shall pay the PROVIDER for all ADDITIONAL SERVICES as have been requested and authorized by the COUNTY and agreed to in writing by both parties to this Agreement, and according to the terms for compensation and payment of said ADDITIONAL SERVICES as set forth in EXHIBIT "B".

4.3 METHOD OF PAYMENT.

(1) MONTHLY STATEMENTS.

The PROVIDER shall be entitled to submit not more than one invoice statement to the COUNTY each calendar month covering services rendered and completed during the preceding calendar month. The PROVIDER'S invoice statement(s) shall be itemized to correspond to the basis of compensation as set forth in the Agreement or CHANGE ORDER(S) or SUPPLEMENTAL TASK AUTHORIZATION(S). The PROVIDER'S invoice statements shall contain a breakdown of charges, description of service(s) and work provided and/or performed, and, where appropriate, supportive documentation of charges consistent with the basis of compensation set forth in the Agreement or in CHANGE ORDER(S) or SUPPLEMENTAL TASK AUTHORIZATION(S).

(2) PAYMENT SCHEDULE.

The COUNTY shall issue payment to the PROVIDER within thirty (30) calendar days after receipt of an invoice statement from the PROVIDER in an acceptable form and containing the requested breakdown and detailed description and documentation of charges. Should the COUNTY object or take exception to the amount of any PROVIDER'S invoice statement, the COUNTY shall notify the PROVIDER of such objection or exception with the thirty (30) calendar day payment period set forth hereinbefore. If such objection or exception remains unresolved at the end of said thirty (30) calendar day period, the COUNTY shall withhold the disputed amount and make payment to the PROVIDER of the amount not in dispute. Payment of any disputed amount will be resolved by the mutual agreement of the parties to this Agreement.

4.4 PAYMENT WHEN SERVICES ARE TERMINATED AT THE CONVENIENCE OF THE COUNTY. In the event of termination of this Agreement at the convenience of the COUNTY, the COUNTY shall compensate the PROVIDER for: (1) all services performed prior to the effective date of termination; (2) reimbursable expenses then due; and (3) reasonable expenses incurred by the PROVIDER in affecting the termination of services and work, and incurred by the submittal to the COUNTY of any documents.

4.5 PAYMENT WHEN SERVICES ARE SUSPENDED. In the event the COUNTY suspends the PROVIDER'S services or work on all or part of the services required by this Agreement, the COUNTY shall compensate the PROVIDER for all services performed prior to the effective date of suspension and reimbursable expenses then due and any reasonable expenses incurred or associated with, or as a result of such suspension.

4.6 NON-ENTITLEMENT TO ANTICIPATED FEES IN THE EVENT OF SERVICE TERMINATION, SUSPENSION, ELIMINATION, CANCELLATION AND/OR DECREASE IN SCOPE OF SERVICES. In the event the services required pursuant to this Agreement are terminated, eliminated, cancelled, or decreased due to: (1) termination; (2) suspension in whole or in part; and (3) and/or are modified by the subsequent issuance of CHANGE ORDER(S), the PROVIDER shall not be entitled to receive compensation for anticipated professional fees, profit, general and administrative overhead expenses or for any other anticipated income or expense which may be associated with the services which are terminated, suspended, eliminated, cancelled or decreased.

ARTICLE 5.0 - TIME AND SCHEDULE OF PERFORMANCE

5.01 NOTICE TO PROCEED. Following the execution of this Agreement by both parties, and after the PROVIDER has complied with the insurance requirements set forth hereinafter, the COUNTY shall issue the PROVIDER a WRITTEN NOTICE TO PROCEED. Following the issuance of such NOTICE TO PROCEED the PROVIDER shall be authorized to commence work and the PROVIDER thereafter shall commence work promptly and shall carry on all such services and work as may be required in a timely and diligent manner to completion.

5.02 TIME OF PERFORMANCE. The PROVIDER agrees to complete the services required pursuant to this Agreement within the time period(s) for completion of the various phases and/or tasks of the project services set forth and described in this Agreement, as set forth in EXHIBIT "C", dated _____, 20__, entitled "SCHEDULE OF PERFORMANCE", which EXHIBIT "C" is attached hereto and made a part of this Agreement.

Should the PROVIDER be obstructed or delayed in the prosecution or completion of its obligations under this Agreement as a result of causes beyond the control of the PROVIDER, or its sub-consultant(s) and/or subcontractor(s), and not due to their fault or neglect, the PROVIDER shall notify the COUNTY, in writing, within five (5) calendar days after the commencement of such delay, stating the cause(s) thereof and requesting an extension of the PROVIDER'S time of performance. Upon receipt of the PROVIDER'S request for an extension of time, the COUNTY shall grant the extension if the COUNTY determines the delay(s) encountered by the PROVIDER, or its sub-consultant(s) and/or subcontractor(s), is due to unforeseen causes and not attributable to their fault or neglect.

5.03 PROVIDER WORK SCHEDULE. The PROVIDER shall be required as a condition of this Agreement to prepare and submit to the COUNTY, on a monthly basis, commencing with the issuance of the NOTICE TO PROCEED, a PROVIDER'S WORK SCHEDULE. The WORK SCHEDULE shall set forth the time and manpower scheduled for all of the various phases and/or tasks required to provide, perform and complete all of the services and work required for completion of the various phases and/or tasks of the project services set forth and described in this Agreement, as set forth in EXHIBIT "C", pursuant to this Agreement in such a manner that the PROVIDER'S planned and actual work progress can be readily determined. The PROVIDER'S WORK SCHEDULE of planned and actual work progress shall be updated and submitted by the PROVIDER to the COUNTY on a monthly basis.

5.04 FAILURE TO PERFORM IN A TIMELY MANNER. Should the PROVIDER fail to commence, provide, perform, and/or complete any of the services and work required pursuant to this Agreement in a timely and diligent manner, the COUNTY may consider such failure as justifiable cause to terminate this Agreement. As an alternative to termination, the COUNTY at its option may, upon written notice to the PROVIDER, withhold any or all payments due and owing to the PROVIDER, not to exceed the amount of the compensation for the work in dispute, until such time as the PROVIDER resumes performance of his obligations in such a manner as to get back on schedule in accordance with the time and schedule of performance requirements as set forth in this Agreement.

ARTICLE 6.0 - SECURING AGREEMENT

The PROVIDER warrants that the PROVIDER has not employed or retained any company or person other than a bona fide employee working solely for the PROVIDER to solicit or secure this Agreement and that the PROVIDER has not paid or agreed to pay any person, company, corporation or firm other than a bona fide employee working solely for the PROVIDER any commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement.

ARTICLE 7.0 - ASSIGNMENT, TRANSFER AND SUBCONTRACTS

The PROVIDER shall not assign or transfer any of its rights, benefits or obligations hereunder, except for transfers that result from: (1) the merger or consolidation of PROVIDER with a third party; or (2) the disestablishment of the PROVIDER'S professional practice and the establishment of the successor PROVIDER. Nor shall the PROVIDER subcontract any of its service obligations hereunder to third parties without prior written approval of the COUNTY. The PROVIDER shall have the right, subject to the COUNTY'S prior written approval, to employ other persons and/or firms to serve as subcontractors to PROVIDER in connection with the PROVIDER performing services and work pursuant to the requirements of this Agreement.

In providing and performing the services and work required pursuant to this Agreement, PROVIDER intends to engage the assistance of subcontractor(s) as set forth in EXHIBIT "D", dated 2003, entitled "PROVIDER'S ASSOCIATED SUBCONTRACTORS", which EXHIBIT "D" is attached hereto and made a part of this Agreement.

ARTICLE 8.0 - APPLICABLE LAW

This Agreement shall be governed by the laws, rules and regulations of the State of Florida, or the laws, rules and regulations of the United States when providing services funded by the United States government.

ARTICLE 9.0 - NON-DISCRIMINATION

The PROVIDER for itself, its successors in interest, and assigns, as part of the consideration thereof, does hereby covenant and agree that in the furnishing of services to the COUNTY hereunder, no person on the grounds of race, color, national origin, handicap, or sex shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination. Should PROVIDER authorize another person, with the COUNTY'S prior written consent, to provide services to the COUNTY hereunder, PROVIDER shall obtain from such person a written agreement pursuant to which such person shall, with respect to the services which he is authorized to provide, undertake for himself the obligations contained in this Section.

ARTICLE 10.0 - INSURANCE

10.1 INSURANCE COVERAGE TO BE OBTAINED

(1) The PROVIDER shall obtain and maintain such insurance or self-insurance as will protect him from: (1) claims under Workers' Compensation laws, Disability Benefit laws, or other similar employee benefit laws; (2) claims for damages because of bodily injury, occupational sickness or disease or death of his employees including claims insured by usual personal injury liability coverage; (3) claims for damages because of bodily injury, sickness or disease, or death of any person other than his employees including claims insured by usual personal injury liability coverage; and (4) from claims for injury to or destruction of tangible property including loss or use resulting therefrom, any or all of which claims may arise out of, or result from, the services, work and operations carried out pursuant to and under the requirements of this Agreement, whether such services, work and operations be by the PROVIDER, its employees, or by any sub-consultant(s), subcontractor(s), or anyone employed by or under the supervision of any of them, or for whose acts any of them may be legally liable.

(2) The insurance protection set forth hereinabove shall be obtained for not less than the limits of liability specified hereinafter, or as required by law, whichever is greater.

(3) The PROVIDER shall require, and shall be responsible for insuring, throughout the time that this Agreement is in effect, that any and all of its subcontractors obtains and maintains until the completion of that subcontractor's work, such of the insurance coverage's described herein and as are required by law to be provided on behalf of their employees and others.

(4) The PROVIDER shall obtain, have and maintain during the entire period of this Agreement all such insurance or a self-insurance program as set forth and required herein.

10.2 PROVIDER REQUIRED TO FILE INSURANCE CERTIFICATE(S)

(1) The PROVIDER, within fourteen (14) calendar days from receipt of the COUNTY'S written Notice of Award, shall submit to the COUNTY all such insurance certificates or self-insurance program documentation as are required under this Agreement. Failure of the PROVIDER to submit such certificates and documents within the required time shall be considered cause for the COUNTY to find the PROVIDER in default and terminate the contract. Before the PROVIDER shall commence any service or work pursuant to the requirements of this Agreement, the PROVIDER shall obtain and maintain insurance coverage's of the types and to the limits specified hereinafter, and the PROVIDER shall file with the COUNTY certificates of all such insurance coverage's.

(2) All such insurance certificates shall be in a form and underwritten by an insurance company(s) acceptable to the COUNTY and licensed in the State of Florida.

(3) Each Certificate of Insurance or self-insurance program documentation shall be submitted to the COUNTY in triplicate.

(4) Each Certificate of Insurance shall include the following:

(A) The name and type of policy and coverage's provided;

(B) The amount or limit applicable to each coverage provided;

(C) The date of expiration of coverage.

(D) The designation of the Lee County Board of County Commissioners both as an additional insured and as a certificate holder. (This requirement is excepted for Professional Liability Insurance and for Workers' Compensation Insurance); and

ARTICLE 11.0 - INSURANCE COVERAGES REQUIRED

The CONSULTANT shall obtain and maintain the following insurance coverages as provided hereinbefore, and in the type, amounts and in conformance with the following minimum requirements:

(1) 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:

\$100,000 per accident

\$100,000 disease limit

\$500,000 disease – policy limit

(2) COMMERCIAL GENERAL LIABILITY

Coverage must be afforded on a form no more restrictive than the last edition of the Commercial General Liability Policy filed by the Insurance Services Office. Coverage shall apply to premises and/or operations, products and completed operations, independent contractors, contractual liability exposures with minimum limits of:

- \$500,000 per occurrence
- \$1,000,000 general aggregate
- \$500,000 products and completed operations
- \$500,000 personal and advertising injury

Coverage must include the following:

- (A) Contractual coverage applicable to this specific Agreement including any hold harmless and/or such indemnification agreement.

(3) BUSINESS AUTOMOBILE LIABILITY

Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability Policy filed by the Insurance Services Office and must include the following:

- (A) Minimum limits of \$500,000.00 combined single limit (CSL).
- (B) Coverage shall include owned vehicles, hired and leased, or non-owned vehicles.

~~(4) ERRORS AND OMISSIONS~~

~~Coverage shall include professional liability insurance, to cover claims arising out of negligent acts, errors or omissions of professional advice or other professional services.~~

~~Coverage must include the following:~~

- ~~(A) \$1,000,000 combined single limit (CSL) of BI and PD~~
- ~~(B) Such additional requirements as are set forth in Articles 13.01 and 13.02 hereinabove.~~
- ~~(C) Should the Professional Liability Insurance Policy issued pursuant to the above requirements and limits be written so as to provide an applicable deductible amount, or other exclusion or limitation as to the amount of coverage to be provided within the minimum coverage limits set forth above, the COUNTY shall hold the CONSULTANT responsible and liable for any such difference in the amount of coverage provided by the insurance policy. In the event of any such deductible amount, exclusion or limitation, the CONSULTANT shall be required to provide written documentation that is acceptable to the COUNTY establishing that the CONSULTANT has the~~

~~financial resources readily available to cover damages, injuries and/or losses which are not covered by the policy's deductible amounts, exclusions and/or limitations as stated above.~~

*The required minimum limit of liability shown in (2) Commercial General Liability and (3) Business Automobile Liability, 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."

ARTICLE 12.0 - DUTIES AND OBLIGATIONS IMPOSED ON THE PROVIDER

The duties and obligations imposed upon the PROVIDER by this Agreement and the rights and remedies available hereunder shall be in addition to, and not a limitation of, any otherwise imposed or available by law or statute.

ARTICLE 13.0 - OWNERSHIP AND TRANSFER OF DOCUMENTS

All documents such as payment records, notes, computer files, evaluations, reports and other records and data relating to the services specifically prepared or developed by the PROVIDER under this Agreement shall be the property of the PROVIDER until the PROVIDER has been paid for performing the services and work required to produce such documents.

Upon completion or termination of this Agreement, all of the above documents to the extent requested by the COUNTY shall be delivered to the COUNTY or to any subsequent PROVIDER within thirty (30) calendar days.

The PROVIDER, at its expense, may make and retain copies of all documents delivered to the COUNTY for reference and internal use.

ARTICLE 14.0 - MAINTENANCE OF RECORDS

The PROVIDER 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 PROVIDER for a minimum of five (5) years from the date of termination of this Agreement, or for such period as required by law.

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 paragraph above; provided, however, such activity shall be conducted only during normal business hours of the PROVIDER and at the expense of the COUNTY.

ARTICLE 15.0 - HEADINGS

The headings of the Articles, Sections, Exhibits, and Attachments as contained in this Agreement are for the purpose of convenience only and shall not be deemed to expand, limit or change the provisions contained in such Articles, Section, Exhibits and Attachments.

ARTICLE 16.0 - ENTIRE AGREEMENT

This Agreement, including the referenced Exhibits and Attachments hereto, constitutes the entire Agreement between the parties hereto.

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

- (1) EXHIBIT "A" entitled "Scope of Professional Services" dated _____, 20__.
- (2) EXHIBIT "B" entitled "Compensation and Method of Payment" dated _____, 20__.
- (3) EXHIBIT "C" entitled "Time and Schedule of Performance" dated _____, 20__.
- (4) EXHIBIT "D" entitled "Consultant's Associated Sub-Consultant(s) and SubContractor(s)", dated _____, 20__.
- (5) EXHIBIT "E" entitled "Project Guidelines and Criteria", dated _____, 20__.
- (6) EXHIBIT "F" entitled "Amendment to Articles", dated _____, 20__.
- (7) EXHIBIT "G" entitled "Insurance". (Containing copies of applicable Certificates of Insurance)

ARTICLE 17.0 - NOTICES AND ADDRESS

17.1NOTICES BY PROVIDER TO COUNTY All notices required and/or made pursuant to this Agreement to be given to the PROVIDER to the COUNTY shall be in writing and shall be given by the United States Postal Service to the following COUNTY address of record:

Lee County Board of County Commissioners
PO Box 398
Ft Myers FL 33902-0398
Attention: Visitor & Convention Bureau

17.2NOTICES BY AUTHORITY TO PROVIDER All notices required and/or made pursuant to this Agreement to be given by the COUNTY to the PROVIDER shall be made in writing and shall be given by the United States Postal Service to the following PROVIDER'S address of record:

Florida Travel Marketing, Inc.
1134 Lenox Court
Cape Coral, FL 33904
Phone/Fax: 239.945.0420/239.945.6212
Attention: Shelley Crant-Baggot
Email : shelleycrant@mac.com

17.3 CHANGE OF ADDRESS. Either party may change its address by written notice to the other party given in accordance with the requirements of this Article.

ARTICLE 18.0 - TERMINATION

This Agreement may be terminated by the COUNTY at its convenience, or due to the fault of the PROVIDER, by giving thirty (30) calendar days written notice to the PROVIDER. If the PROVIDER is adjudged bankrupt or insolvent; if it makes a general assignment for the benefit of its creditors; if a trustee or receiver is appointed for the PROVIDER or for any of its property; or if it files a petition to take advantage of any debtor's act or to reorganize under the bankruptcy or similar laws; or if it disregards the authority of the COUNTY'S designated representatives; or if it otherwise violates any provisions of this Agreement; or for any other just cause, the COUNTY may, without prejudice to any other right or remedy, and after giving the PROVIDER written notice, terminate this Agreement.

ARTICLE 19.0 - MODIFICATIONS

Modifications to the terms and provisions of this Agreement shall only be valid when issued in writing as a properly executed Supplemental Task Authorization(s) or CHANGE ORDER(S). In the event of any conflicts between the requirements, provisions, and/or terms of this Agreement and any written Supplemental Task Authorization(s) or CHANGE ORDER(S) shall take precedence.

ARTICLE 20.00 – SEVERABILITY

If any word, phrase, sentence, part, subsection, or other portion of this Agreement, or any application thereof, to any person, or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, subsection, other portion, or the proscribed application thereof, shall be severable, and the remaining portions of this Agreement, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force, and effect.

ARTICLE 21.00 – VENUE

Venue for any administrative and/or legal action arising under this Agreement shall be in Lee County, Florida.

ARTICLE 22.00 – NO THIRD PARTY BENEFICIARIES

Both parties explicitly agree, and this Agreement states that no third party beneficiary status or interest is conferred to, or inferred to, any other person or entity.

ARTICLE 23.0 - ACCEPTANCE

Acceptance of this Agreement shall be indicated by the signature of the duly authorized representative of the parties in the space provided.

IN WITNESS WHEREOF, the parties have executed this Agreement effective the day and year first written above.

ATTEST:

COUNTY: LEE COUNTY, FLORIDA

CLERK OF CIRCUIT COURT
Linda Doggett, Clerk

BOARD OF COUNTY COMMISSIONERS

BY: _____

BY: _____

Chair

DATE: _____

APPROVED AS TO FORM

BY: _____

County Attorney's Office

ATTEST:

Florida Travel Marketing, Inc.

Firm

(Witness)

BY: _____

(Authorized Signature)

(Witness)

(Printed Name & Title)

DATE: _____

CORPORATE SEAL:

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

Blue Sheet No. 20130764

ACTION REQUESTED/PURPOSE:

- A) Approve the annual contract for Northeast USA Representation N-130482 to Betsy A. Bush in the amount not-to-exceed an annual expenditure of \$125,000.00 for an initial period of one year with an option to re-negotiate and renew for two additional one year periods.
- B) Authorize Chair on behalf of the Board to execute the Service Provider Agreement.

FUNDING SOURCE:

Tourist Development Tax Trust

WHAT ACTION ACCOMPLISHES:

Approves and places under contract a Meeting Sales and Promotion Representative with extensive experience in lead generation for the meetings and conferences market that result in definite business and room nights for Lee County accommodations.

MANAGEMENT RECOMMENDATION: Approve

Departmental Category: C1B

Meeting Date: 9/17/2013

Agenda:

Requirement/Purpose: *(specify)*

Consent

- Statute
- Ordinance
- Admin Code AC-4-1
- Other

Request Initiated

Commissioner:

Department: VISITOR AND CONVENTION BUREAU

Division: No Divisions

By: Tamara Pigott

Background:

On June 25, 2013, the Board approved waiving as to the formal solicitation process applicable to obtaining a Meeting Sales and Promotion Representative for the Northeast USA. The waiver was to allow the County to informally solicit quotes in light of the lack of responses to the formal solicitation process. The Visitor & Convention Bureau contacted vendors to solicit information quotes and determined that Betsy A. Bush, a non local vendor provided the most cost efficient and effective quotation. Thereafter, a contract was negotiated for a total not to exceed amount of \$125,000. Approval of this annual contract for Northeast USA Representation N-130482 will allow the Visitor & Convention Bureau to continue meet the need for in-market meeting sales and services in the Northeast USA region.

Funds are available in account #: HB5520317400.503490.961 S/L HB101- (Tourist Development Tax Trust).

Please see Attachment:

- (1) Service Provider Agreement

11. Required Review:

<i>Tamara Pigott</i>	<i>Robert Franceschini</i>	<i>Thelma Davis</i>	<i>Peter Winton</i>	<i>Dawn Perry-Lehnert</i>	<i>Roger Desjarlais</i>
VISITOR AND CONVENTION BUREAU	Purchasing	Budget Analyst	Budget Services	County Attorney	County Manager

12. Commission Action:

C-6479

SERVICE PROVIDER AGREEMENT

This SERVICE PROVIDER AGREEMENT is made and entered into this 1 day of October, 2013, between the Board of County Commissioners of LEE COUNTY, a political subdivision of the STATE OF FLORIDA hereinafter referred to as the "COUNTY", and Betsy A. Bush hereinafter referred to as the "PROVIDER".

WITNESSETH

WHEREAS, the COUNTY desires to obtain the Northeast USA Representation services of said PROVIDER as further described herein referred to as Provider _____, and,

WHEREAS, the PROVIDER hereby certifies that it has been granted and possesses valid, current licenses to do business in the State of Florida and in Lee County, Florida, issued by the respective State Board and Government Agencies responsible for regulating and licensing the services to be provided and performed by the PROVIDER pursuant to this Agreement; and,

WHEREAS, the PROVIDER has reviewed the services required pursuant to this Agreement and is qualified, willing and able to provide and perform all such services in accordance with the provisions, conditions and terms hereinafter set forth.

NOW, THEREFORE, in consideration of the foregoing, and the terms and provisions as contained herein, the parties agree that a Contract shall exist between them consisting of the following:

ARTICLE 1.0 - SCOPE OF SERVICES

PROVIDER hereby agrees to provide and perform the services required and necessary to complete the services and work as set forth in EXHIBIT "A", dated October 1, 2013, entitled "SCOPE OF SERVICES", which is attached hereto and made a part of this Agreement.

ARTICLE 2.0 - DEFINITIONS

2.1 COUNTY shall mean the Board of County Commissioners of Lee County, a political subdivision of the State of Florida, and all officials and employees.

2.2 PROVIDER shall mean the individual, firm or entity offering services which, by execution of this Agreement, shall be legally obligated, responsible, and liable for providing and performing any and all of the services, work and materials, including services and/or the work of subcontractors, required under the covenants, terms and provisions contained in this Agreement.

2.3 SERVICES shall mean all services, work, materials, and all related professional, technical and administrative activities that are necessary to perform and complete the services required pursuant to the terms and provisions of this Agreement.

2.4 ADDITIONAL SERVICES shall mean any additional services that the COUNTY may request and authorize, in writing, which are not included in the Scope of Services as set forth in Article 1.0 above.

2.5 CHANGE ORDER shall mean a written document executed by both parties to this Agreement setting forth such changes to the Scope of Services as may be requested and authorized in writing by the COUNTY.

2.6 SUPPLEMENTAL TASK AUTHORIZATION as used refers to a written document executed by both parties to an existing Professional Service Agreement, or Service Provider Agreement, setting forth and authorizing a limited number of Professional Services, tasks, or work. Such Supplemental Task Authorizations are consistent with and have previously been included within the scope of services in the initial Professional Services Agreement, or Service Provider Agreement, for which authorization has not been previously given or budgeted.

ARTICLE 3.0 - OBLIGATIONS OF THE PROVIDER

The obligations of the PROVIDER with respect to all the Basic Services and Additional Services authorized pursuant to this Agreement shall include, but not be limited to the following:

3.1 LICENSES. The PROVIDER agrees to obtain and maintain throughout the terms of this Contract all such licenses as are required to do business in the State of Florida and in Lee County, Florida, including, but not limited to, licenses required by the respective State Boards and other governmental agencies responsible for regulating and licensing the services provided and performed by the PROVIDER.

3.2 QUALIFIED PERSONNEL. The PROVIDER agrees that when the services to be provided and performed relate to a professional service(s) which, under Florida statutes, requires a license, certificate of authorization, or other form of legal entitlement to practice such services, to employ and/or retain only qualified personnel to be in charge of all Basic Services and Additional Services to be provided pursuant to this Agreement.

3.3 STANDARDS OF PROFESSIONAL SERVICE. The PROVIDER agrees to provide and perform all services pursuant to this Agreement in accordance with generally accepted standards of professional practice and, in accordance with the laws, statutes, ordinances, codes, rules, regulations and requirements of governmental agencies which regulate or have jurisdiction over the services to be provided and/or performed by the PROVIDER.

3.4 CORRECTION OF ERRORS, OMISSIONS OR OTHER DEFICIENCIES
(1) Responsibility to Correct. The PROVIDER agrees to be responsible for the professional quality, technical adequacy and accuracy, timely completion, and the coordination of all data, studies, reports, memoranda, other documents and other services, work and materials performed, provided, and/or furnished by PROVIDER. The PROVIDER shall, without additional compensation, correct or revise any errors, omissions or other deficiencies in such data, studies and other services, work and materials resulting from the negligent act, errors or

omissions or intentional misconduct of PROVIDER.

- (2) County's Approval Shall Not Relieve Provider of Responsibility. Neither review, approval, or acceptance by COUNTY of data, studies, reports, memoranda, and incidental professional services, work and materials furnished hereunder by the PROVIDER, shall in any way relieve PROVIDER of responsibility for the adequacy, completeness and accuracy of its services, work and materials. Neither the COUNTY'S review, approval or acceptance of, nor payment for, any part of the PROVIDER'S services, work and materials shall be construed to operate as a waiver of any of the COUNTY'S rights under this Agreement, or any cause of action it may have arising out of the performance of this Agreement.

3.5 LIABILITY - PROVIDER TO HOLD COUNTY HARMLESS. The PROVIDER shall be liable and agrees to be liable for, and shall indemnify, defend and hold the COUNTY harmless for any and all claims, suits, judgments or damages, losses and expenses including court costs, expert witness and professional consultation services, and attorneys' fees arising out of the PROVIDER'S errors, omissions, and/or negligence. The PROVIDER shall not be liable to, nor be required to indemnify the COUNTY for any portions of damages arising out of any error, omission, and/or negligence of the COUNTY, its employees, agents, or representatives.

3.6 NOT TO DIVULGE CERTAIN INFORMATION. PROVIDER agrees, during the term of this Agreement, not to divulge, furnish or make available to any third person, firm, or organization, without the COUNTY'S prior written consent, or unless incident to the proper performance of PROVIDER'S obligations hereunder, or as provided for or required by law, or in the course of judicial or legislative proceedings where such information has been properly subpoenaed; any non-public information concerning the services to be rendered by PROVIDER, AND PROVIDER shall require all of its employees and subcontractor(s) to comply with the provisions of this paragraph.

3.7 RESPONSIBILITY FOR ESTIMATES. In the event the services required pursuant to this Agreement include the PROVIDER preparing and submitting to the COUNTY any cost estimates, the PROVIDER, by exercise of his experience and judgement shall develop its best cost estimates and shall be held accountable, responsible and liable for the accuracy, completeness, and correctness of any and all such cost estimates to the extent provided hereafter.

3.8 ADDITIONAL SERVICES. Should the COUNTY request the PROVIDER to provide and perform professional services under this contract which are not set forth in EXHIBIT "A", the PROVIDER agrees to provide and perform such ADDITIONAL SERVICES as may be agreed to in writing by both parties to this Agreement.

ADDITIONAL SERVICES shall be administered and executed as "CHANGE ORDERS" or "SUPPLEMENTAL TASK AUTHORIZATIONS" under the Agreement. The Provider shall not provide or perform, nor shall the COUNTY incur or accept any obligation to compensate the PROVIDER for any ADDITIONAL SERVICES, unless a written CHANGE ORDER or SUPPLEMENTAL TASK AUTHORIZATION shall be executed by the parties.

Each such CHANGE ORDER or SUPPLEMENTAL TASK AUTHORIZATION shall set forth a description of (1) the Scope of the ADDITIONAL SERVICES requested; (2) the basis of compensation; and (3) the period of time and/or schedule for performing and completing the ADDITIONAL SERVICES.

ARTICLE 4.0 - COMPENSATION AND METHOD OF PAYMENT

4.1 BASIC SERVICES. The COUNTY shall pay the PROVIDER for all requested and authorized basic services rendered hereunder by the PROVIDER and completed in accordance with the requirements, provisions, and/or terms of this Agreement as set forth in EXHIBIT "B" dated October 1, 2013, which is attached hereto and made a part of this Agreement.

4.2 ADDITIONAL SERVICES. The COUNTY shall pay the PROVIDER for all ADDITIONAL SERVICES as have been requested and authorized by the COUNTY and agreed to in writing by both parties to this Agreement, and according to the terms for compensation and payment of said ADDITIONAL SERVICES as set forth in EXHIBIT "B".

4.3 METHOD OF PAYMENT.

(1) MONTHLY STATEMENTS.

The PROVIDER shall be entitled to submit not more than one invoice statement to the COUNTY each calendar month covering services rendered and completed during the preceding calendar month. The PROVIDER'S invoice statement(s) shall be itemized to correspond to the basis of compensation as set forth in the Agreement or CHANGE ORDER(S) or SUPPLEMENTAL TASK AUTHORIZATION(S). The PROVIDER'S invoice statements shall contain a breakdown of charges, description of service(s) and work provided and/or performed, and, where appropriate, supportive documentation of charges consistent with the basis of compensation set forth in the Agreement or in CHANGE ORDER(S) or SUPPLEMENTAL TASK AUTHORIZATION(S).

(2) PAYMENT SCHEDULE.

The COUNTY shall issue payment to the PROVIDER within thirty (30) calendar days after receipt of an invoice statement from the PROVIDER in an acceptable form and containing the requested breakdown and detailed description and documentation of charges.

Should the COUNTY object or take exception to the amount of any PROVIDER'S invoice statement, the COUNTY shall notify the PROVIDER of such objection or exception with the thirty (30) calendar day payment period set forth hereinbefore. If such objection or exception remains unresolved at the end of said thirty (30) calendar day period, the COUNTY shall withhold the disputed amount and make payment to the PROVIDER of the amount not in dispute. Payment of any disputed amount will be resolved by the mutual agreement of the parties to this Agreement.

4.4 PAYMENT WHEN SERVICES ARE TERMINATED AT THE CONVENIENCE OF THE COUNTY. In the event of termination of this Agreement at the convenience of the COUNTY, the COUNTY shall compensate the PROVIDER for: (1) all services performed prior to the effective date of termination; (2) reimbursable expenses then due; and (3) reasonable expenses incurred by the PROVIDER in affecting the termination of services and work, and incurred by the submittal to the COUNTY of any documents.

4.5 PAYMENT WHEN SERVICES ARE SUSPENDED. In the event the COUNTY suspends the PROVIDER'S services or work on all or part of the services required by this Agreement, the COUNTY shall compensate the PROVIDER for all services performed prior to the effective date of suspension and reimbursable expenses then due and any reasonable expenses incurred or associated with, or as a result of such suspension.

4.6 NON-ENTITLEMENT TO ANTICIPATED FEES IN THE EVENT OF SERVICE TERMINATION, SUSPENSION, ELIMINATION, CANCELLATION AND/OR DECREASE IN SCOPE OF SERVICES. In the event the services required pursuant to this Agreement are terminated, eliminated, cancelled, or decreased due to: (1) termination; (2) suspension in whole or in part; and (3) and/or are modified by the subsequent issuance of CHANGE ORDER(S), the PROVIDER shall not be entitled to receive compensation for anticipated professional fees, profit, general and administrative overhead expenses or for any other anticipated income or expense which may be associated with the services which are terminated, suspended, eliminated, cancelled or decreased.

ARTICLE 5.0 - TIME AND SCHEDULE OF PERFORMANCE

5.01 NOTICE TO PROCEED. Following the execution of this Agreement by both parties, and after the PROVIDER has complied with the insurance requirements set forth hereinafter, the COUNTY shall issue the PROVIDER a WRITTEN NOTICE TO PROCEED. Following the issuance of such NOTICE TO PROCEED the PROVIDER shall be authorized to commence work and the PROVIDER thereafter shall commence work promptly and shall carry on all such services and work as may be required in a timely and diligent manner to completion.

5.02 TIME OF PERFORMANCE. The PROVIDER agrees to complete the services required pursuant to this Agreement within the time period(s) for completion of the various phases and/or tasks of the project services set forth and described in this Agreement, as set forth in EXHIBIT "C", entitled "SCHEDULE OF PERFORMANCE", which EXHIBIT "C" is attached hereto and made a part of this Agreement.

Should the PROVIDER be obstructed or delayed in the prosecution or completion of its obligations under this Agreement as a result of causes beyond the control of the PROVIDER, or its sub-consultant(s) and/or subcontractor(s), and not due to their fault or neglect, the PROVIDER shall notify the COUNTY, in writing, within five (5) calendar days after the commencement of such delay, stating the cause(s) thereof and requesting an extension of the PROVIDER'S time of performance. Upon receipt

of the PROVIDER'S request for an extension of time, the COUNTY shall grant the extension if the COUNTY determines the delay(s) encountered by the PROVIDER, or its sub-consultant(s) and/or subcontractor(s), is due to unforeseen causes and not attributable to their fault or neglect.

5.03 PROVIDER WORK SCHEDULE. The PROVIDER shall be required as a condition of this Agreement to prepare and submit to the COUNTY, on a monthly basis, commencing with the issuance of the NOTICE TO PROCEED, a PROVIDER'S WORK SCHEDULE. The WORK SCHEDULE shall set forth the time and manpower scheduled for all of the various phases and/or tasks required to provide, perform and complete all of the services and work required for completion of the various phases and/or tasks of the project services set forth and described in this Agreement, as set forth in EXHIBIT "C", pursuant to this Agreement in such a manner that the PROVIDER'S planned and actual work progress can be readily determined. The PROVIDER'S WORK SCHEDULE of planned and actual work progress shall be updated and submitted by the PROVIDER to the COUNTY on a monthly basis.

5.04 FAILURE TO PERFORM IN A TIMELY MANNER. Should the PROVIDER fail to commence, provide, perform, and/or complete any of the services and work required pursuant to this Agreement in a timely and diligent manner, the COUNTY may consider such failure as justifiable cause to terminate this Agreement. As an alternative to termination, the COUNTY at its option may, upon written notice to the PROVIDER, withhold any or all payments due and owing to the PROVIDER, not to exceed the amount of the compensation for the work in dispute, until such time as the PROVIDER resumes performance of his obligations in such a manner as to get back on schedule in accordance with the time and schedule of performance requirements as set forth in this Agreement.

ARTICLE 6.0 - SECURING AGREEMENT

The PROVIDER warrants that the PROVIDER has not employed or retained any company or person other than a bona fide employee working solely for the PROVIDER to solicit or secure this Agreement and that the PROVIDER has not paid or agreed to pay any person, company, corporation or firm other than a bona fide employee working solely for the PROVIDER any commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement.

ARTICLE 7.0 - ASSIGNMENT, TRANSFER AND SUBCONTRACTS

The PROVIDER shall not assign or transfer any of its rights, benefits or obligations hereunder, except for transfers that result from: (1) the merger or consolidation of PROVIDER with a third party; or (2) the disestablishment of the PROVIDER'S professional practice and the establishment of the successor PROVIDER. Nor shall the PROVIDER subcontract any of its service obligations hereunder to third parties without prior written approval of the COUNTY. The PROVIDER shall have the right, subject to the COUNTY'S prior written approval, to employ other persons and/or firms to serve as subcontractors to PROVIDER in connection with the PROVIDER performing services and work

pursuant to the requirements of this Agreement.

In providing and performing the services and work required pursuant to this Agreement, PROVIDER intends to engage the assistance of subcontractor(s) as set forth in EXHIBIT "D", dated October 1, 2013, entitled "PROVIDER'S ASSOCIATED SUBCONTRACTORS", which EXHIBIT "D" is attached hereto and made a part of this Agreement.

ARTICLE 8.0 - APPLICABLE LAW

This Agreement shall be governed by the laws, rules and regulations of the State of Florida, or the laws, rules and regulations of the United States when providing services funded by the United States government.

ARTICLE 9.0 - NON-DISCRIMINATION

The PROVIDER for itself, its successors in interest, and assigns, as part of the consideration thereof, does hereby covenant and agree that in the furnishing of services to the COUNTY hereunder, no person on the grounds of race, color, national origin, handicap, or sex shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination. Should PROVIDER authorize another person, with the COUNTY'S prior written consent, to provide services to the COUNTY hereunder, PROVIDER shall obtain from such person a written agreement pursuant to which such person shall, with respect to the services which he is authorized to provide, undertake for himself the obligations contained in this Section.

ARTICLE 10.0 - INSURANCE

10.1 INSURANCE COVERAGE TO BE OBTAINED

(1) The PROVIDER shall obtain and maintain such insurance or self-insurance as will protect him from: (1) claims under workers' Compensation laws, Disability Benefit laws, or other similar employee benefit laws; (2) claims for damages because of bodily injury, occupational sickness or disease or death of his employees including claims insured by usual personal injury liability coverage; (3) claims for damages because of bodily injury, sickness or disease, or death of any person other than his employees including claims insured by usual personal injury liability coverage; and (4) from claims for injury to or destruction of tangible property including loss or use resulting therefrom, any or all of which claims may arise out of, or result from, the services, work and operations carried out pursuant to and under the requirements of this Agreement, whether such services, work and operations be by the PROVIDER, its employees, or by any sub-consultant(s), subcontractor(s), or anyone employed by or under the supervision of any of them, or for whose acts any of them may be legally liable.

(2) The insurance protection set forth hereinabove shall be obtained for not less than the limits of liability specified hereinafter, or as required by law, whichever is greater

- (3) The PROVIDER shall require, and shall be responsible for insuring, throughout the time that this Agreement is in effect, that any and all of its subcontractors obtains and maintains until the completion of that subcontractor's work, such of the insurance coverages described herein and as are required by law to be provided on behalf of their employees and others.
- (4) The PROVIDER shall obtain, have and maintain during the entire period of this Agreement all such insurance or a self-insurance program as set forth and required herein.

10.2 PROVIDER REQUIRED TO FILE INSURANCE CERTIFICATE(S)

- (1) The PROVIDER, within fourteen (14) calendar days from receipt of the COUNTY'S written Notice of Award, shall submit to the COUNTY all such insurance certificates or self-insurance program documentation as are required under this Agreement. Failure of the PROVIDER to submit such certificates and documents within the required time shall be considered cause for the COUNTY to find the PROVIDER in default and terminate the contract. Before the PROVIDER shall commence any service or work pursuant to the requirements of this Agreement, the PROVIDER shall obtain and maintain insurance coverages of the types and to the limits specified hereinafter, and the PROVIDER shall file with the COUNTY certificates of all such insurance coverages.
- (2) All such insurance certificates shall be in a form and underwritten by an insurance company(s) acceptable to the COUNTY and licensed in the State of Florida.
- (3) Each Certificate of Insurance or self-insurance program documentation shall be submitted to the COUNTY in triplicate.
- (4) Each Certificate of Insurance shall include the following:
 - (A) The name and type of policy and coverages provided;
 - (B) The amount or limit applicable to each coverage provided;
 - (C) The date of expiration of coverage.
 - (D) The designation of the Lee County Board of County Commissioners both as an additional insured and as a certificate holder. (This requirement is excepted for Professional Liability Insurance and for workers' Compensation Insurance); and
 - (E) Cancellation - Should any of the described policies be cancelled before the expiration date thereof, the issuing company will endeavor to mail 30 days written notice to the Certificate Holder named.
- (5) If the initial, or any subsequently issued Certificate of Insurance expires prior to the completion of the work or termination of this Agreement, the PROVIDER shall furnish to the COUNTY renewal or replacement Certificate(s) of Insurance not later than thirty (30) calendar days prior to the date of their expiration. Failure of the PROVIDER to provide the COUNTY with such renewal certificate(s)

shall be justification for the COUNTY to terminate this Agreement.

ARTICLE 11.0 - INSURANCE COVERAGES REQUIRED

The PROVIDER shall obtain and maintain the following insurance coverages:

(1) WORKERS' COMPENSATION

~~Coverage to comply for all employees for Statutory Limits in compliance with the applicable State and Federal laws. In addition, the policy shall include the following:~~

~~(A) Employer's Liability with a minimum limit per accident in accordance with statutory requirements, or a minimum limit of \$100,000 for each accident, whichever limit is greater.~~

~~(B) Notice of Cancellation and/or Restriction—The policy must be endorsed to provide the COUNTY with thirty (30) days prior written notice of cancellation and/or restriction.~~

(2) COMMERCIAL GENERAL LIABILITY

Coverage must be afforded on a form no more restrictive than the latest edition of the Commercial General Liability Policy filed by the Insurance Services Office and shall include the following:

(A) Minimum limits of \$100,000 per occurrence and \$300,000 aggregate for Bodily Injury Liability and a minimum limit of \$100,000 for Property Damage Liability, or a minimum combined single limit of \$300,000.

(B) Contractual coverage applicable to this specific Agreement including any hold harmless and/or such indemnification agreement.

(3) BUSINESS AUTOMOBILE LIABILITY

Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability Policy filed by the Insurance Services Office and must include the following:

(A) Minimum limits of \$100,000 per person and \$300,000 per accident for Bodily Injury Liability and a minimum limit of \$100,000 for Property Damage Liability, or a minimum combined single limit of \$300,000.

(B) Coverage shall include owned vehicles, hired and non-owned vehicles, and employee non-ownership.

(4) PROFESSIONAL LIABILITY

Coverage shall include the following:

(A) A minimum aggregate limit of \$

(B) Should the Professional Liability Insurance Policy issued pursuant to the above requirements and limits, or self-insurance program, provide an applicable deductible

amount, or other exclusion or limitation, or sovereign immunity as to the amount of (4) coverage to be provided within the minimum coverage limits set forth above, the COUNTY shall hold the PROVIDER responsible and liable for any such difference in the amount of coverage provided by the insurance policy. In the event of any such deductible amount, exclusion or limitation, or amount of sovereign immunity, the PROVIDER shall be required to provide written documentation that is acceptable to the COUNTY establishing that the PROVIDER has the financial resources readily available to cover damages, injuries and/or losses which are not covered by the policy's deductible amounts, exclusions and/or limitations as stated above.

ARTICLE 12.0 - DUTIES AND OBLIGATIONS IMPOSED ON THE PROVIDER

The duties and obligations imposed upon the PROVIDER by this Agreement and the rights and remedies available hereunder shall be in addition to, and not a limitation of, any otherwise imposed or available by law or statute.

ARTICLE 13.0 - OWNERSHIP AND TRANSFER OF DOCUMENTS

All documents such as payment records, notes, computer files, evaluations, reports and other records and data relating to the services specifically prepared or developed by the PROVIDER under this Agreement shall be the property of the PROVIDER until the PROVIDER has been paid for performing the services and work required to produce such documents.

Upon completion or termination of this Agreement, all of the above documents to the extent requested by the COUNTY shall be delivered to the COUNTY or to any subsequent PROVIDER within thirty (30) calendar days.

The PROVIDER, at its expense, may make and retain copies of all documents delivered to the COUNTY for reference and internal use.

ARTICLE 14.0 - MAINTENANCE OF RECORDS

The PROVIDER 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 PROVIDER for a minimum of five (5) years from the date of termination of this Agreement, or for such period as required by law.

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 paragraph above; provided, however, such activity shall be conducted only during normal business hours of the PROVIDER and at the expense of the COUNTY.

ARTICLE 15.0 - HEADINGS

The headings of the Articles, Sections, Exhibits, and Attachments as contained in this Agreement are for the purpose of convenience only and shall not be deemed to expand, limit or change the provisions contained in such Articles, Section, Exhibits and Attachments.

ARTICLE 16.0 - ENTIRE AGREEMENT

This Agreement, including the referenced Exhibits and Attachments, constitutes the entire Agreement between the parties and shall supersede all prior agreements or understandings, written or oral, relating to the matters set forth herein.

ARTICLE 17.0 - NOTICES AND ADDRESS

17.1 NOTICES BY PROVIDER TO COUNTY All notices required and/or made pursuant to this Agreement to be given to the PROVIDER to the COUNTY shall be in writing and shall be given by the United States Postal Service to the following COUNTY address of record:

Visitor & Convention Bureau
2201 Second Street, Suite 600
Ft Myers FL 33901
Attention: Tamara Pigott

17.2 NOTICES BY AUTHORITY TO PROVIDER All notices required and/or made pursuant to this Agreement to be given by the COUNTY to the PROVIDER shall be made in writing and shall be given by the United States Postal Service to the following PROVIDER'S address of record:

Betsy A. Bush
815 Church Street
Alexandrai, VA 22314
Phone/Fax: 703.899.7308

17.3 CHANGE OF ADDRESS. Either party may change its address by written notice to the other party given in accordance with the requirements of this Article.

ARTICLE 18.0 - TERMINATION

This Agreement may be terminated by the COUNTY at its convenience, or due to the fault of the PROVIDER, by giving thirty (30) calendar days written notice to the PROVIDER. If the PROVIDER is adjudged bankrupt or insolvent; if it makes a general assignment for the benefit of its creditors; if a trustee or receiver is appointed for the PROVIDER or for any of its property; or if it files a petition to take advantage of any debtor's act or to reorganize under the bankruptcy or similar laws; or if it disregards the authority of the COUNTY'S designated representatives; or if it otherwise violates any provisions of this Agreement; or for any other just cause, the COUNTY may, without prejudice to any other right or remedy, and after giving the PROVIDER written notice, terminate this Agreement.

ARTICLE 19.0 - MODIFICATIONS

Modifications to the terms and provisions of this Agreement shall only be valid when issued in writing as a properly executed Supplemental Task Authorization(s) or CHANGE ORDER(S). In the event of any conflicts between the requirements, provisions, and/or terms of this Agreement and any written Supplemental Task Authorization(s) or CHANGE ORDER(S) shall take precedence.

ARTICLE 20.0 - ACCEPTANCE

Acceptance of this Agreement shall be indicated by the signature of the duly authorized representative of the parties in the space provided.

IN WITNESS WHEREOF, the parties have executed this Agreement effective the day and year first written above.

ATTEST:

COUNTY: LEE COUNTY, FLORIDA

CLERK OF CIRCUIT COURT
Linda Doggett Clerk

BOARD OF COUNTY COMMISSIONERS

BY: _____

BY: _____
Chairman

DATE:

APPROVED AS TO FORM

BY: _____
County Attorney's Office

ATTEST:

Betsy A. Bush
(CONSULTANT)

[Handwritten Signature]

(Witness)
[Handwritten Signature]

(Witness)

BY: *Betsy a. Bush*

(Authorized Signature)
Sole Proprietor

(Title)

DATE: 8/16/13

CORPORATE SEAL: N/A

SCOPE OF SERVICES

for Meeting Sales Promotion Representation –Northeast USA

SCOPE OF SERVICES

For Tourism and Conference Sales Promotion Representation:
Group Sales / Meeting Planner Representation

BASIC SERVICES

The PROVIDER shall provide and perform the following professional services which shall constitute the GENERAL SCOPE of the SERVICES under the covenants, terms and provision of this SERVICE PROVIDER AGREEMENT:

National Sales Manager

GENERAL SCOPE STATEMENT

The PROVIDER shall provide and perform the following professional services which shall constitute the GENERAL SCOPE of the SERVICES under the covenants, terms and provisions of this SERVICE PROVIDER AGREEMENT.

Services to be provided by the Provider include, but are not limited to, in-person and telephone sales calls to meeting planners, participating in meeting planner and tourism trade show promotions, organizing and implementing familiarization tours of Lee County, FL, responding to telephone inquiries, general administrative office duties, work as tourism industry liaison to generate qualified leads, assist hotel industry in booking and tracking business to the destination and provide/implement promotional activities in the Northeast USA region.

Promotional or sales opportunities outside the office will be pursued by Provider, at the discretion of the Visitor & Convention Bureau's (VCB) Director of Sales (hereinafter called the "Project Coordinator").

For the duration of this agreement, the Provider agrees to maintain its current business address. Thirty days notice is required of any relocation of Provider.

Provider agrees to provide the services of its principle/s to complete all of the tasks included in this agreement. The Provider also agrees to provide the necessary technical and support equipment to include but not limited to the following:

- Computer
- Telephone/s
- Tablet computer
- Copier/Scanner/Fax machine
- Brochure Storage

Section 2. TASKS

Pursuant to the GENERAL SCOPE of the BASIC SERVICES stated herein above, the PROVIDER shall perform all services and/or work necessary to complete the following task(s) and/or provide the following item(s) which are enumerated to correspond to the Sample Trade Shows / Sales Activities items set forth in "EXHIBIT B".

MONTHLY COMPENSATION INCLUDES

Sales Responsibility

Telephone Sales

Shall include, but it is not limited to increasing the awareness of The Beaches of Fort Myers & Sanibel (Lee County, FL), to promote and sell the destination to qualified meeting professionals, and ensure quality bookings for the local hospitality community.

Sales territory includes Washington, DC and surrounding metropolitan area as well as the key markets of Virginia, Maryland, Delaware, Pennsylvania, New Jersey, Massachusetts, Rhode Island, Connecticut and New York. Effectively manage territory to achieve optimum sales success with assigned region. This service provider position will be a full-time, home based and located in the Washington, DC suburb of Fairfax, Virginia. The Provider will report to the Director of Sales for the VCB.

Sales

Sales calls by definition are one on one, personal, meetings for the purpose of promoting Lee County as a viable meetings/conference/incentive destination. Shall include, but is not limited to, arranging appointments with meeting professionals, trade show attendance and solicitation of new accounts requiring meeting planning services.

Manage the day to day activities on all accounts in territory through the VCB's Customer Relationship Management (CRM) program, Simpleview, for the purpose of ensuring quality bookings for the local hospitality community.

Familiarization Tours

Provider will arrange and conduct a minimum of two (2) annual familiarization (Fam) tours for the meeting professionals to include all segments of the industry including third party planners. This shall include, but is not restricted to arranging complimentary or reduced rate lodging, transportation and meals in addition to complete itineraries for submittal to the Project Coordinator. They shall include, but not be restricted to, personal guide service for pre-designated visitors to Lee County. All fam tour plans and arrangements shall have the prior approval of the Project Coordinator and depend on the availability of suitable airline tickets.

Sales Reports & Performance Goals

Prior to the start of each fiscal year the Provider agrees to submit a strategic plan outlining the state of the market, trends, etc. objectives to accomplish for the year, accompanied with strategies and list of tactics with estimated budget, along with how each objective will be measured for the return on investment.

The Provider will submit sales reports upon completion of trade/events to include number of leads per tradeshow, provide a monthly report to include activities and update on leads generated, assisted bookings, lost opportunities/cancellations into the destination combined with a year to date tracking for performance measures.

Objectives and goals will be reviewed on an annual basis and re-established for the following year.

Performance Measures

The following minimum performance measures will be reported to the VCB on a monthly basis.

- Work with VCB staff and leadership to develop and meet annual goals and objectives designed to increase in visitation from the Midwest territory to Lee County, FL for the purpose of meetings business.
- Conduct a minimum of 50 client contacts (telephone calls, email, trade show appointments, etc) per month.
- Conduct a minimum of 10 outside sales calls per month.
- Generate a minimum of 5 meeting sales leads per month.
- Generate 500 room nights booked per month.
- Required to enter all account information (leads, contacts, traces, and notes) generated through all activities paid for and on behalf of the Lee County VCB into the Simpleview CRM system on a daily basis.
- Provide detailed records of expenditures, appropriate invoices, and verification of exchange rates for proper reimbursement, as detailed by the Lee County procurement/travel/entertainment policy.
- Develop and maintain client relationships with key meeting professional accounts in assigned territory.
- In FY 2013-14, conduct a minimum of two (2) familiarization tours to Lee County from assigned territory.
- Identify and participate at industry appropriate travel trade shows to represent Lee County in assigned territory.
- Contribute to and maintain meeting planners and key client database from assigned territory, update regularly.
- Submit a summary of monthly activities each month to VCB Director of Sales, documenting sales activities, lead generation, fams, market trends, room night generation, and other sales related goals.
- Assist in developing, planning, coordinating, and implementing advertising and marketing programs that will showcase the destination in assigned territory.

- Establish Lee County, FL in the marketplace as a desirable destination for meetings/conference/incentive travel, while positioning it to successfully compete for market share with other highly recognized destinations.
- Remain current on industry best practices, standards and benchmarks by, but not limited to, reading publications, participating in and attending events in assigned territory.
- Evaluate sales trends, competition and economic/business conditions; recommends modifications when necessary in sales strategies.
- Explore new products and services, evaluating potential return on investment and enhancement to the Lee County Visitor & Convention Bureau.
- Maintain financial responsibility to meet budget goals.

Administrative Support

General Duties - Shall include, but not be restricted to, availability to acknowledge all telephone calls pertaining to Lee County's Visitor & Convention Bureau, Monday through Friday in compliance with Provider's regular scheduled office hours. Work with and seek sales opportunities of the County in conjunction with meeting planners, tour operators, airlines or other related partners.

Brochure Fulfillment and Distribution - Maintain an adequate supply of Lee County brochures to properly fulfill requests by consumer/trade via the mail system or through other means. This shall include the actual mailing of all pre-approved collateral material.

Simpleview CRM - Maintain in the designated Lee County VCB Customer Relationship Management system (CRM), Simpleview, separate ongoing lists of meeting planners, third party planners, incentive house, trade, industry partners and trade inquiries by name, company and address for future reference and use. All client contact information obtained during the life of the agreement is considered the property of the Lee County VCB.

Telecommunications

- Office Telephone Log: Process telephone bills for approval after verification of bill audit.
- Cellular Phone Provider to provide. County will reimburse business-related expenses against copy of original monthly statement.

Rent/Lease

Office space and all related costs will be paid by the Provider.

Office Hours / Holidays

In keeping with the regular scheduled hours of 09:00 until 17:00 local time, Monday through Friday, subject to change upon approval by County. Vacation allowance of 15 days (3 weeks) will

be taken with the prior approval from the Project Coordinator. Lee County Holiday Observances days for 2013-14 (October 2013 thru September 2014):

Veteran's Day	November 11, 2013
Thanksgiving	November 28 - 29, 2013
Christmas	December 24 - 25, 2013
New Year's Day	December 31, 2013 - January 1, 2014
Martin Luther King, Jr. Day	January 20, 2014
Memorial Day	May 26, 2013
Independence Day	July 4, 2014
Labor Day	September 1, 2014

EXHIBIT B

Date: October 1, 2013

COMPENSATION AND METHOD OF PAYMENT

For Northeast USA Meeting Sales Promotion Representation – Betsy A. Bush

Section 1. BASIC SERVICES/TASK(S)

The COUNTY shall compensate the CONSULTANT for providing and performing the Task(s) set forth and enumerated in EXHIBIT "A", entitled "SCOPE OF PROFESSIONAL SERVICES", as follows:

NOTE: A Lump Sum (L.S.) or Not-to-Exceed (N.T.E.) amount of compensation to be paid the CONSULTANT should be established and set forth below for each task or sub-task described and authorized in Exhibit "A". In accordance with Agreement Article 5.02(2) "Method of Payment", tasks to be paid on a Work-in-Progress payment basis should be identified (WIPP).

Task Number	Task Title	Amount of Compensation	Indicate Basis of Compensation in LS or NTE	If Applicable Indicate (W.I.P.P)
	Provide Tourism and Convention Sales Promotion Representation – Northeast USA Region Annual Compensation: \$ 91,800 (Paid at \$7,650.00 per month) Reimbursables: \$33,200 NTE Total Annual Agreement: \$125,000.00 NTE	\$125,000.00 USD	NTE	
TOTAL		\$125,000.00	NTE	

TOTAL
(Unless list is continued on next page)

CMO:033
09/25/01

ATTACHMENT NO. 1 TO EXHIBIT B

Date: October 1, 2013

CONSULTANT'S PERSONNEL HOURLY RATE SCHEDULE ***

for Northeast USA Regions Sales Tourism & Convention Promotion Representation

CONSULTANT OR SUB-CONSULTANT NAME: **Betsy A. Bush**
(A separate Attachment No. 1 should be included for each Sub-Consultant)

(1) Project Position or Classification (Function to be Performed)	(2) Current Direct* Payroll Average Hourly Rate	(3) Multiplier**	(4) Hourly Rate To Be Charged (Column 2x3)
n/a			

*NOTE: Direct Payroll hourly rate means the actual gross hourly wage paid.

**NOTE: Indicate applicable multiplier for indirect personnel costs, general administrative and overhead costs, and profit.

***NOTE: A separate personnel hourly rate schedule should also be attached for each Sub-Consultant listed in Exhibit "D".

ATTACHMENT NO. 2 TO EXHIBIT B

Date: October 1, 2013

NON-PERSONNEL REIMBURSABLE EXPENSES AND COSTS

for Northeast USA Region Sales Tourism & Convention Representation

CONSULTANT OR SUB-CONSULTANT NAME: Betsy A. Bush

(A separate Attachment No. 2 should be included for each Sub-Consultant)

ITEM	BASIS OF CHARGE
Telephone (Long Distance)	Actual Cost
Postage and Shipping	Actual Cost
Commercial Air Travel	Actual Cost (Coach)
Vehicle Travel Allowance (Personal Vehicle)	Current GSA Rate
Vehicle Rental (Economy or Mid-Class) /Gas	Actual Cost
Lodging (Per Person)	Actual Cost
Meals:	NTE
Breakfast	\$9.00*
Lunch	\$13.00*
Dinner	\$29.00*
Rates marked with asterisk (*) apply when travel occurs within Lee County, Florida. For travel within the USA, (Domestic) or Foreign (International) current per diem rates in accordance with the GSA M&IE schedule will apply.	
Printing/Binding	Actual Cost
Photographic Supplies & Services	Actual Cost
Tolls	Actual Cost
List other specific project related reimbursables (i.e. film/developing):	
Approved out of pocket expenses for networking, entertainment familiarization (fam) tours, and promotional expenses, will be reimbursed upon submittal of itemized receipts with corresponding details.	Actual Cost
Approved purchased of telecommunications and/or office equipment.	
Clipping Service	N/A
NOTE: Receipts or in-house logs are required for all non-personnel reimbursable expenses unless exempt (such as meals).	
Administrative Services Fee – Applicable only when specifically authorized by the County, for administering the procurement of special additional services, equipment, reimbursables etc. not covered under the costs and/or changes established in the Agreement.	

NOTE: N.T.E. indicates Not-To-Exceed
 CMO:033
 01/01/2010

Date: October 1, 2013

**Northeast USA Region Meeting Sales Promotion Representation
Agreement**

Exhibit "B"

1. **COMPENSATION** : The County shall pay to the Provider during the continuance of their services herein, an amount not to exceed \$ 91,800.00 annually. The compensation stated above shall be inclusive of all monies receivable from the County. This compensation shall be payable in equal monthly installments in the month prior to the work being performed. Provider shall be responsible for payment of all taxes incident to any compensation received from the County, or elsewhere in the Agreement. It is understood that the Provider shall provide the County with documentation of work performed.

2. **REIMBURSEMENT**: The County shall reimburse the Provider for their expenses in entertaining the County's business clients, guests or authorized persons, pursuant to County policy and State Statutes and other expenses not limited to promotional opportunities, mailings and communications, business telecommunications expenses and approved purchases of office related equipment, not-to-exceed amount of \$33,200.00. It is, however understood, that all taxes incident to the payments by the County for services rendered shall be the Provider's responsibility. Such expenses are subject to the approval of the Project Coordinator. Expenses will be reimbursed within a thirty (30) day period as specified in Article 4.3 (2) (Payment Schedule). Payment to Provider will be submitted via electronic bank transaction (ACH) to the account number on file with the Lee County Finance Dept.

Reimbursement Guidelines

- Herein below, a daily expense allowance not-to-exceed (NTE) amount for meals and incidentals is established for travel within designated territory and all other approved destinations. Meals shall be reimbursed in accordance with current GSA M&EI for meals and incidentals applicable for the corresponding U.S. destination.

Date: October 1, 2013

Travel: Meals and Incidental Expense (M&IE): To include: meal allowance, tips, transportation, tolls, telephone, etc.

Breakfast	Lunch	Dinner	Incidentals
<i>US Travel calculated at current GSA per diem rates.</i>			

Note: Official county reimbursement guidelines:

- Breakfast - Travel begins before 6:00 AM and extends beyond 8:00 AM
- Lunch - Travel begins before 12:00 PM and extends beyond 2:00 PM
- Dinner - Travel begins before 6:00 PM and extends beyond 8:00 PM

- **Lodging:** Accommodation reservations shall be made in a timely manner with a goal to obtain best rates possible. Actual cost of hotel accommodations expenses will be reimbursed, provided a hotel receipt is submitted indicating the name/s, dates with a zero balance due.
- **Transportation:** Air travel – economy class, prior authorization (travel approval form) and receipt(s) required.
Vehicle rental reimbursement – actual receipt(s) required for rental, insurance, and fuel;
Ground transportation - actual receipt(s) required for taxi, train, rail, motor coach transport.
- **Advance:** A one time agreement advance of \$5,000.00 will be issued via Provider invoice. This dollar amount shall be paid back in full prior to, or the conclusion of this agreement.
- **Performance Review:** A performance review is provided annual which includes a discussion of goals and objectives. Any adjustments or modifications to the compensation amount may be considered at this time.

Date: October 1, 2013

TIME AND SCHEDULE OF PERFORMANCE

for Northeast USA Region Meeting Sales Promotion Representation – Betsy A. Bush

This EXHIBIT C establishes times of completion for the various phases and tasks required to provide and perform the services and work set forth in EXHIBIT "A" of this Agreement. The times and schedule of performance set forth hereinafter is established pursuant to Article 6.00 of this Agreement.

Phase and/or Task Reference As Enumerated in EXHIBIT "A"	NAME OR TITLE Of Phase and/Task	Number Of Calendar Days For Completion Of Each Phase And/or Task	Cumulative Number Of Calendar Days For Completion From Date of Notice to Proceed
	Agreement is for a period of 1 year with two 1-year renewal options.		
	Year 1 – 10/01/2013 – 9/30/2014 Year 2 – 10/01/2014 – 9/30/2015 (renewal option one) Year 3 – 10/01/2015 – 9/30/2016 (renewal option two)		

Date: October 1, 2013

CONSULTANT'S ASSOCIATED SUB-CONSULTANT(S) AND SUBCONTRACTOR(S)

for Northeast USA Region Sales Meetings Representation – Betsy A. Bush

CONSULTANT has identified the following Sub-Consultant(s) and/or Subcontractors(s) which may be engaged to assist the CONSULTANT in providing and performing services and work on this Project:

(If none, enter the word "none" in the space below .)

Service and/or Work to be Provided or Performed	Name and Address of Individual or Firm	Disadvantaged, Minority or Women Business Enterprise. (If Yes, Indicate Type)			Sub-Consultant Services are Exempted from Prime Consultant's Insurance Coverage	
		Yes	No	Type	Yes	No
	None					

Date: October 1, 2013

PROJECT GUIDELINES AND CRITERIA

for Northeast USA Region Meeting Sales Representation – Betsy A. Bush

The COUNTY has established the following Guidelines, Criteria, Goals, Objectives, Constraints, Schedule, Budget and/or Requirements which shall serve as a guide to the CONSULTANT in performing the professional services and work to be provided pursuant to this Agreement:

(If none, enter the word "none" in the space below)

Item No. 1

Conflict of Interest:

Provider agrees, during the term of this Agreement, not to divulge, furnish or make available to any third person, firm, or organization, without the County's prior written consent, or unless incident to the proper performance of Provider's obligations hereunder, or as provided for or required by law, or in the course of judicial or legislative proceedings where such information has been properly subpoenaed; any non-public information concerning the services to be rendered by Provider, and Provider shall require all of its employees and subcontractor(s) to comply with the provisions of this paragraph.

Notices by either party must be given by letter, email or by fax message addressed to the other party at:

For Lee County

Tamara Pigott, Executive Director
c/o Lee County VCB
2201 Second Street, Ste. 600
Fort Myers, FL 33901

For Provider

Betsy A. Bush
815 Church Street
Alexandria, VA 22314

Date: October 1, 2013

Northeast Region
Sample
Show Participation / Sales Calls
(May include but not limited to)

October	Sales Calls Sales Calls	Pittsburgh, PA
November	PCMA Event	New Jersey
December	CVBReps Holiday Event	Washington, DC
January	PCMA Conference Sales Calls	Boston, MA New York, NY
February	Destinations Showcase AMC Institute	Washington, DC Tempe, AZ
March	Sales Calls Industry Event	Philadelphia, PA
April	MPI Chapter Event Industry Event	New York, NY
May	Springtime Sales Calls	Washington, DC Washington, DC
June	Northeast Area Fam	Lee County, FL
July	VIP Client Event Sales Calls	Boston, MA Boston, MA
August	Visit FL Event	TBA
September	Sales Calls Sales Calls	Pittsburgh, PA Hartford, CT

*Sales calls in the Washington, DC metro area to be performed on a monthly basis

Date: October 1, 2013

AMENDMENT TO ARTICLES

For: Northeast USA Region Meeting Sales Representation – Betsy A. Bush

For amending (i.e., changing, deleting from or adding to) the articles.

NOTE: Each Article to be amended should be set forth and described in such a manner as to clearly indicate what the proposed changes, deletions or additions are with respect to the present Article provisions, and should set forth the wording of the Article resulting from the Amendment. The following identification system should be followed: Indicate additional (new) words or phrases by inserting the words in the text and then underline, (i.e., Months) and indicated words or phrases in the text to be deleted by striking over (i.e. ~~Weeks~~).

THE PROVISIONS HEREBY SUPERCEDE ANY PROVISIONS TO THE CONTRARY CONTAINED ELSEWHERE IN THE ARTICLES OR EXHIBITS.

Deleted:

Article 11.0 item (1) Worker's Compensation Insurance sections (A) and (B):

Provider is a sole proprietor and will not sub-contract or employ any staff. Therefore, Worker's Compensation insurance is not required as outlined under Florida statutes.

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

Blue Sheet No. 20130558

1. ACTION REQUESTED/PURPOSE:

- A) Waive the formal solicitation process and allow the Lee County Visitor and Convention Bureau to negotiate an annual contract for Northeast USA Representation N-130482 and an annual contract for Midwest USA Representation N-130483.
- B) Initial period of one year with the option to re-negotiate and renew for two additional one year periods.
- C) Approve a not-to-exceed annual expenditure of \$150,000.00 for each contract .
- D) Authorize Chair on behalf of the Board to execute the Agreements upon completion of the final negotiations.

2. FUNDING SOURCE:

Fund - Tourist Development Tax Trust Fund; Program - VCB Visitor & Convention Bureau; Project - Promotion

3. WHAT ACTION ACCOMPLISHES:

Approves and places under contract a Marketing and Sales Representative with extensive experience in lead generation for the meetings and conferences market that result in definite business and room nights for Lee County accommodations.

4. MANAGEMENT RECOMMENDATION: Approve

5. Departmental Category: CIA

6. Meeting Date: 6/25/2013

7. Agenda:

Consent

8. Requirement/Purpose: *(specify)*

- Statute
- Ordinance
- Admin Code AC-4-1
- Other

9. Request Initiated

Commissioner:

Department: VISITOR AND CONVENTION BUREAU

Division: No Divisions

By: Tamara Pigott

10. Background:

On June 6, 2013, the Division of Procurement Management received a request from Lee County Visitor and Convention Bureau to waive the formal solicitation process to allow for the negotiation of an annual contract for Northeast USA Representation N-130482 and an annual contract for Midwest USA Representation N-130483 to allow the Visitor and Convention Bureau to continue the need for in-market tourism sales and marketing services in the Northeast and Midwest USA region. By entering into annual contracts, the vendors will assist the Visitor and Convention Bureau in further increasing awareness about Lee County at meetings and vacation destination through direct contract with meeting planners, and the travel trade.

Full-time Meetings Representation services to be provided include, but not limited to:

- telephone and in-person sales calls to meeting planners, participating in trade show promotions
- organizing and implementing, familiarization (fam) tours and individual site visits of Lee County
- responding to inquiries, general office duties
- daily activity in VCB CRM system, Simpleview
- lead generation and following leads throughout the sales cycle
- work as tourism industry liaison and promotional activities.

11. Required Review:

<i>Tamara Pigott</i>	<i>Robert Franceschini</i>	<i>Andrea Fraser</i>	<i>Thelma Davis</i>	<i>David Harris</i>	<i>Doug Meurer</i>
VISITOR AND CONVENTION BUREAU	Purchasing	County Attorney	Budget Analyst	Budget Services	County Manager

12. Commission Action:

History

On July 17, 2012, the Division of Procurement Management received a request to bid out the Northeast USA Representation. On August 28, 2012, proposals were due and no responses were received.

Current Status

Currently the Visitor and Convention Bureau is without representation in the Northeast USA. The Visitor and Convention Bureau is operating on a Service Provider Agreement with Jerry W. Terp to act as a Marketing and Meetings Representative for the Midwest USA region for an annual contract amount of \$150,000.00.

Funds are available: HB5520317400, Tourist Development Tax Fund.

Please see Attachment:

- (1) Sample Service Provider Agreement

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

Blue Sheet No. 20130766

ACTION REQUESTED/PURPOSE:

As required by AC 4-4, approve expenditure of \$3,977,027 for the purchase of Excess Property and Casualty Insurance coverage for FY 13-14. This reflects a reduction in premiums by \$169,000.

FUNDING SOURCE:

Property & Liability Insurance and Bonds Fund.

WHAT ACTION ACCOMPLISHES:

Enables the Risk Management office to purchase necessary insurance in order to provide financial protection to the County against various unexpected property and casualty type losses.

MANAGEMENT RECOMMENDATION: Approval.

Departmental Category: C1C

Meeting Date: 9/17/2013

Agenda:

Consent

Requirement/Purpose: (specify)

- Statute
- Ordinance
- Admin Code 4-4
- Other

Request Initiated

Commissioner:

Department: COUNTY MANAGER

Division: Risk Management

By: Peter Winton

Background:

On June 7, 2011, the Board approved Blue Sheet 20110447 authorizing the office of Risk Management to commence negotiations with the number one ranked firm, Brown & Brown Public Risk Insurance Agency, for insurance brokerage services.

Through extensive negotiations by the Risk Management office and broker Brown & Brown Public Risk Insurance Agency, we were able reduce premiums by \$169,000 in order to secure insurance for FY 13-14. The expenditure of \$3,977,027 is necessary in order to purchase/bind excess property and casualty insurance before the renewal date of October 1, 2013.

Upon approval of the FY 13-14 budget, funding will be available in: GC5133857700.504520

11. Required Review:

<i>Peter Winton</i>	<i>Reginald Kantor</i>	<i>Mike Figueroa</i>	<i>Peter Winton</i>	<i>Andrea Fraser</i>	<i>Peter Winton</i>
COUNTY MANAGER	Budget Analyst	Risk	Budget Services	County Attorney	County Manager

12. Commission Action:

**EXECUTIVE SUMMARY
2013-2014 INSURANCE RENEWAL**

Our goal is always to present an insurance program with premium stability. Overall, we have been able to design a program for 2013-14 with a slight premium decrease.

MARKET CONDITIONS:

Market conditions remain much as they were last year in Florida. The Property & Casualty insurance marketplace is cyclical. We characterize a “soft” market by stable or falling premium rates and “hard” market by rising rates and potential difficulty finding coverage. Market fluctuations in general will follow economic conditions and loss history.

One of the major factors influencing insurance company strategies and ratings is the Combined Ratio. The Combined Ratio is the sum of the loss, expense and policyholder dividend ratios not reflecting investment income or income taxes. This ratio measures the company's overall underwriting profitability, and a combined ratio of less than 100 indicates an underwriting profit. To understand the current market cycle, we review historical data.

Property & Casualty Industry Combined Ratio 2001-2011

2001	115.8	
2002	107.5	
2003	100.1	
2004	98.4	
2005	100.8	Heavy Use of Reinsurance lowered net losses to insurers
2006	92.6	BEST COMBINED RATIO SINCE 1946
2007	95.7	Relatively low losses result in releases of reserves
2008	101.0	Cyclical Loss Deterioration
2009	99.3	Relatively low losses, release of reserves
2010	100.8	Average losses, release of reserves
2011	106.4	Higher CAT losses, shrinking reserve releases
2012	107.5	Moderate losses improving investment environment (Per Moody's)

Property Conditions:

Other parts of the country are “hardening” as the reinsurance market has experienced losses resulting from unusual weather events, in particular Flood/Storm Surge losses. In general, reinsurers’ financial results have been favorable in the beginning of 2013 due to improving economic conditions and investment income.

PRIA represents over 200 public entities in the state of Florida. Each entity’s property portfolio is different, and rates are set at different levels depending upon 2 general factors: 1) Reinsurers’ “accumulation” of all property insurance underwritten in a given geographic area and 2) An individual entity’s historical losses and underwriting risk perception. In general, during 2013, average Florida property increases have been flat to 10% increases.

LEE COUNTY BOARD OF COUNTY COMMISSIONERS

Property Conditions (cont'd)

Lee County has over \$1 billion of insured assets. The County has been insuring this risk in a traditional layered loss limit program. This has been successful in the fact that we have been able to negotiate reasonable premiums for the past few years.

Tort Liability changes in Florida Statute 768.28

Effective October 1, 2011, the sovereign immunity protections afforded Florida's public entities under FS 768.28 was amended. It increased the liability limitations from \$100,000 per person/\$200,000 per incident to \$200,000 per person/\$300,000 per incident.

For General Liability and Automobile Liability, this change is expected to impact Florida's public entities and insurers of Florida's public entities in increased claims payments. The extent of the impact has not been measured and will develop over the next few years.

Workers Compensation

The State of Florida has passed three years of consecutive Workers' Compensation rate increases between 2011 and 2013. This illustrates the fact that claims activity and administrative costs are exceeding rates charged by insurers/reinsurers.

The national public entity market for Workers' Compensation has been dealing with the discontinuance of several insuring facilities, including the insurer Lee County has utilized since 2006, Meadowbrook's Star Insurance Company. It is estimated that Meadowbrook underwrote 10% of the excess Workers Compensation market.

Lee County has felt the impact of these conditions in minimal rate increase in the Workers Compensation, plus the increase of the retention from \$500,000 to \$600,000 on the October 1, 2012 renewal. For the October 1, 2013 renewal, we are proposing a \$750,000 SIR in concert with staff. This arrangement significantly decreases the premium paid in to the insurer.

Liability Insurance

From a national standpoint, we are still seeing some upward pressures on Liability insurance premiums. Claim activities remain constant on the various lines of insurance. In Florida we are seeing renewal premium changes from the -2% to 10% range on average. The exception to these minimal changes is Public Officials and Employment Practices Liability insurance. These "professional" insurances have experienced heavy losses the past few years; therefore average change is 0% - 25%. We did look for coverage for Inverse Condemnation but none of the insurers were willing to provide coverage at this time.

Meadowbrook/Star Insurance Company's Excess Casualty policy previously provided to the County included all lines of casualty insurance, General Liability, Employee Benefits Liability, Automobile Liability, Public Officials Liability, Employment Practices Liability, Workers Compensation and Employers' Liability. We therefore have also sought a replacement carrier for the Liability program (all insurance except Workers Compensation/Employers' Liability).

LEE COUNTY BOARD OF COUNTY COMMISSIONERS

Insurance Market Summary 10/1/2013-2014

EXCESS WORKERS' COMPENSATION

*The renewal program proposed with *ACE includes an increase of Workers' Compensation self-insured retention (SIR) to \$750,000 from \$600,000. Although this is an increase, a cost-benefit analysis has been performed to support the viability of this change to the program.*

*ACE – Illinois Union (Option 1 \$600K SIR or Option 2 \$750K SIR)	Quoted
Midlands – New York Marine (\$750K SIR)	Quoted
Midwest Employers (\$800K - \$850K SIR)	Quoted
Preferred Governmental Insurance Trust (\$750K SIR)	Quoted
Safety National (Option 1 \$750K SIR or Option 2 \$1M SIR)	Quoted
Security National Insurance Company (AmTrust - \$650K SIR)	Quote Rescinded
Star Insurance Company/Meadowbrook (Incumbent - \$600K SIR)	Discontinued

EXCESS LIABILITY

*The Liability renewal program proposed with *One Beacon includes the same \$500,000 SIR as the expiring program and features several coverage and service enhancements.*

ACE – Illinois Union (\$600K SIR)	Quoted
Berkley (\$500K SIR)	Indication Only
Genesis (Option 1 \$500K SIR or Option 2 \$750K SIR)	Quoted
Lloyds – BRIT Syndicate (\$500K SIR)	Quoted
*One Beacon (\$500K SIR)	Quoted
Preferred Governmental Insurance Trust (\$500K SIR)	Quoted
Safety National (\$500K SIR)	Quoted
Security National Insurance Company (AmTrust - \$500K SIR)	Quote Rescinded
Travelers	Declined to Quote

AVIATION – EMS

*With the suspension of operations and pending sale of the rotorcraft, we have one option to renew the Liability and Physical Damage coverage with the incumbent, *Global Aerospace. The policy will continue to have an endorsement which restricts coverage if the units are in the air unless prior approval of the pilot flying the craft is received from Global. We were unable to negotiate quotes with other carriers due to the discontinued operation. ACE quoted prior to confirming the units were grounded. When ACE discovered this, they rescinded and declined to quote.*

ACE -USA	Quote Rescinded
*Global Aerospace (Incumbent)	Quoted

LEE COUNTY BOARD OF COUNTY COMMISSIONERS

Insurance Market Summary 10/1/2013-2014

CRIME

This coverage will renew on the 3rd year term of a 3-year policy. The renewal premium is the same as expiring, and so no marketing was performed this year.

Zurich/Fidelity & Deposit (Incumbent) Quoted - FLAT

BOILER & MACHINERY/BREAKDOWN

Travelers (Incumbent) Quoted

TOLL BRIDGES & MISC. BRIDGES

*The toll bridges are marketed to every viable market similarly to the property (see markets approached in the property market summary below). The bridge program again provided challenges this year. Our incumbent insurer, Allianz was not able to offer the full limits on the programs for the 10/1/2013 renewal. However, we were able to negotiate favorably with *ACE/Westchester and *AIG/Lexington for several coverage enhancements and lower rates than the expiring policies.*

*ACE Westchester Quoted

*AIG Lexington Quoted

Allianz Quoted

Arch Considering

PROPERTY

As we do every year, the excess and surplus lines and state-admitted markets are canvassed. Our goal again this year was to provide the best rate possible providing coverage per the expiring property program. We were able to achieve this by using many of our current insurer partners, but also by introducing a few new insurers to leverage the rates. Our efforts have been rewarded with a slight rate decrease. The premium is higher due to the increase of insured assets.

*ACE Westchester Incumbent Quoted (Quoted on other lines of coverage)

*AmRisc/ACIC Quoted

*Arch Incumbent Quoted

*Aspen Specialty Incumbent Quoted

AWAC U.S Interested in \$10M primary - pricing was not competitive

*AXIS Specialty Incumbent Quoted

CNA Declined - can only quote excluding wind/hail coverage

Colony Insurance Incumbent Quoted - Pricing out of line

Diamond State Declined – no greater than 100 locations and TIV not greater than \$500M

*Everest Re Group Incumbent Quoted

Faber Incumbent Quoted - Pricing out of line

General Star Declined - not a target risk must be 1995 or newer, prefer better construction

Great American Declined - can only quote excluding wind/hail coverage

LEE COUNTY BOARD OF COUNTY COMMISSIONERS

PROPERTY CONT.

ICAT	Declined - not quoting TIV's over \$100M
*Ironshore	Incumbent Quoted
*James River Specialty	Incumbent Quoted
Kinsale	Incumbent Quoted
*Liberty E&S	Incumbent Quoted
*Markel/Alterra	Incumbent Quoted
Mitsui	Declined - can only quote excess of 1000 year PML
RLI	Declined - prefer TIV's under \$20M with less than 10 locations
*Rockhill	Quoted
*RSUI/Landmark	Incumbent Quoted
*Scottsdale Insurance	Quoted
Swiss Re	Declined - can only participate on a small buffer layer
XL	Interested in \$10M primary - pricing was not competitive
*Zurich E&S	Incumbent Quoted

FPL/SOLID WASTE AGREEMENT

As this policy is in force to cover certain contractual liabilities of the County, we have again attempted to provide all insurance coverage requested in the Large Generator Interconnection Agreement (LGIA) with FPL. We gained interest from ACE this year, and are pending further negotiations to determine if a quote will be forthcoming.

*Lexington/Chartis (Incumbent)	Quote provided herein. Similar terms and conditions.
ACE	Quote pending

LEE COUNTY BOCC
INSURANCE RENEWAL SUMMARY
As of September 3, 2013

All Policies	2012-13 PREMIUMS	2013-14 PREMIUMS	PREMIUMS PAID BY
Excess Liability - Includes GL, AL, WC	\$ 606,787	\$ 460,333	<i>Self-insured Fund</i>
Property	\$ 2,586,143	\$ 2,614,104	<i>Self-insured Fund</i>
Misc. Bridges & Piers	\$ 756,131	\$ 689,018	<i>Self-insured Fund</i>
ENTERPRISE FUND (Toll Bridges paid by DOT)	\$ 958,633	\$ 938,642	<i>Enterprise Fund</i>
Boiler & Machinery	\$ 27,026	\$ 27,698	<i>Self-insured Fund</i>
Crime	\$ 19,747	\$ 19,747	<i>Self-insured Fund</i>
AD&D Summer/Winter Youth Program	\$ 4,935	\$ 4,935	<i>Parks and Rec.</i>
AD&D for EMS Medics/EMTs (Paid by Public Safety)	\$ 3,917	\$ 3,917	<i>Public Safety</i>
Tank Pollution	\$ 14,975	\$ 15,519	<i>Self-insured Fund</i>
FPL 2006 Interconnection Agreement	\$ 169,152	\$ 178,628	<i>Solid Waste</i>
Bonds - (all bonds to include Public Officials and any other departmental bonds paid directly by departments)	\$ 5,000	\$ 608	<i>Self-insured Fund/Solid Waste</i>
NFIP Flood	\$ 130,739	\$ 150,000	<i>Self-insured Fund</i>
EMS Rotorcraft Aviation	\$ 70,969	\$ 70,969	<i>Public Safety</i>
TOTAL PREMIUMS ALL COVERAGE	\$ 5,354,154	\$ 5,174,118	REDUCTION/INCREASE -3.36%

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

Blue Sheet No. 20130767

ACTION REQUESTED/PURPOSE:

As required by Interconnection Agreement between Lee County and FPL, approve expenditure of not to exceed \$178,628 for the purchase of standalone excess insurance coverage for FY 13-14. This reflects an increase in premiums by \$9,476.

FUNDING SOURCE:

Solid Waste System Operations; Program: SW Disposal Facilities; Project: Insurance and Bonds.

WHAT ACTION ACCOMPLISHES:

Enables the Risk Management office to purchase necessary insurance in order to provide financial protection to the County against various unexpected property and casualty type losses.

MANAGEMENT RECOMMENDATION: Approval.

Departmental Category: C1D

Meeting Date: 9/17/2013

Agenda:

Requirement/Purpose: (specify)

Consent

- Statute
- Ordinance
- Admin Code 4-4
- Other Contract Requirement

Request Initiated

Commissioner:

Department: COUNTY MANAGER

Division: Risk Management

By: Peter Winton

Background:

On June 7, 2011, the Board approved Blue Sheet 20110447 authorizing the office of Risk Management to commence negotiations with the number one ranked firm, Brown & Brown Public Risk Insurance Agency, for insurance brokerage services.

As a condition of the agreement between Lee County and FPL for the high-voltage interconnection switching station at the WTE facility, a separate standalone excess policy is required. This policy is not considered part of the overall County insurance program and is paid by the Solid Waste Division.

Through extensive negotiations by the Risk Management office and broker Brown & Brown Public Risk Insurance Agency, were able to secure insurance for FY 13-14. The expenditure of \$178,628 is necessary in order to purchase/bind this standalone excess insurance policy.

Upon approval of the FY 13-14 budget, funding will be available in: OB5340840100.504520

11. Required Review:

<i>Peter Winton</i>	<i>Reginald Kantor</i>	<i>Mike Figueroa</i>	<i>Andrea Fraser</i>	<i>Peter Winton</i>	<i>Peter Winton</i>
COUNTY MANAGER	Budget Analyst	Risk	County Attorney	Budget Services	County Manager

12. Commission Action:

**EXECUTIVE SUMMARY
2013-2014 INSURANCE RENEWAL**

Our goal is always to present an insurance program with premium stability. Overall, we have been able to design a program for 2013-14 with a slight premium decrease.

MARKET CONDITIONS:

Market conditions remain much as they were last year in Florida. The Property & Casualty insurance marketplace is cyclical. We characterize a “soft” market by stable or falling premium rates and “hard” market by rising rates and potential difficulty finding coverage. Market fluctuations in general will follow economic conditions and loss history.

One of the major factors influencing insurance company strategies and ratings is the Combined Ratio. The Combined Ratio is the sum of the loss, expense and policyholder dividend ratios not reflecting investment income or income taxes. This ratio measures the company's overall underwriting profitability, and a combined ratio of less than 100 indicates an underwriting profit. To understand the current market cycle, we review historical data.

Property & Casualty Industry Combined Ratio 2001-2011

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2009	99.3	Relatively low losses, release of reserves
2010	100.8	Average losses, release of reserves
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2012	107.5	Moderate losses improving investment environment (Per Moody's)

Property Conditions:

Other parts of the country are “hardening” as the reinsurance market has experienced losses resulting from unusual weather events, in particular Flood/Storm Surge losses. In general, reinsurers’ financial results have been favorable in the beginning of 2013 due to improving economic conditions and investment income.

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LEE COUNTY BOARD OF COUNTY COMMISSIONERS

Property Conditions (cont'd)

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Tort Liability changes in Florida Statute 768.28

Effective October 1, 2011, the sovereign immunity protections afforded Florida's public entities under FS 768.28 was amended. It increased the liability limitations from \$100,000 per person/\$200,000 per incident to \$200,000 per person/\$300,000 per incident.

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Workers Compensation

The State of Florida has passed three years of consecutive Workers' Compensation rate increases between 2011 and 2013. This illustrates the fact that claims activity and administrative costs are exceeding rates charged by insurers/reinsurers.

The national public entity market for Workers' Compensation has been dealing with the discontinuance of several insuring facilities, including the insurer Lee County has utilized since 2006, Meadowbrook's Star Insurance Company. It is estimated that Meadowbrook underwrote 10% of the excess Workers Compensation market.

Lee County has felt the impact of these conditions in minimal rate increase in the Workers Compensation, plus the increase of the retention from \$500,000 to \$600,000 on the October 1, 2012 renewal. For the October 1, 2013 renewal, we are proposing a \$750,000 SIR in concert with staff. This arrangement significantly decreases the premium paid in to the insurer.

Liability Insurance

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Meadowbrook/Star Insurance Company's Excess Casualty policy previously provided to the County included all lines of casualty insurance, General Liability, Employee Benefits Liability, Automobile Liability, Public Officials Liability, Employment Practices Liability, Workers Compensation and Employers' Liability. We therefore have also sought a replacement carrier for the Liability program (all insurance except Workers Compensation/Employers' Liability).

LEE COUNTY BOARD OF COUNTY COMMISSIONERS

Insurance Market Summary 10/1/2013-2014

EXCESS WORKERS' COMPENSATION

*The renewal program proposed with *ACE includes an increase of Workers' Compensation self-insured retention (SIR) to \$750,000 from \$600,000. Although this is an increase, a cost-benefit analysis has been performed to support the viability of this change to the program.*

*ACE – Illinois Union (Option 1 \$600K SIR or Option 2 \$750K SIR)	Quoted
Midlands – New York Marine (\$750K SIR)	Quoted
Midwest Employers (\$800K - \$850K SIR)	Quoted
Preferred Governmental Insurance Trust (\$750K SIR)	Quoted
Safety National (Option 1 \$750K SIR or Option 2 \$1M SIR)	Quoted
Security National Insurance Company (AmTrust - \$650K SIR)	Quote Rescinded
Star Insurance Company/Meadowbrook (Incumbent - \$600K SIR)	Discontinued

EXCESS LIABILITY

*The Liability renewal program proposed with *One Beacon includes the same \$500,000 SIR as the expiring program and features several coverage and service enhancements.*

ACE – Illinois Union (\$600K SIR)	Quoted
Berkley (\$500K SIR)	Indication Only
Genesis (Option 1 \$500K SIR or Option 2 \$750K SIR)	Quoted
Lloyds – BRIT Syndicate (\$500K SIR)	Quoted
*One Beacon (\$500K SIR)	Quoted
Preferred Governmental Insurance Trust (\$500K SIR)	Quoted
Safety National (\$500K SIR)	Quoted
Security National Insurance Company (AmTrust - \$500K SIR)	Quote Rescinded
Travelers	Declined to Quote

AVIATION – EMS

*With the suspension of operations and pending sale of the rotorcraft, we have one option to renew the Liability and Physical Damage coverage with the incumbent, *Global Aerospace. The policy will continue to have an endorsement which restricts coverage if the units are in the air unless prior approval of the pilot flying the craft is received from Global. We were unable to negotiate quotes with other carriers due to the discontinued operation. ACE quoted prior to confirming the units were grounded. When ACE discovered this, they rescinded and declined to quote.*

ACE -USA	Quote Rescinded
*Global Aerospace (Incumbent)	Quoted

LEE COUNTY BOARD OF COUNTY COMMISSIONERS

Insurance Market Summary 10/1/2013-2014

CRIME

This coverage will renew on the 3rd year term of a 3-year policy. The renewal premium is the same as expiring, and so no marketing was performed this year.

Zurich/Fidelity & Deposit (Incumbent) Quoted - FLAT

BOILER & MACHINERY/BREAKDOWN

Travelers (Incumbent) Quoted

TOLL BRIDGES & MISC. BRIDGES

*The toll bridges are marketed to every viable market similarly to the property (see markets approached in the property market summary below). The bridge program again provided challenges this year. Our incumbent insurer, Allianz was not able to offer the full limits on the programs for the 10/1/2013 renewal. However, we were able to negotiate favorably with *ACE/Westchester and *AIG/Lexington for several coverage enhancements and lower rates than the expiring policies.*

*ACE Westchester Quoted

*AIG Lexington Quoted

Allianz Quoted

Arch Considering

PROPERTY

As we do every year, the excess and surplus lines and state-admitted markets are canvassed. Our goal again this year was to provide the best rate possible providing coverage per the expiring property program. We were able to achieve this by using many of our current insurer partners, but also by introducing a few new insurers to leverage the rates. Our efforts have been rewarded with a slight rate decrease. The premium is higher due to the increase of insured assets.

*ACE Westchester Incumbent Quoted (Quoted on other lines of coverage)

*AmRisc/ACIC Quoted

*Arch Incumbent Quoted

*Aspen Specialty Incumbent Quoted

AWAC U.S Interested in \$10M primary - pricing was not competitive

*AXIS Specialty Incumbent Quoted

CNA Declined - can only quote excluding wind/hail coverage

Colony Insurance Incumbent Quoted - Pricing out of line

Diamond State Declined – no greater than 100 locations and TIV not greater than \$500M

*Everest Re Group Incumbent Quoted

Faber Incumbent Quoted - Pricing out of line

General Star Declined - not a target risk must be 1995 or newer, prefer better construction

Great American Declined - can only quote excluding wind/hail coverage

LEE COUNTY BOARD OF COUNTY COMMISSIONERS

PROPERTY CONT.

ICAT	Declined - not quoting TIV's over \$100M
*Ironshore	Incumbent Quoted
*James River Specialty	Incumbent Quoted
Kinsale	Incumbent Quoted
*Liberty E&S	Incumbent Quoted
*Markel/Alterra	Incumbent Quoted
Mitsui	Declined - can only quote excess of 1000 year PML
RLI	Declined - prefer TIV's under \$20M with less than 10 locations
*Rockhill	Quoted
*RSUI/Landmark	Incumbent Quoted
*Scottsdale Insurance	Quoted
Swiss Re	Declined - can only participate on a small buffer layer
XL	Interested in \$10M primary - pricing was not competitive
*Zurich E&S	Incumbent Quoted

FPL/SOLID WASTE AGREEMENT

As this policy is in force to cover certain contractual liabilities of the County, we have again attempted to provide all insurance coverage requested in the Large Generator Interconnection Agreement (LGIA) with FPL. We gained interest from ACE this year, and are pending further negotiations to determine if a quote will be forthcoming.

*Lexington/Chartis (Incumbent)	Quote provided herein. Similar terms and conditions.
ACE	Quote pending

LEE COUNTY BOCC
INSURANCE RENEWAL SUMMARY
As of September 3, 2013

All Policies	2012-13 PREMIUMS	2013-14 PREMIUMS	PREMIUMS PAID BY
Excess Liability - Includes GL, AL, WC	\$ 606,787	\$ 460,333	Self-insured Fund
Property	\$ 2,586,143	\$ 2,614,104	Self-insured Fund
Misc. Bridges & Piers	\$ 756,131	\$ 689,018	Self-insured Fund
ENTERPRISE FUND (Toll Bridges paid by DOT)	\$ 958,633	\$ 938,642	Enterprise Fund
Boiler & Machinery	\$ 27,026	\$ 27,698	Self-insured Fund
Crime	\$ 19,747	\$ 19,747	Self-insured Fund
AD&D Summer/Winter Youth Program	\$ 4,935	\$ 4,935	Parks and Rec.
AD&D for EMS Medics/EMTs (Paid by Public Safety)	\$ 3,917	\$ 3,917	Public Safety
Tank Pollution	\$ 14,975	\$ 15,519	Self-insured Fund
FPL 2006 Interconnection Agreement	\$ 169,152	\$ 178,628	Solid Waste
Bonds - (all bonds to include Public Officials and any other departmental bonds paid directly by departments)	\$ 5,000	\$ 608	Self-insured Fund/Solid Waste
NFIP Flood	\$ 130,739	\$ 150,000	Self-insured Fund
EMS Rotorcraft Aviation	\$ 70,969	\$ 70,969	Public Safety
TOTAL PREMIUMS ALL COVERAGE	\$ 5,354,154	\$ 5,174,118	REDUCTION/INCREASE -3.36%

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

Blue Sheet No. 20130768

ACTION REQUESTED/PURPOSE:

As required by AC 4-4, approve expenditure of \$938,641 for the purchase of insurance coverage for the County's Toll Bridges for FY 13-14. This reflects a reduction in premiums of \$19,000.

FUNDING SOURCE:

Fund – Transportation Facilities; Program – DOT – Tolls – Cape, Midpoint and Sanibel Bridges; Project – Bridge Insurance.

WHAT ACTION ACCOMPLISHES:

Enables the Budget Services/Risk Management office to purchase necessary insurance in order to provide financial risk transfer to protect the County's assets against various unexpected property and casualty type losses.

MANAGEMENT RECOMMENDATION: Approval.

Departmental Category: C1E

Meeting Date: 9/17/2013

Agenda:

Requirement/Purpose: *(specify)*

Consent

- Statute
 Ordinance
 Admin Code 4-4
 Other

Request Initiated

Commissioner:

Department: COUNTY MANAGER

Division: Risk Management

By: Peter Winton

Background:

On June 7, 2011, the Board approved Blue Sheet 20110447 authorizing the office of Risk Management to commence negotiations with the number one ranked firm, Brown & Brown Public Risk Insurance Agency, for insurance brokerage services.

Through negotiations by the Risk Management office and broker Brown & Brown Public Risk Insurance Agency, we were able reduce premiums by \$19,000 in order to secure insurance for FY 13-14. The expenditure of \$938,641 is necessary in order to purchase/bind insurance before the renewal date of October 1, 2013.

Upon approval of the FY 13-14 budget, funding will be available in:

PE5414742101.504520 – 40%

PE5414742102.504520 – 20%

PE5414742103.504520 – 40%

11. Required Review:

<i>Peter Winton</i>	<i>Reginald Kantor</i>	<i>Andrea Fraser</i>	<i>Mike Figueroa</i>	<i>Peter Winton</i>	<i>Peter Winton</i>
COUNTY MANAGER	Budget Analyst	County Attorney	Risk	Budget Services	County Manager

12. Commission Action:

**EXECUTIVE SUMMARY
2013-2014 INSURANCE RENEWAL**

Our goal is always to present an insurance program with premium stability. Overall, we have been able to design a program for 2013-14 with a slight premium decrease.

MARKET CONDITIONS:

Market conditions remain much as they were last year in Florida. The Property & Casualty insurance marketplace is cyclical. We characterize a “soft” market by stable or falling premium rates and “hard” market by rising rates and potential difficulty finding coverage. Market fluctuations in general will follow economic conditions and loss history.

One of the major factors influencing insurance company strategies and ratings is the Combined Ratio. The Combined Ratio is the sum of the loss, expense and policyholder dividend ratios not reflecting investment income or income taxes. This ratio measures the company's overall underwriting profitability, and a combined ratio of less than 100 indicates an underwriting profit. To understand the current market cycle, we review historical data.

Property & Casualty Industry Combined Ratio 2001-2011

2001	115.8	
2002	107.5	
2003	100.1	
2004	98.4	
2005	100.8	Heavy Use of Reinsurance lowered net losses to insurers
2006	92.6	BEST COMBINED RATIO SINCE 1946
2007	95.7	Relatively low losses result in releases of reserves
2008	101.0	Cyclical Loss Deterioration
2009	99.3	Relatively low losses, release of reserves
2010	100.8	Average losses, release of reserves
2011	106.4	Higher CAT losses, shrinking reserve releases
2012	107.5	Moderate losses improving investment environment (Per Moody's)

Property Conditions:

Other parts of the country are “hardening” as the reinsurance market has experienced losses resulting from unusual weather events, in particular Flood/Storm Surge losses. In general, reinsurers’ financial results have been favorable in the beginning of 2013 due to improving economic conditions and investment income.

PRIA represents over 200 public entities in the state of Florida. Each entity’s property portfolio is different, and rates are set at different levels depending upon 2 general factors: 1) Reinsurers’ “accumulation” of all property insurance underwritten in a given geographic area and 2) An individual entity’s historical losses and underwriting risk perception. In general, during 2013, average Florida property increases have been flat to 10% increases.

LEE COUNTY BOARD OF COUNTY COMMISSIONERS

Property Conditions (cont'd)

Lee County has over \$1 billion of insured assets. The County has been insuring this risk in a traditional layered loss limit program. This has been successful in the fact that we have been able to negotiate reasonable premiums for the past few years.

Tort Liability changes in Florida Statute 768.28

Effective October 1, 2011, the sovereign immunity protections afforded Florida's public entities under FS 768.28 was amended. It increased the liability limitations from \$100,000 per person/\$200,000 per incident to \$200,000 per person/\$300,000 per incident.

For General Liability and Automobile Liability, this change is expected to impact Florida's public entities and insurers of Florida's public entities in increased claims payments. The extent of the impact has not been measured and will develop over the next few years.

Workers Compensation

The State of Florida has passed three years of consecutive Workers' Compensation rate increases between 2011 and 2013. This illustrates the fact that claims activity and administrative costs are exceeding rates charged by insurers/reinsurers.

The national public entity market for Workers' Compensation has been dealing with the discontinuance of several insuring facilities, including the insurer Lee County has utilized since 2006, Meadowbrook's Star Insurance Company. It is estimated that Meadowbrook underwrote 10% of the excess Workers Compensation market.

Lee County has felt the impact of these conditions in minimal rate increase in the Workers Compensation, plus the increase of the retention from \$500,000 to \$600,000 on the October 1, 2012 renewal. For the October 1, 2013 renewal, we are proposing a \$750,000 SIR in concert with staff. This arrangement significantly decreases the premium paid in to the insurer.

Liability Insurance

From a national standpoint, we are still seeing some upward pressures on Liability insurance premiums. Claim activities remain constant on the various lines of insurance. In Florida we are seeing renewal premium changes from the -2% to 10% range on average. The exception to these minimal changes is Public Officials and Employment Practices Liability insurance. These "professional" insurances have experienced heavy losses the past few years; therefore average change is 0% - 25%. We did look for coverage for Inverse Condemnation but none of the insurers were willing to provide coverage at this time.

Meadowbrook/Star Insurance Company's Excess Casualty policy previously provided to the County included all lines of casualty insurance, General Liability, Employee Benefits Liability, Automobile Liability, Public Officials Liability, Employment Practices Liability, Workers Compensation and Employers' Liability. We therefore have also sought a replacement carrier for the Liability program (all insurance except Workers Compensation/Employers' Liability).

LEE COUNTY BOARD OF COUNTY COMMISSIONERS

Insurance Market Summary 10/1/2013-2014

EXCESS WORKERS' COMPENSATION

*The renewal program proposed with *ACE includes an increase of Workers' Compensation self-insured retention (SIR) to \$750,000 from \$600,000. Although this is an increase, a cost-benefit analysis has been performed to support the viability of this change to the program.*

*ACE – Illinois Union (Option 1 \$600K SIR or Option 2 \$750K SIR)	Quoted
Midlands – New York Marine (\$750K SIR)	Quoted
Midwest Employers (\$800K - \$850K SIR)	Quoted
Preferred Governmental Insurance Trust (\$750K SIR)	Quoted
Safety National (Option 1 \$750K SIR or Option 2 \$1M SIR)	Quoted
Security National Insurance Company (AmTrust - \$650K SIR)	Quote Rescinded
Star Insurance Company/Meadowbrook (Incumbent - \$600K SIR)	Discontinued

EXCESS LIABILITY

*The Liability renewal program proposed with *One Beacon includes the same \$500,000 SIR as the expiring program and features several coverage and service enhancements.*

ACE – Illinois Union (\$600K SIR)	Quoted
Berkley (\$500K SIR)	Indication Only
Genesis (Option 1 \$500K SIR or Option 2 \$750K SIR)	Quoted
Lloyds – BRIT Syndicate (\$500K SIR)	Quoted
*One Beacon (\$500K SIR)	Quoted
Preferred Governmental Insurance Trust (\$500K SIR)	Quoted
Safety National (\$500K SIR)	Quoted
Security National Insurance Company (AmTrust - \$500K SIR)	Quote Rescinded
Travelers	Declined to Quote

AVIATION – EMS

*With the suspension of operations and pending sale of the rotorcraft, we have one option to renew the Liability and Physical Damage coverage with the incumbent, *Global Aerospace. The policy will continue to have an endorsement which restricts coverage if the units are in the air unless prior approval of the pilot flying the craft is received from Global. We were unable to negotiate quotes with other carriers due to the discontinued operation. ACE quoted prior to confirming the units were grounded. When ACE discovered this, they rescinded and declined to quote.*

ACE -USA	Quote Rescinded
*Global Aerospace (Incumbent)	Quoted

LEE COUNTY BOARD OF COUNTY COMMISSIONERS

Insurance Market Summary 10/1/2013-2014

CRIME

This coverage will renew on the 3rd year term of a 3-year policy. The renewal premium is the same as expiring, and so no marketing was performed this year.

Zurich/Fidelity & Deposit (Incumbent) Quoted - FLAT

BOILER & MACHINERY/BREAKDOWN

Travelers (Incumbent) Quoted

TOLL BRIDGES & MISC. BRIDGES

*The toll bridges are marketed to every viable market similarly to the property (see markets approached in the property market summary below). The bridge program again provided challenges this year. Our incumbent insurer, Allianz was not able to offer the full limits on the programs for the 10/1/2013 renewal. However, we were able to negotiate favorably with *ACE/Westchester and *AIG/Lexington for several coverage enhancements and lower rates than the expiring policies.*

*ACE Westchester Quoted

*AIG Lexington Quoted

Allianz Quoted

Arch Considering

PROPERTY

As we do every year, the excess and surplus lines and state-admitted markets are canvassed. Our goal again this year was to provide the best rate possible providing coverage per the expiring property program. We were able to achieve this by using many of our current insurer partners, but also by introducing a few new insurers to leverage the rates. Our efforts have been rewarded with a slight rate decrease. The premium is higher due to the increase of insured assets.

*ACE Westchester Incumbent Quoted (Quoted on other lines of coverage)

*AmRisc/ACIC Quoted

*Arch Incumbent Quoted

*Aspen Specialty Incumbent Quoted

AWAC U.S Interested in \$10M primary - pricing was not competitive

*AXIS Specialty Incumbent Quoted

CNA Declined - can only quote excluding wind/hail coverage

Colony Insurance Incumbent Quoted - Pricing out of line

Diamond State Declined – no greater than 100 locations and TIV not greater than \$500M

*Everest Re Group Incumbent Quoted

Faber Incumbent Quoted - Pricing out of line

General Star Declined - not a target risk must be 1995 or newer, prefer better construction

Great American Declined - can only quote excluding wind/hail coverage

LEE COUNTY BOARD OF COUNTY COMMISSIONERS

PROPERTY CONT.

ICAT	Declined - not quoting TIV's over \$100M
*Ironshore	Incumbent Quoted
*James River Specialty	Incumbent Quoted
Kinsale	Incumbent Quoted
*Liberty E&S	Incumbent Quoted
*Markel/Alterra	Incumbent Quoted
Mitsui	Declined - can only quote excess of 1000 year PML
RLI	Declined - prefer TIV's under \$20M with less than 10 locations
*Rockhill	Quoted
*RSUI/Landmark	Incumbent Quoted
*Scottsdale Insurance	Quoted
Swiss Re	Declined - can only participate on a small buffer layer
XL	Interested in \$10M primary - pricing was not competitive
*Zurich E&S	Incumbent Quoted

FPL/SOLID WASTE AGREEMENT

As this policy is in force to cover certain contractual liabilities of the County, we have again attempted to provide all insurance coverage requested in the Large Generator Interconnection Agreement (LGIA) with FPL. We gained interest from ACE this year, and are pending further negotiations to determine if a quote will be forthcoming.

*Lexington/Chartis (Incumbent)	Quote provided herein. Similar terms and conditions.
ACE	Quote pending

LEE COUNTY BOCC
INSURANCE RENEWAL SUMMARY
As of September 3, 2013

All Policies	2012-13 PREMIUMS	2013-14 PREMIUMS	PREMIUMS PAID BY
Excess Liability - Includes GL, AL, WC	\$ 606,787	\$ 460,333	Self-insured Fund
Property	\$ 2,586,143	\$ 2,614,104	Self-insured Fund
Misc. Bridges & Piers	\$ 756,131	\$ 689,018	Self-insured Fund
ENTERPRISE FUND (Toll Bridges paid by DOT)	\$ 958,633	\$ 938,642	Enterprise Fund
Boiler & Machinery	\$ 27,026	\$ 27,698	Self-insured Fund
Crime	\$ 19,747	\$ 19,747	Self-insured Fund
AD&D Summer/Winter Youth Program	\$ 4,935	\$ 4,935	Parks and Rec.
AD&D for EMS Medics/EMTs (Paid by Public Safety)	\$ 3,917	\$ 3,917	Public Safety
Tank Pollution	\$ 14,975	\$ 15,519	Self-insured Fund
FPL 2006 Interconnection Agreement	\$ 169,152	\$ 178,628	Solid Waste
Bonds - (all bonds to include Public Officials and any other departmental bonds paid directly by departments)	\$ 5,000	\$ 608	Self-insured Fund/Solid Waste
NFIP Flood	\$ 130,739	\$ 150,000	Self-insured Fund
EMS Rotorcraft Aviation	\$ 70,969	\$ 70,969	Public Safety
TOTAL PREMIUMS ALL COVERAGE	\$ 5,354,154	\$ 5,174,118	REDUCTION/INCREASE -3.36%

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

Blue Sheet No. 20130769

ACTION REQUESTED/PURPOSE:

As required by AC 4-4, approve expenditure of \$70,969 for the purchase of EMS Helicopter Aircraft Hull and Liability Insurance coverage for FY 13-14. This reflects a flat renewal from FY 12-13.

FUNDING SOURCE:

General Fund; Program – Public Safety Air Operations.

WHAT ACTION ACCOMPLISHES:

Provides continuous coverage to the EMS helicopter for physical damage and provides financial risk transfer via aircraft hull and liability insurance.

MANAGEMENT RECOMMENDATION: Approval.

Departmental Category: CIF

Meeting Date: 9/17/2013

Agenda:

Requirement/Purpose: (specify)

Request Initiated

Consent

- Statute
- Ordinance
- Admin Code 4-4
- Other

Commissioner:

Department: COUNTY MANAGER

Division: Risk Management

By: Peter Winton

Background:

On June 7, 2011, the Board approved Blue Sheet 20110447 authorizing the office of Risk Management to commence negotiations with the number one ranked firm, Brown & Brown Public Risk Insurance Agency, for insurance brokerage services.

Through negotiations by the Risk Management office and broker Brown & Brown Public Risk Insurance Agency, we were able keep premium costs flat in order to secure insurance for FY 13-14. The expenditure of \$70,969 is necessary in order to purchase/bind Aircraft Hull and Liability Insurance before the renewal date of October 1, 2013.

Upon approval of the FY 13-14 budget, funding will be available in: KF5260100100.504520.71

11. Required Review:

<i>Peter Winton</i>	<i>Reginald Kantor</i>	<i>Andrea Fraser</i>	<i>Mike Figueroa</i>	<i>Peter Winton</i>	<i>Peter Winton</i>
COUNTY MANAGER	Budget Analyst	County Attorney	Risk	Budget Services	County Manager

12. Commission Action:

**EXECUTIVE SUMMARY
2013-2014 INSURANCE RENEWAL**

Our goal is always to present an insurance program with premium stability. Overall, we have been able to design a program for 2013-14 with a slight premium decrease.

MARKET CONDITIONS:

Market conditions remain much as they were last year in Florida. The Property & Casualty insurance marketplace is cyclical. We characterize a “soft” market by stable or falling premium rates and “hard” market by rising rates and potential difficulty finding coverage. Market fluctuations in general will follow economic conditions and loss history.

One of the major factors influencing insurance company strategies and ratings is the Combined Ratio. The Combined Ratio is the sum of the loss, expense and policyholder dividend ratios not reflecting investment income or income taxes. This ratio measures the company's overall underwriting profitability, and a combined ratio of less than 100 indicates an underwriting profit. To understand the current market cycle, we review historical data.

Property & Casualty Industry Combined Ratio 2001-2011

2001	115.8	
2002	107.5	
2003	100.1	
2004	98.4	
2005	100.8	Heavy Use of Reinsurance lowered net losses to insurers
2006	92.6	BEST COMBINED RATIO SINCE 1946
2007	95.7	Relatively low losses result in releases of reserves
2008	101.0	Cyclical Loss Deterioration
2009	99.3	Relatively low losses, release of reserves
2010	100.8	Average losses, release of reserves
2011	106.4	Higher CAT losses, shrinking reserve releases
2012	107.5	Moderate losses improving investment environment (Per Moody's)

Property Conditions:

Other parts of the country are “hardening” as the reinsurance market has experienced losses resulting from unusual weather events, in particular Flood/Storm Surge losses. In general, reinsurers’ financial results have been favorable in the beginning of 2013 due to improving economic conditions and investment income.

PRIA represents over 200 public entities in the state of Florida. Each entity’s property portfolio is different, and rates are set at different levels depending upon 2 general factors: 1) Reinsurers’ “accumulation” of all property insurance underwritten in a given geographic area and 2) An individual entity’s historical losses and underwriting risk perception. In general, during 2013, average Florida property increases have been flat to 10% increases.

LEE COUNTY BOARD OF COUNTY COMMISSIONERS

Property Conditions (cont'd)

Lee County has over \$1 billion of insured assets. The County has been insuring this risk in a traditional layered loss limit program. This has been successful in the fact that we have been able to negotiate reasonable premiums for the past few years.

Tort Liability changes in Florida Statute 768.28

Effective October 1, 2011, the sovereign immunity protections afforded Florida's public entities under FS 768.28 was amended. It increased the liability limitations from \$100,000 per person/\$200,000 per incident to \$200,000 per person/\$300,000 per incident.

For General Liability and Automobile Liability, this change is expected to impact Florida's public entities and insurers of Florida's public entities in increased claims payments. The extent of the impact has not been measured and will develop over the next few years.

Workers Compensation

The State of Florida has passed three years of consecutive Workers' Compensation rate increases between 2011 and 2013. This illustrates the fact that claims activity and administrative costs are exceeding rates charged by insurers/reinsurers.

The national public entity market for Workers' Compensation has been dealing with the discontinuance of several insuring facilities, including the insurer Lee County has utilized since 2006, Meadowbrook's Star Insurance Company. It is estimated that Meadowbrook underwrote 10% of the excess Workers Compensation market.

Lee County has felt the impact of these conditions in minimal rate increase in the Workers Compensation, plus the increase of the retention from \$500,000 to \$600,000 on the October 1, 2012 renewal. For the October 1, 2013 renewal, we are proposing a \$750,000 SIR in concert with staff. This arrangement significantly decreases the premium paid in to the insurer.

Liability Insurance

From a national standpoint, we are still seeing some upward pressures on Liability insurance premiums. Claim activities remain constant on the various lines of insurance. In Florida we are seeing renewal premium changes from the -2% to 10% range on average. The exception to these minimal changes is Public Officials and Employment Practices Liability insurance. These "professional" insurances have experienced heavy losses the past few years; therefore average change is 0% - 25%. We did look for coverage for Inverse Condemnation but none of the insurers were willing to provide coverage at this time.

Meadowbrook/Star Insurance Company's Excess Casualty policy previously provided to the County included all lines of casualty insurance, General Liability, Employee Benefits Liability, Automobile Liability, Public Officials Liability, Employment Practices Liability, Workers Compensation and Employers' Liability. We therefore have also sought a replacement carrier for the Liability program (all insurance except Workers Compensation/Employers' Liability).

LEE COUNTY BOARD OF COUNTY COMMISSIONERS

Insurance Market Summary 10/1/2013-2014

EXCESS WORKERS' COMPENSATION

*The renewal program proposed with *ACE includes an increase of Workers' Compensation self-insured retention (SIR) to \$750,000 from \$600,000. Although this is an increase, a cost-benefit analysis has been performed to support the viability of this change to the program.*

*ACE – Illinois Union (Option 1 \$600K SIR or Option 2 \$750K SIR)	Quoted
Midlands – New York Marine (\$750K SIR)	Quoted
Midwest Employers (\$800K - \$850K SIR)	Quoted
Preferred Governmental Insurance Trust (\$750K SIR)	Quoted
Safety National (Option 1 \$750K SIR or Option 2 \$1M SIR)	Quoted
Security National Insurance Company (AmTrust - \$650K SIR)	Quote Rescinded
Star Insurance Company/Meadowbrook (Incumbent - \$600K SIR)	Discontinued

EXCESS LIABILITY

*The Liability renewal program proposed with *One Beacon includes the same \$500,000 SIR as the expiring program and features several coverage and service enhancements.*

ACE – Illinois Union (\$600K SIR)	Quoted
Berkley (\$500K SIR)	Indication Only
Genesis (Option 1 \$500K SIR or Option 2 \$750K SIR)	Quoted
Lloyds – BRIT Syndicate (\$500K SIR)	Quoted
*One Beacon (\$500K SIR)	Quoted
Preferred Governmental Insurance Trust (\$500K SIR)	Quoted
Safety National (\$500K SIR)	Quoted
Security National Insurance Company (AmTrust - \$500K SIR)	Quote Rescinded
Travelers	Declined to Quote

AVIATION – EMS

*With the suspension of operations and pending sale of the rotorcraft, we have one option to renew the Liability and Physical Damage coverage with the incumbent, *Global Aerospace. The policy will continue to have an endorsement which restricts coverage if the units are in the air unless prior approval of the pilot flying the craft is received from Global. We were unable to negotiate quotes with other carriers due to the discontinued operation. ACE quoted prior to confirming the units were grounded. When ACE discovered this, they rescinded and declined to quote.*

ACE -USA	Quote Rescinded
*Global Aerospace (Incumbent)	Quoted

LEE COUNTY BOARD OF COUNTY COMMISSIONERS

Insurance Market Summary 10/1/2013-2014

CRIME

This coverage will renew on the 3rd year term of a 3-year policy. The renewal premium is the same as expiring, and so no marketing was performed this year.

Zurich/Fidelity & Deposit (Incumbent) Quoted - FLAT

BOILER & MACHINERY/BREAKDOWN

Travelers (Incumbent) Quoted

TOLL BRIDGES & MISC. BRIDGES

*The toll bridges are marketed to every viable market similarly to the property (see markets approached in the property market summary below). The bridge program again provided challenges this year. Our incumbent insurer, Allianz was not able to offer the full limits on the programs for the 10/1/2013 renewal. However, we were able to negotiate favorably with *ACE/Westchester and *AIG/Lexington for several coverage enhancements and lower rates than the expiring policies.*

*ACE Westchester Quoted

*AIG Lexington Quoted

Allianz Quoted

Arch Considering

PROPERTY

As we do every year, the excess and surplus lines and state-admitted markets are canvassed. Our goal again this year was to provide the best rate possible providing coverage per the expiring property program. We were able to achieve this by using many of our current insurer partners, but also by introducing a few new insurers to leverage the rates. Our efforts have been rewarded with a slight rate decrease. The premium is higher due to the increase of insured assets.

*ACE Westchester Incumbent Quoted (Quoted on other lines of coverage)

*AmRisc/ACIC Quoted

*Arch Incumbent Quoted

*Aspen Specialty Incumbent Quoted

AWAC U.S Interested in \$10M primary - pricing was not competitive

*AXIS Specialty Incumbent Quoted

CNA Declined - can only quote excluding wind/hail coverage

Colony Insurance Incumbent Quoted - Pricing out of line

Diamond State Declined – no greater than 100 locations and TIV not greater than \$500M

*Everest Re Group Incumbent Quoted

Faber Incumbent Quoted - Pricing out of line

General Star Declined - not a target risk must be 1995 or newer, prefer better construction

Great American Declined - can only quote excluding wind/hail coverage

LEE COUNTY BOARD OF COUNTY COMMISSIONERS

PROPERTY CONT.

ICAT	Declined - not quoting TIV's over \$100M
*Ironshore	Incumbent Quoted
*James River Specialty	Incumbent Quoted
Kinsale	Incumbent Quoted
*Liberty E&S	Incumbent Quoted
*Markel/Alterra	Incumbent Quoted
Mitsui	Declined - can only quote excess of 1000 year PML
RLI	Declined - prefer TIV's under \$20M with less than 10 locations
*Rockhill	Quoted
*RSUI/Landmark	Incumbent Quoted
*Scottsdale Insurance	Quoted
Swiss Re	Declined - can only participate on a small buffer layer
XL	Interested in \$10M primary - pricing was not competitive
*Zurich E&S	Incumbent Quoted

FPL/SOLID WASTE AGREEMENT

As this policy is in force to cover certain contractual liabilities of the County, we have again attempted to provide all insurance coverage requested in the Large Generator Interconnection Agreement (LGIA) with FPL. We gained interest from ACE this year, and are pending further negotiations to determine if a quote will be forthcoming.

*Lexington/Chartis (Incumbent)	Quote provided herein. Similar terms and conditions.
ACE	Quote pending

LEE COUNTY BOCC
INSURANCE RENEWAL SUMMARY
As of September 3, 2013

All Policies	2012-13 PREMIUMS	2013-14 PREMIUMS	PREMIUMS PAID BY
Excess Liability - Includes GL, AL, WC	\$ 606,787	\$ 460,333	<i>Self-insured Fund</i>
Property	\$ 2,586,143	\$ 2,614,104	<i>Self-insured Fund</i>
Misc. Bridges & Piers	\$ 756,131	\$ 689,018	<i>Self-insured Fund</i>
ENTERPRISE FUND (Toll Bridges paid by DOT)	\$ 958,633	\$ 938,642	<i>Enterprise Fund</i>
Boiler & Machinery	\$ 27,026	\$ 27,698	<i>Self-insured Fund</i>
Crime	\$ 19,747	\$ 19,747	<i>Self-insured Fund</i>
AD&D Summer/Winter Youth Program	\$ 4,935	\$ 4,935	<i>Parks and Rec.</i>
AD&D for EMS Medics/EMTs (Paid by Public Safety)	\$ 3,917	\$ 3,917	<i>Public Safety</i>
Tank Pollution	\$ 14,975	\$ 15,519	<i>Self-insured Fund</i>
FPL 2006 Interconnection Agreement	\$ 169,152	\$ 178,628	<i>Solid Waste</i>
Bonds - (all bonds to include Public Officials and any other departmental bonds paid directly by departments)	\$ 5,000	\$ 608	<i>Self-insured Fund/Solid Waste</i>
NFIP Flood	\$ 130,739	\$ 150,000	<i>Self-insured Fund</i>
EMS Rotorcraft Aviation	\$ 70,969	\$ 70,969	<i>Public Safety</i>
TOTAL PREMIUMS ALL COVERAGE	\$ 5,354,154	\$ 5,174,118	REDUCTION/INCREASE -3.36%

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

Blue Sheet No. 20130703

ACTION REQUESTED/PURPOSE:

- A) Approve Professional Service Agreement for CN130299 IMPLEMENTATION OF NORTH FORT MYERS SURFACE WATER MANAGEMENT PLAN PHASE ONE, Task Two; Design, Permitting and CEI Services of Nalle Grade Stormwater Park to Hole Montes, Inc., in an amount not-to-exceed \$101,600.00.
 - B) Authorize Chair to execute Agreement on behalf of the Board.
 - C) Grant the Director of Natural Resources, with County Administration approval, the discretion to approve a 10% contingency, in the amount of \$10,160.00.
 - D) Grant the Director of Natural Resources, with County Administration approval, the discretion to administratively extend the time for completion of scheduled tasks identified in the approved scope of work in accordance with standard County procedure, if the Director determines doing so is appropriate and beneficial to the County.
 - E) Grant the Director of Natural Resources, the discretion to negotiate future design phases of this project to be brought back for Board approval through Supplemental Task Authorization.
- (#20130703-NATURAL RESOURCES)

FUNDING SOURCE:

Fund: Capital Improvement Unincorporated MSTU Construction; Program: Water Resources Projects; Project: Nalle Grade Stormwater Park. This is an approved FY 13/14 CIP project and funds are available in the current year budget.

WHAT ACTION ACCOMPLISHES:

Provides Lee County with a professional consultant to provide design, permitting, and CEI services for Nalle Grade Stormwater Park; the primary objective of Phase One is to design a facility within the Bayshore Creek watershed to provide water quality benefits, flood prevention, wildlife habitat, recreation opportunities and reduction of the pollutant load into the Calossahatchee River. The County has reserved the right to award CEI services to an alternate consultant through the competitive solicitation process. The awarded contract amount of \$101,600 does not include the costs of CEI services and will require further Board approval. The request for contingency funds is not part of the awarded contract amount, though these funds may be paid to the consultant with appropriate approvals, which has the potential to increase the contract amount for Phase One to \$111,760. This project has been split into phases due to the complex nature of the project. Phase Two of the project, which is encompassed by the competitive solicitation, will involve the refinement of the design alternative chosen by Natural Resources. In conjunction with Phase Two an amendment to the contract for additional funds will be presented to the Board for approval.

MANAGEMENT RECOMMENDATION: Approve.

Departmental Category: C8A

Meeting Date: 9/17/2013

Agenda: Consent	Requirement/Purpose: (specify)	Request Initiated Commissioner: Department: NATURAL RESOURCES Division: No Divisions By: Roland Ottolini
	<input type="checkbox"/> Statute <input type="checkbox"/> Ordinance <input checked="" type="checkbox"/> Admin Code AC-4-4 <input type="checkbox"/> Other	

Background:

On May 28, 2013, Lee County Natural Resources brought before the Board of County Commissioners Bluesheet

11. Required Review:

<i>Roland Ottolini</i>	<i>Robert Franceschini</i>	<i>Dawn Perry-Lehnert</i>	<i>Emma Wolf</i>	<i>Mike Figueroa</i>	<i>Peter Winton</i>
NATURAL RESOURCES	Purchasing	County Attorney	Budget Analyst	Risk	Budget Services
<i>Doug Meurer</i>					
Public Works Director					

12. Commission Action:

No. 20130440. The Board concurred with the ranking of Consultants by the Competitive Negotiations Committee for CN130299 IMPLEMENTATION OF NORTH FORT MYERS SURFACE WATER MANAGEMENT PLAN PHASE ONE, and authorized contract negotiations to commence with the number one ranked firm, Hole Montes, Inc., is located in Fort Myers, FL.

The Scope of Services contemplated under this solicitation entails design, permitting and CEI Services for Nalle Grade Stormwater Park. (However, CEI services may be awarded to a different consultant pursuant to the competitive solicitation process if the County deems doing so is appropriate). The facility being designed within the Bayshore Creek watershed intended to provide water quality benefits, flood protection, wild life habitat and recreational opportunities for the community. One of the main objectives of this Task is to reduce pollutant load discharge into the Caloosahatchee River. In order to meet the objectives, Phase One, Task Two is expected to include a higher resolution and more refined analysis of the watershed within Bayshore Creek. The Task will include an overall assessment of the existing conditions of the proposed location, as well as providing alternative analysis of multiple preliminary design concepts to achieve the goals prior to developing detailed plans and specifications.

Due to the complex nature of the project, the staff is recommending the execution of this project in phases. Phase One, includes; due diligence, initial data gathering and other necessary services in order to develop a number of conceptual design plans to be evaluated by County Staff. Upon the completion of Phase One and the selection of a design alternate, Phase Two of this project, which will involve refinement of the design chosen by Natural Resources, will be negotiated and brought to the Board for approval. Thereafter, the project will proceed to the construction phase, to be completed by a contractor obtained through the competitive bid process. If County staff deems it appropriate, Holes Montes may service as the engineering firm to provide CEI services under an amendment to this contract approved by the Board, or the County can obtain the services of another firm to perform the CEI function.

Funds are available in account number: 20856730155 (Nalle Grade Stormwater Park)

Attachments: 1) CN Specifications
2) Hole Montes, Professional Service Agreement



PROJECT NO.:CN130299

OPEN DATE: April 2, 2013

AND TIME: 2:30 P.M.

LOCATION: Procurement Management Ofc.
1825 Hendry Street
Fort Myers, FL 33902

NOTICE OF COMPETITIVE NEGOTIATION

TITLE:

**Implementation of North Fort Myers Surface
Water Management Plan Phase One**

Advertised Date: March 2013

REQUESTER: LEE COUNTY BOARD OF COUNTY COMMISSIONERS
DIVISION OF PROCUREMENT MANAGEMENT

MAILING ADDRESS
P.O. BOX 398
FORT MYERS, FL 33902-0398

PHYSICAL ADDRESS
1825 Hendry St 3rd Floor
FORT MYERS, FL 33901

PROCUREMENT CONTACT:

Amy Hofschneider
Procurement Analyst
(239) 533-5899
ahofschneider@leegov.com

GENERAL CONDITIONS

Sealed Responses will be received by the DIVISION OF PROCUREMENT MANAGEMENT, until the time and date specified on the cover sheet of this “Notice of Competitive Negotiation”.

Any question regarding this solicitation should be directed to the Procurement Division Contact listed on the cover page of this solicitation, or by calling the Division of Procurement Management at (239) 533-5450.

1. SUBMISSION OF LETTERS OF INTEREST:

- a. All Letters of Interest must be submitted in compliance with the Response Procedure set forth below via email:
 1. Letters of Interest must be submitted either by hand delivery to the Procurement Management Office or as a single email attachment (in unzipped Adobe PDF format) sent to ContractsInBox@leegov.com
 2. Submission Format:
 - a. Anti Collusion Statement (1 Page)
 - b. Affidavit Certification Immigration Laws (1 Page)
 - c. Response to Criteria Task 1(Not to exceed 5 pages)
 - d. Response to Criteria Task 2(Not to exceed 5 pages)
 3. Should not contain links to other Web pages
- b. Letters of Interest must, at a minimum include the following information:
 1. Project CN number and Name
 2. Consultant’s name and address
 3. Proposed responsible office for consultant
 4. Contact person, phone and fax number and Email Address
 5. Statement regarding qualifications of consultant and/or proposed sub-consultants for the advertised work
 6. Proposed key personnel and their proposed roles (do not include resumes)
 7. Sub-consultant(s) that may be used for the project
 8. Indication as to whether the prime firm and/or sub-consultants are A Disadvantaged Business Enterprise (DBE)
 9. The Project Team’s approach to the project.
- c. **RESPONSES RECEIVED LATE:** The delivery of Letter of Interest to Lee County Procurement Management prior to or on the time and date as stated is solely and strictly the responsibility of the Consultant. Lee County Procurement Management shall not be responsible for delays caused by the E-mail System(s), United States Postal Service, Overnight Express Mail Services, or for delays caused by any other occurrence. The County expressly reserves the sole and exclusive right to accept or reject a late Letter of Interest when the lateness is due to matters beyond the control of any third party delivery service. Late Letters of Interest may be returned to the Consultant with the notation: “This Letter of Interest was received after the specified deadline time”.
- d. **COUNTY RESERVES THE RIGHT:** The County reserves the right to exercise its discretion, to waive minor informalities in any response; to reject any or all responses with or

without cause; and/or to accept the response that in its judgment will be in the best interest of the County of Lee.

- e. **EXECUTION OF SOLICITATION:** All responses shall contain the signature of an authorized representative of the vendor in the space provided on the anti-collusion page. All responses shall be typed or printed in ink. The bidder may not use erasable ink. All corrections made to the response shall be initialed.
- f. **ADDITIONS/REVISIONS/DELETIONS:** Additions, revisions or deletions to the general conditions, specifications that change the intent of the solicitation will cause the solicitation to be non-responsive and the response will not be considered. The Procurement Director shall be the sole judge as to whether or not any addition, revision, or deletion changes the intent of the solicitation.

2. **ACCEPTANCE**

The materials and/or services delivered under the solicitation **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. In the event the materials and/or services supplied to the County are found to be defective or do not conform to specifications, the County reserves the right to cancel the order upon written notice to the seller and return such product to the seller at the seller's expense.

3. **RULES, REGULATIONS, LAWS, ORDINANCES & LICENSES**

The awarded vendor shall observe and obey all laws, ordinances, rules, and regulations, of the federal, state, and local government, which may be applicable to the supply of this product or service. The awarded vendor has attested to compliance with the applicable immigration laws of the United States in the attached affidavit. Violations of the immigration laws of the United States shall be grounds for unilateral termination of the awarded agreement.

- a. Local Business Tax – Vendor shall submit within 10 calendar days after request.
- b. Specialty License(s) – Vendor shall possess at the time of the opening of the quote all necessary permits and/or licenses required for the sale of this product and/or service and upon the request of the County will provide copies of licenses and/or permits within 10 calendar days after request.
- c. The geographic preference established in the Local Vendor Preference ordinance is applicable to all Lee County procurement activities unless otherwise specifically noted in the solicitation package. Provided, however, the Local Vendor Preference ordinance is not applicable to procurement activity or solicitations involving Federal Transit Administration grant funds.
- d. Florida Statutes Section 607.1501 (1) states: A foreign corporation may not transact business in this state until it obtains a certificate of authority from the Department of State.

4. **LEE COUNTY PAYMENT PROCEDURES**

All vendors are requested to mail an original invoice to:

Lee County Finance Department
Post Office Box 2238
Fort Myers, FL 33902-2238

All invoices will be paid as directed by the Lee County payment procedure unless otherwise differently stated in the detailed specification portion of this project.

Lee County will not be liable for requests for payment deriving from aid, assistance, or help by any individual, vendor, quoter, or bidder for the preparation of these specifications.

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 contractors or quoters should include in their quote all sales or use taxes, which they will pay when making purchases of material or subcontractor's services.

5. **PUBLIC ENTITY CRIME**

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 or 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 works 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 36 months from the date of being placed on the convicted vendor list.

6. **MISCELLANEOUS**

If a conflict exists between the General Conditions and the detailed specifications, then the detailed specifications shall prevail.

7. **WAIVER OF CLAIMS**

Once this contract expires, or final payment has been requested and made, the awarded contractor shall have no more than 30 days to present or file any claims against the County concerning this contract. After that period, the County will consider the Contractor to have waived any right to claims against the County concerning this agreement.

8. **AUTHORITY TO PIGGYBACK**

It is hereby made a precondition of any proposal and a part of these specifications that the submission of any proposal in response to this request constitutes a proposal made under the same conditions, for the same price, and for the same effective period as this proposal, to any other governmental entity.

9. **COOPERATIVE PURCHASING**

The Lee County Board of County Commissioners participates in cooperative purchasing agreements; it is hereby made a part of this proposal that the submission of any proposal in response to this request constitutes a proposal made under the same conditions, for the same contract price, to the other governmental entities.

10. **COUNTY RESERVES THE RIGHT**

a) **Any Single Large Project**

The County, in its sole discretion, reserves the right to separately quote any project that is outside the scope of this solicitation, whether through size, complexity, or dollar value.

b) **Disadvantaged Business Enterprises (DBE's)**

The County, in its sole discretion, reserves the right to purchase any of the items in this solicitation from a Disadvantaged Business Enterprise vendor if the prices are determined to be in the best interest of the County, to assist the County in the fulfillment of any of the County's grant commitments to federal or state agencies.

The County further reserves the right to purchase any of the items in this solicitation from DBE's to fulfill the County's stated policy toward DBE's.

c) **Anti-Discrimination**

The vendor for itself, its successors in interest, and assignees, as part of the consideration there of covenant and agree that:

In the furnishing of services to the County hereunder, no person on the grounds of race, religion, color, age, sex, national origin, handicap or marital status shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination.

The vendor will not discriminate against any employee or applicant for employment because of race, religion, color, age, sex, national origin, handicap or marital status. The vendor will make affirmative efforts to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, age, sex, national origin, handicap or marital status. Such action shall include, but not be limited to, acts of employment, upgrading, demotion or transfer; recruitment advertising; layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.

Vendor agrees to post in a conspicuous place, available to employees and applicants for employment, notices setting forth the provisions of this anti-discrimination clause.

Vendor will provide all information and reports required by relevant regulations and/or applicable directives. In addition, the vendor shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the County to be pertinent to ascertain compliance. The vendor shall maintain and make available relevant data showing the extent to which members of minority groups are beneficiaries under these contracts.

Where any information required of the vendor is in the exclusive possession of another who fails or refuses to furnish this information, the vendor shall so certify to the County its effort made toward obtaining said information. The vendor shall remain obligated under this paragraph until the expiration of three (3) years after the termination of this contract.

In the event of breach of any of the above anti-discrimination covenants, the County shall have the right to impose sanctions as it may determine to be appropriate, including withholding payment to the vendor or canceling, terminating, or suspending this contract, in whole or in part.

Additionally, the vendor may be declared ineligible for further County contracts by rule, regulation or order of the Board of County Commissioners of Lee County, or as otherwise provided by law.

The vendor will send to each union, or representative of workers with which the vendor has a collective bargaining agreement or other contract of understanding, a notice informing the labor union of worker's representative of the vendor's commitments under this assurance, and shall post copies of the notice in conspicuous places available to the employees and the applicants for employment.

The vendor will include the provisions of this section in every subcontract under this contract to ensure its provisions will be binding upon each subcontractor. The vendor will take such actions with respect to any subcontractor, as the contracting agency may direct, as a means of enforcing such provisions, including sanctions for non-compliance.

11. **DRUG FREE WORKPLACE**

Whenever two or more proposals/proposals, which are equal with respect to price, quality and service, are received for the procurement of commodities or contractual services, a proposal/proposal received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. In order to have a drug-free workplace program, a business shall comply with the requirements of Florida Statutes 287.087.

12. **AUDITABLE RECORDS**

The awarded vendor shall maintain auditable records concerning the procurement adequate to account for all receipts and expenditures, and to document compliance with the specifications. These records shall be kept in accordance with generally accepted accounting methods, and Lee County reserves the right to determine the record-keeping method required in the event of non-conformity. These records shall be maintained for two years after completion of the project and shall be readily available to County personnel with reasonable notice, and to other persons in accordance with the Florida Public Disclosure Statutes.

14. **REQUIRED SUBMITTALS**

Any submittals requested should be returned with the solicitation response. This information may be accepted after opening, but no later than 10 calendar days after request.

15. **TERMINATION**

Any agreement 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.

The Procurement Management Director may immediately terminate any agreement as a result of this solicitation for emergency purposes, as defined by the Lee County Purchasing and Payment Procedure Manual.

Any vendor 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 of Lee County Commissioners for waiver of this debarment. Such application for waiver of debarment must be coordinated with and processed by Procurement Management.

16. **CONFIDENTIALITY**

Vendors should be aware that all submittals (including financial statements) provided with a solicitation are subject to public disclosure and will **not** be afforded confidentiality.

17. **ANTI-LOBBYING CLAUSE**

All firms are hereby placed on formal notice that neither the County Commissioners nor candidates for County Commission, nor any employees from the Lee County Government, Lee County staff members, nor any members of the Qualification/Evaluation Review Committee are to be lobbied, either individually or collectively, concerning this project. Firms and their agents who intend to submit qualifications, or have submitted qualifications, for this project are hereby placed on formal notice that they are **not** to contact County personnel for such purposes as holding meetings of introduction, meals, or meetings relating to the selection process outside of those specifically scheduled by the County for negotiations. Any such lobbying activities may cause immediate disqualification for this project.

18. **INSURANCE (AS APPLICABLE)**

Insurance shall be provided, per the attached insurance guide. Upon request, an insurance certificate complying with the attached guide may be required prior to award.

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

The undersigned acknowledges receipt of Addenda numbers: _____

ANTI-COLLUSION STATEMENT

THE BELOW SIGNED VENDOR HAS NOT DIVULGED TO, DISCUSSED OR COMPARED HIS RESPONSE WITH OTHER VENDORS AND HAS NOT COLLUDED WITH ANY OTHER VENDOR OR PARTIES TO A RESPONSE WHATSOEVER. NOTE: NO PREMIUMS, REBATES OR GRATUITIES TO ANY EMPLOYEE OR AGENT ARE PERMITTED EITHER WITH, PRIOR TO, OR AFTER ANY DELIVERY OF MATERIALS.

FIRM NAME _____

BY (Printed): _____

BY (Signature): _____

TITLE: _____

FEDERAL ID # OR S.S.# _____

ADDRESS: _____

PHONE NO.: _____

FAX NO.: _____

CELLULAR PHONE/PAGER NO.: _____

DUNS #: _____

LEE COUNTY LOCAL BUSINESS TAX ACCOUNT NUMBER: _____

E-MAIL ADDRESS: _____

DISADVANTAGED BUSINESS ENTERPRISE (DBE): _____ Yes _____ No

**LEE COUNTY, FLORIDA
DETAILED SPECIFICATIONS
FOR
CN130299**

Implementation of North Fort Myers Surface Water Management Plan Phase One

SCOPE

Lee County Board of County Commissioners anticipates seeking professional consultant services for two tasks as part of the North Fort Myers Surface Water Management Master Plan. This project includes two tasks that are tailored towards implementing a few of the recommendations listed on the master plan.

Task 1: Feasibility and locating potential sites for stormwater improvements in the following watersheds:

- Yellow Fever Creek – East Branch
- Marsh Point
- Chapel Branch
- Stroud Creek

The recommendations in the Surface Water Management Plan did not identify specific locations for stormwater improvements projects within these watersheds. The type of improvement recommended for each watershed is listed on the master plan. The URL for the master plan is given below. This Task includes identification of potential sites necessary to implement improvements such as wet and dry detention ponds. According to county policies the consultant selected for this Task will be ineligible for the design, permitting and construction services portion of these projects.

Task 2: Design, Permitting and CEI Services of Nalle Grade Stormwater Park

This Task entails design and permitting of a facility within Bayshore Creek watershed intended for providing water quality benefits, flood protection, wild life habitat and recreational opportunities for the community. The Bayshore Creek is considered an impaired water body and one of the main objectives of this Task is to reduce pollutant load discharge into the Caloosahatchee River. The proposed location for this Task is at 8350 Nalle Grade Road, North Fort Myers, FL 33917, with a driveway access to Nalle Grade Road within the Bayshore Creek watershed. The drainage basin that originates within Charlotte County contributes heavily to the problems within Bayshore Creek watershed in Lee County. Contributing area for Bayshore Creek watershed is approximately 3.1 square miles in Lee County and 12 square miles in Charlotte County. The drainage within this part of the county is somewhat complex. Bayshore Creek drainage interacts with Popash Creek drainage depending on water levels and rainfall. Both Popash and Bayshore Creek watersheds are included in the North Fort Myers Surface Water Management Plan. The subject Task is one of the recommended projects in the master plan. The master plan can be found under the surface water section on natural resources web site at

<http://www.lee-county.com/gov/dept/NaturalResources/SurfaceWater/Pages/WatershedTopics.aspx>

In order to meet the objectives of this Task it is expected to include a higher resolution and more refined analysis of the watershed within the Bayshore Creek. The Task will include an overall assessment of the existing conditions of the proposed location, alternative analysis of multiple preliminary design concepts to achieve the goals prior to developing detailed plans and specifications. The scope of work includes, but is not limited to the following:

- The study boundary will cover both Bayshore Creek and Popash Creek watersheds and their tributaries.
- Review basin boundaries developed by other consultants for adequacy and accuracy.
- Delineate watershed and subwatershed boundaries.
- While water quality treatment, flood control and drainage are the main focus of the study, issues with regard to wetland preservation, protection of wildlife, recreation, and water conservation should also be addressed.
- Review of the existing surface water management plans, basin boundaries, flood plain and watershed maps, aerial maps, LIDAR maps, FEMA maps, and elevation contour maps within the region to identify issues of concern.
- Develop preliminary conceptual design alternatives and project descriptions necessary to hold public meetings, and to obtain public input and comments.
- An analysis of past flood events to determine the need for flood control. Solutions to flood control alternatives may include an above ground reservoir with a pumping system.
- Boundary (if necessary) and topographic survey, geotechnical exploration, and other field explorations to collect pertinent data in the project area.
- Develop hydraulic/hydrologic numerical models and methodologies to evaluate flood risks and savings.
- Develop integrated recreation and storm water elements into the design.
- Identify project needs and associated costs for implementation. Also estimate maintenance and operational costs.
- Review water quality data to identify the parameters that need improvements and develop a design to reduce nutrients and enhance water quality.
- Nutrient load reduction analysis using DEP approved methodology for TMDL compliance.
- Identify water based recreation opportunities for this location and incorporate them into the design.
- Development of a detailed design and preliminary cost estimate acceptable to the staff and obtain necessary permits for construction.
- Develop construction plans and specifications necessary for bidding and implementation of this Task.
- Assist the county staff in bidding this Task, evaluating bids, and providing recommendations for hiring a contractor for implementation of the Task.
- Assist the county staff in obtaining grant funding for the project.
- CEI Services are included in this task. Those services will be considered under a separate authorization and will be negotiated at a later date. Lee County reserves the rights to continue with the consultant selected for task 2 or with a different consultant, or other method of procurement that complies with the State of Florida procurement law.

Proposer is required to indicate whether the Firm and/or any proposed sub-consultants are Disadvantaged Business Enterprises (DBE). Lee 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 and women-owned firms are encouraged to respond.

SELECTION PROCEDURE:

The selection of the Consultant will be made in accordance with Lee County Procurement Policy and Chapter 287.055 Florida Statutes. Some or all of the responding firms may be requested to provide telephone interviews or written or oral technical proposals (or both), for the ranking process. After ranking of the consultants by the Board of County Commissioners, the contract fee will be negotiated in accordance with Section 287.055, Florida Statutes.

NOTE: Proposed short-list and final selection meeting dates are posted on the Procurement Management web page at www.lee-county.com/procurementmanagement .

EVALUATION CRITERIA

Letters of interest will be reviewed by the Evaluation Committee. Experience, references, and overall understanding of the requested services will be included as part of the basis of the evaluations.

Consultants are encouraged to submit qualifications for the combination of both task 1 and task 2 or may choose to qualify for only one of the tasks. Each task will be evaluated separately based on the criterion outlined below. Lee County reserves the right to award tasks to a single or multiple consultants.

Firms may exceed the 3 page minimum requirement state above, under submission of letters of interest, not to exceed 5 pages total per task to comply with the criterion listed herein. Submittal must clearly marked to indicate task 1 and task 2.

Only the Top three firms achieving the most points for each task will be invited to participate in an interview after submission of responses.

CRITERION 1: Experience (Maximum Points: 20)

In an essay describe your firm's experience, expertise and qualifications in the successful completion of at least two major project with construction cost over \$ 1 million (within the last 5 years). The scope of work must have included design, permitting and construction of stormwater management projects within the State of Florida with emphasis on improvements on water quality, flood protection and recreation.

- Project name, owner
- Contact name, phone number, and email address (ensure contact information is accurate and that contact has knowledge of the project)
- Cost (separate costs for design/ permitting and construction)
- Length of contract term, including start date and finish of project
- Summary of work performed
- Learning experience

CRITERION 2: Knowledge (Maximum Points: 20)

In an essay describe your firm's knowledge and experience in the areas of;

- Water quality assessment and pollutant load reduction in South West Florida
- Hydrology, flood protection and related issues in North Fort Myers and contributing area to the north in Charlotte County
- Design, permitting and construction of recreational facilities
- Quality control and quality assurance (QA/QC) schemes and protocols available within the firm to address and minimize errors in the design

CRITERION 3: Key Personnel (Maximum Points 35)

Describe the following;

- a) Project Manager's qualifications and experience related to four issues listed in Criterion 2 above.
- b) Qualifications, experience and expertise of individual design team member, and the role to be played by each member. Also, describe the projects already completed with the proposed design team as a unit.

- c) Please provide a concise statement describing your firm's experience in obtaining and working with grant projects.
- d) Experiences and qualifications of personnel assigned for QA/QC process

CRITERION 4: Approach (Maximum Points 20)

In a concise statement, using graphics, if necessary, explain how your firm intends to approach the scope of work outlined. Outline and discuss two conceptual design ideas.

CRITERION 5 : Proximity of the Responsible Office to the Project location (Maximum Points: 5)

In order to address conflicts in a timely manner to avoid contractor's disputes the Consultant must be located within 50 Miles of the project location.

- Headquarters located in Lee County = 5 points
- A staffed Satellite office located in Lee County= 3
- Not in Lee County, but is in Collier, Hendry or Charlotte County=1
- Not in Lee, Collier, Hendry, or Charlotte County= 0

SCHEDULE

If awarded, the terms of this solicitation for the design, permitting and bidding shall be for two year from the notice to proceed date.

DESIGNATED CONTACT

The awarded vendor shall appoint a person or persons to act as a primary contact for all County departments. This person or back-up shall be readily available during normal work hours by phone or in person, and shall be knowledgeable of the terms and procedures involved.

AFFIDAVIT CERTIFICATION IMMIGRATION LAWS

The attached document, Affidavit Certification Immigration Laws, is required and should be submitted with your solicitation package. It must be signed and notarized. Failure to include this affidavit with your response will delay the consideration and review of your submission; and could result in your response being disqualified.

Standard Insurance Requirements

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

- a. **Commercial General Liability** - Coverage shall apply to premises and/or operations, products and completed operations, independent contractors, contractual liability exposures with minimum limits of:

\$500,000 per occurrence
\$1,000,000 general aggregate
\$500,000 products and completed operations
\$500,000 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:

\$500,000 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:

\$100,000 per accident
\$100,000 disease limit
\$500,000 disease – policy limit

- d. **Errors and Omissions** - Coverage shall include professional liability insurance, to cover claims arising out of negligent acts, errors or omissions of professional advice or other professional services.

\$1,000,000 combined single limit (CSL) of BI and PD

**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."*



Verification of Coverage:

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

a. **The certificate holder shall read as follows:**

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

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

Special Requirements:

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

AFFIDAVIT CERTIFICATION
IMMIGRATION LAWS

SOLICITATION NO.: _____ PROJECT NAME: _____

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

Company Name: _____

Signature Title Date

STATE OF _____
COUNTY OF _____

The foregoing instrument was signed and acknowledged before me this _____ day of _____
20____, by _____ who has produced
(Print or Type Name)
_____ as identification.
(Type of Identification and Number)

Notary Public Signature

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.**

SCOPE OF WORK
Dated February 21, 2013

(Project # 208567 and 208563)

Please note that depending on the review of the qualifications received to this advertisement for RFQ, the staff may select a single consultant to perform both tasks or two separate consultants for the two tasks. Consultants are encouraged to submit qualifications for the combined Tasks 1 and 2 or one of the individual Tasks, either 1 or 2.

North Fort Myers Surface Water Management Plan was developed in March 2010. The executive summary of this master plan is available at the following URL:
[http://www.leegov.com/gov/dept/NaturalResources/SurfaceWater/Documents/section a executive summary.pdf](http://www.leegov.com/gov/dept/NaturalResources/SurfaceWater/Documents/section_a_executive_summary.pdf)

The executive summary has a number of recommendations listed for implementation. The county has already completed some of the recommendations. This project includes two tasks that are tailored towards implementing a few of the recommendations listed on the master plan.

Task 1: Feasibility and locating potential sites for stormwater improvements in the following watersheds:

- Yellow Fever Creek – East Branch
- Marsh Point
- Chapel Branch
- Stroud Creek

The recommendations in the Surface Water Management Plan did not identify specific locations for stormwater improvements projects within these watersheds. The type of improvement recommended for each watershed is listed on the master plan. The URL for the master plan is given below. This Task includes identification of potential sites necessary to implement improvements such as wet and dry detention ponds. According to county policies the consultant selected for this Task will be ineligible for the design, permitting and construction services portion of these projects.

The budget for this Task is estimated to be \$50,000

Task 2: Design, Permitting and CEI Services of Nalle Grade Stormwater Park

This Task entails design and permitting of a facility within Bayshore Creek watershed intended for providing water quality benefits, flood protection, wild life habitat and recreational opportunities for the community. The Bayshore Creek is considered an impaired water body and one of the main objectives of this Task is to reduce pollutant load discharge into the Caloosahatchee River. The proposed location for this Task is at 8350 Nalle Grade Road, North Fort Myers, FL 33917, with a driveway access to Nalle Grade Road within the Bayshore Creek watershed. The drainage basin that originates within Charlotte County contributes heavily to the problems within Bayshore Creek watershed in Lee County. Contributing area for Bayshore Creek watershed is approximately 3.1 square miles in Lee County and 12 square miles in Charlotte County. The drainage within this part of the county is somewhat complex. Bayshore Creek drainage interacts with Popash Creek drainage depending on water levels and rainfall. Both Popash and Bayshore Creek watersheds are included in the North Fort Myers Surface Water Management Plan. The subject Task is one of the recommended projects in the master plan. The master plan can be found under the surface water section on natural resources web site at

<http://www.lee-county.com/gov/dept/NaturalResources/SurfaceWater/Pages/WatershedTopics.aspx>

In order to meet the objectives of this Task it is expected to include a higher resolution and more refined analysis of the watershed within the Bayshore Creek. The Task will include an overall assessment of the existing conditions of the proposed location, alternative analysis of multiple preliminary design concepts to achieve the goals prior to developing detailed plans and specifications. The scope of work includes, but is not limited to the following:

- The study boundary will cover both Bayshore Creek and Popash Creek watersheds and their tributaries.
- Review basin boundaries developed by other consultants for adequacy and accuracy.
- Delineate watershed and subwatershed boundaries.
- While water quality treatment, flood control and drainage are the main focus of the study, issues with regard to wetland preservation, protection of wildlife, recreation, and water conservation should also be addressed.

Technical Specifications

- Review of the existing surface water management plans, basin boundaries, flood plain and watershed maps, aerial maps, LIDAR maps, FEMA maps, and elevation contour maps within the region to identify issues of concern.
- Develop preliminary conceptual design alternatives and project descriptions necessary to hold public meetings, and to obtain public input and comments.
- An analysis of past flood events to determine the need for flood control. Solutions to flood control alternatives may include an above ground reservoir with a pumping system.
- Boundary (if necessary) and topographic survey, geotechnical exploration, and other field explorations to collect pertinent data in the project area.
- Develop hydraulic/hydrologic numerical models and methodologies to evaluate flood risks and savings.
- Develop integrated recreation and storm water elements into the design.
- Identify project needs and associated costs for implementation. Also estimate maintenance and operational costs.
- Review water quality data to identify the parameters that need improvements and develop a design to reduce nutrients and enhance water quality.
- Nutrient load reduction analysis using DEP approved methodology for TMDL compliance.
- Identify water based recreation opportunities for this location and incorporate them into the design.
- Development of a detailed design and preliminary cost estimate acceptable to the staff and obtain necessary permits for construction.
- Develop construction plans and specifications necessary for bidding and implementation of this Task.
- Assist the county staff in bidding this Task, evaluating bids, and providing recommendations for hiring a contractor for implementation of the Task.
- Assist the county staff in obtaining grant funding for the project.
- CEI Services are included in this task. Those services will be considered under a separate authorization and will be negotiated at a later date. Lee County reserves the rights to continue with the consultant selected for task 2 or with a different consultant, or other method of procurement that complies with the State of Florida procurement law.

The budget for completing this Task and construction of the permitted project is estimated to be \$ 4 million.

LEE COUNTY PROCUREMENT MANAGEMENT - BIDDERS CHECK LIST

IMPORTANT: Please read carefully and return with your bid proposal. Please check off each of the following items as the necessary action is completed:

- _____ 1. The Solicitation has been signed and with corporate seal (if applicable).
- _____ 2. The Solicitation prices offered have been reviewed (if applicable).
- _____ 3. The price extensions and totals have been checked (if applicable).
- _____ 4. Substantial and final completion days inserted (if applicable).
- _____ 5. The original (must be manually signed) and 1 hard copy original and others as specified of the Solicitation has been submitted.
- _____ 6. Two (2) identical sets of descriptive literature, brochures and/or data (if required) have been submitted under separate cover.
- _____ 7. All modifications have been acknowledged in the space provided.
- _____ 8. All addendums issued, if any, have been acknowledged in the space provided.
- _____ 9. Licenses (if applicable) have been inserted.
- _____ 10. Erasures or other changes made to the Solicitation document have been initialed by the person signing the Solicitation.
- _____ 11. Contractor's Qualification Questionnaire and Lee County Contractor History (if applicable).
- _____ 12. DBE Participation form completed and/or signed or good faith documentation.
- _____ 13. Bid Bond and/or certified Check, (if required) have been submitted with the Solicitation in amounts indicated.
- _____ 14. Any Delivery information required is included.
- _____ 15. Affidavit Certification Immigration Signed and Notarized
- _____ 16. Local Bidder Preference Affidavit (if applicable)
- _____ 17. The mailing envelope has been addressed to:

MAILING ADDRESS	PHYSICAL ADDRESS	
Lee County Procurement Mgmt.	Lee County Procurement Mgmt.	
P.O. Box 398	or	1825 Hendry St 3 rd Floor
Ft. Myers, FL 33902-0398		Ft. Myers, FL 33901
- _____ 18. The mailing envelope **MUST** be sealed and marked with:
 - Solicitation Number
 - Opening Date and/or Receiving Date
- _____ 19. The Solicitation will be mailed or delivered in time to be received no later than the specified opening date and time. (Otherwise Solicitation cannot be considered or accepted.)
- _____ 20. If submitting a "NO BID" please write Solicitation number here _____ and check one of the following:
 - _____ Do not offer this product
 - _____ Insufficient time to respond.
 - _____ Unable to meet specifications (why)
 - _____ Unable to meet bond or insurance requirement.
 - Other: _____

Company Name and Address:

PROFESSIONAL SERVICES AGREEMENT

This PROFESSIONAL SERVICES AGREEMENT is made and entered into this _____ day of _____, 2013, between the Board of County Commissioners of LEE COUNTY, a political subdivision of the STATE OF FLORIDA hereinafter referred to as the "COUNTY", and **Hole Montes, Inc.** hereinafter referred to as the "CONSULTANT".

WITNESSETH

WHEREAS, the COUNTY desires to obtain the professional architectural services of said CONSULTANT to provide and perform professional services as further described hereinafter concerning the Project to be referred to and identified as: **CN130299 Implementation of North Fort Myers Surface Water Management Plan Phase One; Task Two; Design, Permitting and CEI Services of Nalle Grade Stormwater Park**, and

WHEREAS, the CONSULTANT hereby certifies that CONSULTANT has been granted and possesses valid, current licenses to do business in the State of Florida and in Lee County, Florida, issued by the respective State Boards and Government Agencies responsible for regulating and licensing the professional services to be provided and performed by the CONSULTANT pursuant to this Agreement; and

WHEREAS, the CONSULTANT has reviewed the professional services required pursuant to this Agreement and is qualified, willing and able to provide and perform all such services in accordance with the provisions, conditions and terms hereinafter set forth; and

WHEREAS, the selection and engagement of the CONSULTANT has been made by the COUNTY in accordance with the provisions of the Consultants' Competitive Negotiation Act, Chapter 287.055, Florida Statutes, and in accordance with the provisions of the Lee County Contract Manual for Professional Services as approved and put into effect by the Lee County Board of County Commissioners, September 25, 2001, and as subsequently revised.

NOW, THEREFORE, in consideration of the mutual covenants, terms and provisions contained herein, the parties hereto agree that with the mutual acceptance of this Agreement as indicated hereinafter by the execution of this Agreement by both parties that a Contract shall exist between both parties consisting of:

ARTICLE 1.00 - SCOPE OF PROFESSIONAL SERVICES

CONSULTANT hereby agrees to provide and perform the professional services required and necessary to complete the services and work as set forth EXHIBIT "A", entitled "SCOPE OF PROFESSIONAL SERVICES", which EXHIBIT "A" is attached hereto and made a part of this Agreement.

ARTICLE 2.00 - DEFINITIONS

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

2.01 COUNTY

The term COUNTY shall refer to the Board of County Commissioners of Lee County, a political subdivision of the State of Florida, and any official and/or employees thereof who shall be duly authorized to act on the COUNTY'S behalf relative to this Agreement.

Date: 09/25/01

2.02 CONSULTANT

The term CONSULTANT shall refer to the individual or firm offering professional services which by execution of this Agreement shall be legally obligated, responsible, and liable for providing and performing any and all of the services, work and materials, including services and/or work of sub-consultants and subcontractors, required under the covenants, terms and provisions contained in this Agreement and any and all Change Orders thereto.

2.03 PROFESSIONAL SERVICES

The term PROFESSIONAL SERVICES shall refer to all of the services, work, materials and all related professional, technical and administrative activities which are necessary to be provided and performed by the CONSULTANT and its employees and any and all sub-consultants and subcontractors the CONSULTANT may engage to provide, perform and complete the services required pursuant to the covenants, terms and provisions of this Agreement.

2.04 SUB-CONSULTANT

The term SUB-CONSULTANT shall refer to any individual or firm offering professional services which is engaged by the CONSULTANT to assist the CONSULTANT in providing and performing the professional services, work and materials for which the CONSULTANT is contractually obligated, responsible and liable to provide and perform under this Agreement. The COUNTY shall not be a party to, responsible or liable for, or assume any obligation whatever for any Agreement entered into between the CONSULTANT and any SUB-CONSULTANT.

2.05 SUBCONTRACTOR

The term SUBCONTRACTOR shall refer to any individual, company or firm providing other than professional services which is engaged by the CONSULTANT to assist the CONSULTANT in providing and performing services, work and materials for which the CONSULTANT is contractually obligated, responsible, and liable to provide and perform under this Agreement. The COUNTY shall not be a party to, responsible or liable for, or assume any obligation whatever for any Agreement entered into between the CONSULTANT and any SUBCONTRACTOR.

2.06 PROJECT

The term PROJECT shall refer to such facility, system, program or item as described in the summary statement set forth in the Preamble on Page One of this Agreement.

2.07 BASIC SERVICES

The term BASIC SERVICES shall refer to the professional services set forth and required pursuant to this Agreement and as described in further detail in the attached EXHIBIT "A", entitled "SCOPE OF PROFESSIONAL SERVICES", which EXHIBIT "A" is attached hereto and made a part of this Agreement.

2.08 ADDITIONAL SERVICES

The term ADDITIONAL SERVICES shall refer to such professional services as the COUNTY may request and authorize, in writing, the CONSULTANT to provide and perform relative to this Agreement which are not included in the BASIC SERVICES. Additional services shall be authorized by the execution of both parties to this Agreement by a Change Order Agreement.

Date: 09/25/01

2.09

CHANGE ORDER

The term CHANGE ORDER shall refer to a written document, CHANGE ORDER AGREEMENT, executed by both parties to this Agreement setting forth and authorizing changes to the agreed upon Scope of Professional Services and Tasks, Compensation and Method of Payment, Time and Schedule of Performance, or Project Guidelines and Criteria as such were set forth and agreed to in the initial AGREEMENT, SUPPLEMENTAL TASK AUTHORIZATION(S), or previous CHANGE ORDERS issued thereto. The CHANGE ORDER document, which shall be executed on a Lee County standard form, shall set forth the authorized changes to the: scope of professional services, tasks, work or materials to be performed or provided by the CONSULTANT; the compensation and method of payment; the schedule or time period for performance and completion, and the guidelines, criteria and requirements pertaining thereto.

The amount of the change in contract compensation and time set forth in any and all Change Orders executed and issued under this Agreement shall be understood and agreed by both Parties to this Agreement to be fair, equitable, adequate and complete. The changed compensation shall be understood and agreed to be the total of all costs associated with or impacted by the Change Order including, but not limited to any and all direct costs, indirect costs and associated costs which may result from or be caused by the Change Order, and shall be understood and agreed to include a fair, equitable and adequate adjustment to cover the CONSULTANT'S general administrative and overhead costs and profit.

In the event the County decides to delete all, or portions, of the Scope of Services, Task(s), or Requirements set forth in the initial Agreement, Supplemental Task Authorizations or previously authorized Change Orders, the COUNTY may do so by the unilateral issuance of a written Change Order to the CONSULTANT. Such a unilaterally issued Change Order shall set forth, if appropriate, (1) an agreement by both the COUNTY and the CONSULTANT establishing changes in the amount of compensation to be paid the CONSULTANT as a result of the deletion or decrease in services required, or (2) in the absence of such an agreement concerning compensation, the unilaterally issued Change Order shall set forth the basis to be used in subsequently considering, and reaching agreement on change(s) in the compensation to be paid the CONSULTANT. The failure on the part of the CONSULTANT to execute a Change Order issued unilaterally by the COUNTY to effect a deletion or decrease in the services required shall have no effect on, or otherwise prevent the COUNTY from exercising its rights to direct the stated deletion or decrease in the services to be provided or performed by the CONSULTANT.

2.10 SUPPLEMENTAL TASK AUTHORIZATION

The term Supplemental Task Authorization as used refers to a written document executed by both parties to an existing Professional Services Agreement, or Service Provider Agreement, setting forth and authorizing a limited number of Professional Services, tasks, or work. Such Supplemental Task Authorizations are consistent with and have previously been included within the scope of services in the initial Professional Services Agreement, or Service Provider Agreement, for which authorization has not been previously given or budgeted.

2.11 DEPARTMENT DIRECTOR

The term DEPARTMENT DIRECTOR shall refer to the Director of the Department requesting the service, employed by the Lee County Board of County Commissioners to serve and act on the COUNTY'S behalf, as it relates to this Project. The Chairman of the Board of County Commissioners, or his designated representative, shall act on behalf of the COUNTY to execute any and all CHANGE ORDER(S) or SUPPLEMENTAL TASK AUTHORIZATION(S) approved by the COUNTY and issued to the CONSULTANT pursuant to this Agreement. The DEPARTMENT DIRECTOR, within the authority conferred by the Board of County Commissioners, acting as the COUNTY'S designated representative shall issue written notification to the CONSULTANT of any and all changes approved by the COUNTY in the CONSULTANT'S: (1) compensation (2) time and/or schedule of service delivery; (3) scope of services; or other change(s) relative to BASIC

Date: 09/25/01

SERVICES and ADDITIONAL SERVICES pursuant to this Agreement, or CHANGE ORDER(S) or SUPPLEMENTAL TASK AUTHORIZATION(S) pertaining thereto. The DEPARTMENT DIRECTOR shall be responsible for acting on the COUNTY'S behalf to administer, coordinate, interpret and otherwise manage the contractual provisions and requirements set forth in this Agreement, CHANGE ORDER(S), or SUPPLEMENTAL TASK AUTHORIZATION(S) issued thereunder.

2.12 PROJECT MANAGER

The term PROJECT MANAGER shall refer to the person employed or retained by the COUNTY and designated, in writing, to serve and act on the COUNTY'S behalf to provide direct contact and communication between the COUNTY and CONSULTANT with respect to providing information, assistance, guidance, coordination, review, approval and acceptance of the professional services, work and materials to be provided and performed by the CONSULTANT pursuant to this Agreement and such written SUPPLEMENTAL TASK AUTHORIZATION(S) and CHANGE ORDER(S) as are authorized. The PROJECT MANAGER is not authorized to, and shall not, issue any verbal, or written, request or instruction to the CONSULTANT that would have the effect, or be interpreted to have the effect, of modifying or changing in any way whatever the: (1) Scope of Services to be provided and performed by the CONSULTANT; (2) The time the CONSULTANT is obligated to commence and complete all such services; (3) The amount of compensation the COUNTY is obligated or committed to pay the CONSULTANT. The PROJECT MANAGER shall review and make appropriate recommendations on all requests submitted by the CONSULTANT for payment for services and work provided and performed, and reimbursable costs and expense, as provided for in this Agreement and approved CHANGE ORDER(S), or SUPPLEMENTAL TASK AUTHORIZATION(S) thereto.

2.13 LUMP SUM FEE(S)

Lump Sum Fee(s), hereinafter identified as L.S., are understood and agreed to include all direct and indirect labor costs, personnel related costs, overhead and administrative costs, costs of sub-consultant(s) and/or subcontractor(s), out-of-pocket expenses and costs, professional service fee(s) and any other costs or expenses which may pertain to the services and/or work to be performed, provided and/or furnished by the Consultant as may be required and/or necessary to complete each and every task set forth in the Scope of Professional Services, Exhibit "A", or as may be set in subsequent Supplemental Task Authorizations, and/or Change Orders agreed to in writing by both parties to this Agreement.

2.14 NOT-TO-EXCEED FEE(S)

When all, or any portion, of the CONSULTANT'S compensation to provide and perform the services and work necessary and required pursuant to the Tasks set forth in Agreement Exhibit "A", and any Change Orders, Supplemental Task Authorizations, and Work Orders authorized thereto, is established to be made on a NOT-TO-EXCEED (N.T.E.) amount basis, it is mutually understood and agreed that such compensation for each completed Task shall be made on the following basis:

For the actual hours necessary, required and expended by the CONSULTANT'S professional and technical personnel, multiplied by the applicable hourly rates for each classification or position as set forth in Attachment No. 1 to Exhibit "B" to the above referenced Agreement and any Change Orders or Supplemental Task Authorizations authorized thereto; and

For the actual necessary, required and expended non-personnel reimbursable expenses and costs, multiplied by the applicable "Basis of Charges" for each item as set forth in Attachment No. 2 to Exhibit "B" to the above referenced Agreement and any Change Orders or Supplemental Task Authorizations authorized thereto; and

For the actual, necessary and required hours, and non-personnel expenses and costs, expended by Sub-Consultants and SubContractors engaged by the CONSULTANT, multiplied by such hourly rates and unit costs as are agreed to by the COUNTY and the CONSULTANT and as are set forth as a part of the above referenced Agreement and any Change Orders or Supplemental Task Authorizations authorized thereto; and

With the understanding and agreement that the COUNTY shall pay the CONSULTANT for all such costs and expenses within the established Not-to-Exceed amount for each Task or Sub-Task subject to the CONSULTANT presenting an itemized and detailed invoice with appropriate supporting documentation attached thereto to show evidence satisfactory to the COUNTY covering all such costs and expenses; and

With the understanding and agreement that the CONSULTANT'S invoices and all payments to be made for all Not-to-Exceed amounts shall be subject to the review, acceptance and approval of the COUNTY; and With the understanding and agreement that when the CONSULTANT'S compensation is established on a Not-to-Exceed basis for a specific Task(s) or Sub-Task(s) the total amount of compensation to be paid the CONSULTANT to cover all personnel costs, non-personnel reimbursable expenses and costs, and Sub-Consultant and SubContractor costs for any such specific Task(s) or Sub-Task(s) shall not exceed the amount of the total Not-to-Exceed compensation established and agreed to for each specific Task(s) or Sub-Task(s). In the event the amount of compensation for any Task(s) or Sub-Task(s) to which the CONSULTANT is entitled on the Not-to-Exceed basis set forth above is determined to be necessary, required and actually expended and is determined to be actually less than the Not-to-Exceed amount established for the specific Task or Sub-Task, it is understood and agreed that any unexpended amount under a specific Task or Sub-Task may not be used, applied, transferred, invoiced or paid for services or work provided or performed on any other Task(s) or Sub-Task(s).

ARTICLE 3.00 - OBLIGATIONS OF THE CONSULTANT

The obligations of the CONSULTANT with respect to all the BASIC SERVICES and ADDITIONAL SERVICES authorized pursuant to this Agreement shall include, but not be limited to, the following:

3.01 LICENSES

The CONSULTANT agrees to obtain and maintain throughout the period this Agreement is in effect all such licenses as are required to do business in the State of Florida and in Lee County, Florida, including, but not limited to, licenses required by the respective State Boards and other governmental agencies responsible for regulating and licensing the professional services provided and performed by the CONSULTANT pursuant to this Agreement.

3.02 PERSONNEL

(1) QUALIFIED PERSONNEL

The CONSULTANT agrees when the services to be provided and performed relate to a professional service(s) which, under Florida Statutes, requires a license, certificate of authorization or other form of legal entitlement to practice such services, to employ and/or retain only qualified personnel to be in responsible charge of all BASIC SERVICES and ADDITIONAL SERVICES to be provided pursuant to this Agreement.

Date: 09/25/01

(2) CONSULTANT'S PROJECT DIRECTOR

The CONSULTANT agrees to employ and designate, in writing, a qualified and, if required by law, a licensed professional to serve as the CONSULTANT'S Project Director. The CONSULTANT'S Project Director shall be authorized and responsible to act on behalf of the CONSULTANT with respect to directing, coordinating and administering all aspects of the services to be provided and performed under this Agreement thereto. The CONSULTANT'S Project Director shall have full authority to bind and obligate the CONSULTANT on any matter arising under this Agreement unless substitute arrangements have been furnished to the COUNTY in writing. The CONSULTANT agrees that the Project Director shall devote whatever time is required to satisfactorily direct, supervise and manage the services provided and performed by the CONSULTANT throughout the entire period this Agreement is in effect. The person selected by the CONSULTANT to serve as the CONSULTANT'S Project Director shall be subject to the prior approval and acceptance of the COUNTY.

(3) REMOVAL OF PERSONNEL

The CONSULTANT agrees, within thirty (30) calendar days of receipt of a written request from the COUNTY, to promptly remove and replace the CONSULTANT'S Project Director, or any other personnel employed or retained by the CONSULTANT, or personnel of the sub-consultant(s) or subcontractor(s) engaged by the CONSULTANT to provide and/or perform services and/or work pursuant to the requirements of this Agreement, who the COUNTY shall request, in writing, be removed, which request may be made by the COUNTY with or without cause.

3.03 TIMELY ACCOMPLISHMENT OF SERVICES

The timely performance and completion of the required services, work and materials is vitally important to the interests of the COUNTY. Time is of the essence for all of the duties and obligations contained in this Agreement thereto. The COUNTY may suffer damages in the event that the CONSULTANT does not accomplish and complete the required services in a timely manner. The CONSULTANT agrees to employ, engage, retain and/or assign an adequate number of personnel throughout the period of this Agreement so that all BASIC SERVICES and ADDITIONAL SERVICES will be provided, performed and completed in a timely and diligent manner throughout.

3.04 STANDARDS OF PROFESSIONAL SERVICE

The work and/or services to be provided and/or performed by the CONSULTANT and by any Sub-Consultant(s) and/or SubContractor(s) engaged by the CONSULTANT as set forth in the Scope of Professional Services, Exhibit "A", shall be done in accordance with the generally accepted standards of professional practice and in accordance with the laws, rules, regulations, ordinances, codes, policies, standards or other guidelines issued by those governmental agencies which have jurisdiction over all or a portion of this project and which are in effect at the time the COUNTY approves this Agreement, or which may subsequently be changed or revised. Any subsequent change or revision to such laws, rules, regulations, ordinances, codes, policies, standards or other guidelines which requires the CONSULTANT to provide and/or perform work and/or services which are significantly different from that set forth in the Scope of Professional Services, Exhibit "A", shall serve as a basis for the COUNTY to consider the development and issuance of a Change Order to provide for a change to, or Additional Services to the services set forth in the Agreement.

3.05 CORRECTION OF ERRORS, OMISSIONS OR OTHER DEFICIENCIES

(1) RESPONSIBILITY TO CORRECT

The CONSULTANT agrees to be responsible for the professional quality, technical adequacy and accuracy, timely completion, and the coordination of all data, studies, surveys, designs, specifications, calculations, estimates, plans, drawings, construction documents, photographs, reports, memoranda, other documents and instruments, and other services, work and materials performed, provided, and/or furnished by CONSULTANT or by any sub-consultant(s) and/or subcontractor(s) retained or engaged by the CONSULTANT pursuant to this Agreement. The CONSULTANT shall, without additional compensation, correct or revise any errors, omissions or other deficiencies in such data, studies, surveys, designs, specifications, calculations, estimates, plans, drawings, construction documents and instruments, and other services, work and materials resulting from the negligent act, errors or omissions or intentional misconduct of CONSULTANT or any sub-consultant(s) or subcontractor(s) engaged by the CONSULTANT.

(2) COUNTY'S APPROVAL SHALL NOT RELIEVE CONSULTANT OF RESPONSIBILITY

Neither review, approval, or acceptance by the COUNTY of data, studies, surveys, designs, specifications, calculations, estimates, plans, drawings, construction documents, photographs, reports, memoranda, other documents and instruments, and incidental professional services, work and materials furnished hereunder by the CONSULTANT, or any sub-consultant(s) or subcontractor(s) engaged by the CONSULTANT, shall in any way relieve CONSULTANT of responsibility for the adequacy, completeness and accuracy of its services, work and materials and the services, work and materials of any and all sub-consultants and/or subcontractors engaged by the CONSULTANT to provide and perform services in connection with this Agreement. Neither the COUNTY'S review, approval or acceptance of, nor payment for, any of the CONSULTANT'S services, work and materials shall be construed to operate as a waiver of any of the COUNTY'S rights under this Agreement, or any cause of action it may have arising out of the performance of this Agreement.

3.06 LIABILITY

(1) CONSULTANT TO HOLD COUNTY HARMLESS

The CONSULTANT shall be liable and agrees to be liable for and shall indemnify and hold the COUNTY harmless for any and all claims, suits, judgements or damages, losses and expenses including court costs and attorney's fees arising out of the CONSULTANT'S errors, omissions, and/or negligence, or those of any and all sub-consultants and/or subcontractors engaged by the CONSULTANT during the providing, performing and furnishing of services, work and materials pursuant to this Agreement and any and all Change Orders, Supplemental Task Authorizations thereto. The CONSULTANT shall not be liable to nor indemnify the COUNTY for any portions of damages arising out of any error, omission, and/or negligence of the COUNTY, its employees, agents, or representatives or third parties. The CONSULTANT hereby acknowledges that the compensation to be paid the CONSULTANT by the COUNTY as set forth in Agreement Exhibit "B" entitled "COMPENSATION AND METHOD OF PAYMENT" includes compensation as consideration for the indemnification provided herein.

3.07 NOT TO DIVULGE CERTAIN INFORMATION

CONSULTANT agrees, during the term of this Agreement, not to divulge, furnish or make available to any third person, firm, or organization, without COUNTY'S prior written consent, or unless incident to the proper performance of CONSULTANT'S obligations hereunder, or in the course of judicial or legislative proceedings where such information has been properly subpoenaed, any non-public information concerning the services to be rendered by CONSULTANT or any sub-consultant(s) or subcontractor(s) pursuant to this Agreement. CONSULTANT shall require all of its employees, sub-consultant(s) and subcontractor(s) to comply with the provisions of this paragraph.

3.08 CONSULTANT TO REPAIR PROPERTY DAMAGE CAUSED BY THE CONSULTANT

CONSULTANT agrees to promptly repair and/or replace, or cause to have repaired and/or replaced, at its sole cost and expense and in a manner acceptable to and approved by the COUNTY, any property damage arising out of, or caused by, the willful or negligent acts of the CONSULTANT, or of its sub-consultants and/or subcontractors. This CONSULTANT'S obligation under this sub-article does not apply to property damage caused by any other Consultant or Contractor engaged directly by the COUNTY.

The COUNTY reserves the right, should the CONSULTANT fail to make such repairs and/or replacement within a reasonable period of time, to cause such repairs and/or replacement to be made by others and for all costs and expenses associated with having such repairs and/or replacement done to be paid for by the CONSULTANT, or by the CONSULTANT reimbursing the COUNTY for all such costs and expenses.

3.09 RESPONSIBILITY FOR ESTIMATES

(1) In the event the services required pursuant to this Agreement include the CONSULTANT preparing and submitting to the COUNTY, cost estimates, the CONSULTANT, by exercise of his experience, effort, knowledge and judgment, shall develop such cost estimates as are set forth in, or as may be required under the Agreement and shall be held accountable, responsible and liable for the accuracy, completeness, and correctness of any and all such cost estimates. For purposes of the Liability Provisions of this Article only, the CONSULTANT'S estimate(s) shall be considered valid and effective for a period of six (6) months from the date of the COUNTY'S acceptance of the estimate(s).

(2) The cost estimates of CONSULTANTS or SUB-CONSULTANTS engaged by CONSULTANTS, for the appraisal or valuation of property or easements, or the estimate of damages or costs associated with the acquisition of property or easements are exempted from the provisions of Article 3.09.

(3) Cost Estimates

(A) ORDER OF MAGNITUDE ESTIMATE

This is an approximate estimate made without detailed architect/engineering data. Examples include, but are not limited to, an estimate from cost-capacity curves, an estimate using scale-up or scale-down factors, and an approximate ratio estimate. This type of estimate shall be accurate within plus fifty percent (50.0%). If the bids, as described above, fail to meet this prescribed accuracy, the cost associated with the preparation and development of the ORDER OF MAGNITUDE ESTIMATE shall be recoverable by the COUNTY.

(B) BUDGET ESTIMATE

Budget in this case applies to the COUNTY'S budget and not to the budget as a project controlled document. A budget is prepared with the use of flowsheets, layouts, and equipment details. This type of estimate shall be accurate within plus twenty-five percent (25.0%). If the bids, as described above, fail to meet this prescribed accuracy, the cost associated with the preparation and development of the BUDGET ESTIMATE shall be recoverable by the COUNTY.

(C) CONSTRUCTION COST ESTIMATE.

A construction cost estimate for purposes of this Agreement is an estimate prepared on the basis of well defined engineering/architectural data and on detailed information set forth in specifications, designs or drawings which are to be used as a basis for obtaining bids or price proposals for constructing the project. This type of estimate shall be accurate within plus or minus ten percent (10%) of the cost of the construction of the project. The accuracy and reliability of a CONSTRUCTION COST ESTIMATE is vital to the COUNTY'S interests because it may be used for such purposes as, but not limited to the following; budgeting, obtaining, allocating or obligating funds for the project; evaluating and determining the reasonableness and acceptableness of bids or price proposals for construction projects; or establishing the assessment amounts for Municipal Service Benefit Units (M.S.B.U.).

In the event the COUNTY solicits and receives bids or price proposals from contractors on a construction project based on specifications, design, drawings and a CONSTRUCTION COST ESTIMATE prepared by the CONSULTANT, and the lowest bid or price proposal, submitted by a responsive and responsible bidder or proposer, which bid or price proposal exceeds the amount of the CONSULTANT'S CONSTRUCTION COST ESTIMATE by more than the percent accuracy set forth hereinabove, the CONSULTANT shall, upon notification by the COUNTY, assume responsibility for and proceed to provide and perform the following service without additional compensation:

The CONSULTANT will, subject to the review and approval of the COUNTY, modify at its expense the specifications, design, drawings and related bidding and contract documents to the extent necessary to reduce the anticipated construction costs so that the re-solicitation of bids or price proposals will realize bids or price proposals being received that are within the range of accuracy established for the CONSTRUCTION COST ESTIMATE prepared by the CONSULTANT. Any such modifications made by the CONSULTANT shall not conflict with the functional or operational requirements established by the COUNTY for the project and set forth in the Agreement or Change Order(s) or Supplemental Task Authorization(s) issued thereto, nor shall any such modifications conflict with established rules, regulations, requirements or professional standards pertaining to the design, specifications or drawings prepared by the CONSULTANT, nor shall such modifications adversely affect the safe use or operation of the constructed project.

In the event (1) the CONSULTANT'S modification of the design, specifications, drawings and related bidding and contract documents, and (2) the re-solicitation of bids or price proposals do not result in bids or price proposals being received from a responsive and responsible bidder or proposer that are within the established percent accuracy of the CONSULTANT'S

CONSTRUCTION COST ESTIMATE, the costs associated with the CONSULTANT'S preparation and development of the CONSTRUCTION COST ESTIMATE shall be recoverable by the COUNTY by an appropriate reduction in the CONSULTANT'S invoice requesting payment for services rendered.

For determination of compliance with the accuracy requirement established for the CONSTRUCTION COST ESTIMATE prepared by the CONSULTANT, the amount of the CONSTRUCTION COST ESTIMATE submitted by the CONSULTANT shall be adjusted from the date the CONSTRUCTION COST ESTIMATE was received by the COUNTY until the date bids or price proposals are received by the COUNTY, by applying the percent change in the "20 Cities Cost Index" as published in the ENR (formerly ENGINEERING NEWS-RECORD) a McGraw-Hill, Inc. publication.

If, in response to its solicitation, the COUNTY receives less than three bids or priced proposals for a project, there is the potential that such bids or priced proposals may not be a realistic representation of the costs expected to be associated with the project. If under such circumstances, and if in the professional judgment of the CONSULTANT, the low bid or the low priced proposal received from a responsive bidder or proposer does not realistically represent the costs associated with the project, the CONSULTANT may deem it appropriate to recommend the COUNTY reject any such bid(s) or priced proposal(s). If under such circumstances the COUNTY concurs with the CONSULTANT'S recommendation and rejects the bid(s) or priced proposal(s), the COUNTY will not hold the CONSULTANT responsible to, nor will the COUNTY require the CONSULTANT to, modify the specifications, design, drawings and related bidding and contract documents as set forth hereinbefore.

3.10 PERMITS

The CONSULTANT will be responsible for preparing and submitting all required applications and other supportive information necessary to assist the COUNTY in obtaining all reviews, approvals and permits, with respect to the CONSULTANT'S design, drawings and specifications required by any governmental body having authority over the project. Any fees required for such reviews, approvals or permits will be covered by a check issued by the COUNTY and made payable to the respective governmental body upon the CONSULTANT furnishing the COUNTY satisfactory documentation of such fees. The CONSULTANT will be similarly responsible for preparing and submitting all required applications and other supportive information necessary to assist the COUNTY in obtaining any renewals and/or extensions of reviews, approvals or permits that may be required while this Agreement is in effect. The COUNTY shall, at the CONSULTANT'S request, assist in obtaining required signatures and provide the CONSULTANT with all information known to be available to the COUNTY so as to assist the CONSULTANT in the preparation and submittal of any original, renewal or extension of required reviews, approvals or permits.

3.11 ADDITIONAL SERVICES

Should the COUNTY request the CONSULTANT to provide and perform professional services for this project which are not set forth in EXHIBIT "A", the CONSULTANT agrees to provide and perform such ADDITIONAL SERVICES as may be agreed to in writing by both parties to this Agreement.

Such ADDITIONAL SERVICES shall constitute a continuation of the professional services covered under this Agreement and shall be provided and performed in accordance with the covenants, terms, and provisions set forth in this Agreement thereto.

ADDITIONAL SERVICES shall be administered and authorized as "SUPPLEMENTAL TASK AUTHORIZATIONS" or "CHANGE ORDERS" under the Agreement. The CONSULTANT shall not provide or perform, nor shall the COUNTY incur or accept any obligation to compensate the CONSULTANT for any ADDITIONAL SERVICES unless and until a written "SUPPLEMENTAL TASK AUTHORIZATIONS" or "CHANGE ORDER" shall have been agreed to and executed by both parties.

Each such "SUPPLEMENTAL TASK AUTHORIZATION" or "CHANGE ORDER" shall set forth a comprehensive, detailed description of: (1) the Scope of the ADDITIONAL SERVICES requested; (2) the basis of compensation; and (3) the period of time and/or schedule for performing and completing said ADDITIONAL SERVICES.

3.12 TRUTH-IN-NEGOTIATIONS CERTIFICATE

The COUNTY may request the CONSULTANT to execute a Truth-in-Negotiations Certificate ("Certificate"), in a form attached as EXHIBIT "F". The Certificate shall state that wage rates and other factual unit costs supporting the compensation are accurate, complete and current at the time this Agreement is executed. The original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the COUNTY determines the contract price was increased due to inaccurate, incomplete or non-current wage rates or other factual unit costs.

3.13 COMPLETION OF TASKS

Unless otherwise set forth in the Agreement the CONSULTANT shall be responsible for providing and performing whatever services, work, equipment, material, personnel, supplies, facilities, transportation and administrative support that are necessary and required to complete all of the tasks set forth in Agreement Exhibit "A" entitled "Scope of Professional Services" and Change Orders, and Supplemental Task Authorizations authorized. The compensation to be paid the CONSULTANT as set forth in Agreement Exhibit "B" entitled "Compensation and Method of Payment" and Change Orders, and Supplemental Task Authorizations authorized thereto shall be understood and agreed to adequately and completely compensate the CONSULTANT for providing and performing whatever services, work, equipment, material, personnel, supplies, facilities, transportation and administrative support that are necessary and required to complete the tasks set forth in Agreement Exhibit "A" and Change Orders, Supplemental Task Authorizations, and Work Orders authorized thereto as stated above."

3.14 AFFIRMATIVE ACTION BY CONSULTANT WHEN ENGAGING SUB-CONSULTANTS

Florida Statute #287.042(4)(f) establishes that agencies, including Lee County, are encouraged to spend twenty-five (25%) percent of the monies actually spent for contractual services for the purpose of entering into contracts with certified Minority Business Enterprises. Accordingly, the CONSULTANT is encouraged, when selecting or engaging the services of sub-consultants or subcontractors pursuant to this Agreement, to spend twenty-five (25%) percent of the amount of compensation established in this Agreement and in subsequent CHANGE ORDERS, and SUPPLEMENTAL TASK AUTHORIZATIONS authorized thereto for the engagement of the services of certified Minority Business Enterprise sub-consultants or subcontractors.

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In furtherance of this statutory goal the COUNTY expects the CONSULTANT to take affirmative action towards achieving this goal. "Affirmative Action" as used herein shall constitute a good faith effort by the CONSULTANT to achieve the stated goal of engaging certified Minority Business Enterprise sub-consultants or subcontractors to provide or perform services and/or work pursuant to the SCOPE OF SERVICES required under this Agreement. Efforts taken by the CONSULTANT to assist the COUNTY in meeting this statutory goal must be documented in detail, records of sub-consultants or subcontractors contacted maintained, including negotiation efforts, and written Agreements maintained for services or work awarded to sub-consultants or subcontractors.

The CONSULTANT, upon receipt of a written request by the COUNTY, shall within ten (10) calendar days thereafter submit to the COUNTY copies of records and supporting documentation to show evidence of its affirmative action efforts to achieve the above stated goal.

The CONSULTANT is encouraged to contact the Lee County Department of Equal Opportunity for information and assistance regarding the COUNTY'S Minority Business Enterprise certification program and listing of certified Minority Business Enterprises.

ARTICLE 4.00 - OBLIGATIONS OF THE COUNTY

4.01 DESIGNATION OF PROJECT MANAGER

The COUNTY agrees after the execution of this Agreement to promptly advise the CONSULTANT, in writing, of the person designated to serve and act as the COUNTY'S PROJECT MANAGER pursuant to the provisions of Article 2.13 of this Agreement. Such notification shall be provided to the CONSULTANT by the COUNTY'S DEPARTMENT DIRECTOR.

4.02 AVAILABILITY OF COUNTY INFORMATION

(1) PROJECT GUIDELINES AND CRITERIA

Guidelines to the CONSULTANT regarding requirements the COUNTY has established or suggests relative to the Project including, but not limited to such items as: goals, objectives, constraints, and any special financial, budgeting, space, site, operational, equipment, technical, construction, time and scheduling criteria are set forth in EXHIBIT "E", entitled "PROJECT GUIDELINES AND CRITERIA", which EXHIBIT "E" is attached hereto and made a part of this Agreement.

(2) COUNTY TO PROVIDE PERTINENT REFERENCE MATERIAL

At the CONSULTANT'S request, the COUNTY agrees to provide to the CONSULTANT, at no cost to the CONSULTANT, all pertinent information known to be available to the COUNTY to assist the CONSULTANT in providing and performing the required professional services. Such information may include, but not be limited to: previous reports; plans, drawings and specifications; maps; property, boundary, easement, right-of-way, topographic, reference monuments, control points, plats and related survey data; data prepared or services furnished by others to the COUNTY such as sub-surface investigations, laboratory tests, inspections of natural and man-made materials, property appraisals, studies, designs and reports.

4.03 AVAILABILITY OF COUNTY'S DESIGNATED REPRESENTATIVES

The COUNTY agrees that the DEPARTMENT DIRECTOR and the PROJECT MANAGER shall be available within a reasonable period of time, with reasonable prior notice given by the CONSULTANT, to meet and/or consult with the CONSULTANT on matters pertaining to the services to be provided and performed by the CONSULTANT. The COUNTY further agrees to respond within a reasonable period of time to written requests submitted by the CONSULTANT.

4.04 ACCESS TO COUNTY PROPERTY

The COUNTY agrees, with reasonable prior written notice given by the CONSULTANT, to provide the CONSULTANT with access within a reasonable period of time to COUNTY property, facilities, buildings and structures to enable the CONSULTANT to provide and perform the required professional services and work pursuant to this Agreement. Such rights of access shall not be exercised in such a manner or to such an extent as to impede or interfere with COUNTY operations, or the operations carried on by others under a lease, or other contractual arrangement with the COUNTY, or in such a manner as to adversely affect the public health and safety. Such access may, or may not be, within the CONSULTANT'S normal office and/or field work days and/or work hours.

ARTICLE 5.00 - COMPENSATION AND METHOD OF PAYMENT

5.01 BASIC SERVICES

The COUNTY shall pay the CONSULTANT for all requested and authorized BASIC SERVICES rendered hereunder by the CONSULTANT and completed in accordance with the requirements, provisions, and/or terms of this Agreement and accepted by the COUNTY in accordance with the provisions for compensation and payment of said BASIC SERVICES set forth and prescribed in EXHIBIT "B", entitled "COMPENSATION AND METHOD OF PAYMENT", which EXHIBIT "B" is attached hereto and made a part of this Agreement, or on the basis of such changes to the established compensation as may be mutually agreed to by both parties to this Agreement as evidenced by a written Change Order executed by both parties.

5.02 ADDITIONAL SERVICES

The COUNTY shall pay the CONSULTANT for all such ADDITIONAL SERVICES as have been requested and authorized by the COUNTY and agreed to, in writing, by both parties to this Agreement and which have been rendered as ADDITIONAL SERVICES by the CONSULTANT and completed in accordance with the requirements, provisions, and/or terms of this Agreement and accepted by the COUNTY in accordance with the provisions for compensation and payment of said ADDITIONAL SERVICES as set forth and prescribed in EXHIBIT "B", entitled "COMPENSATION AND METHOD OF PAYMENT", which EXHIBIT "B" is attached hereto and made a part of this Agreement, or on the basis of such changes to the established compensation as may be mutually agreed to by both parties to this Agreement as evidenced by a written Change Order or Supplemental Task Authorization executed by both parties.

5.03 METHOD OF PAYMENT

(1) MONTHLY STATEMENTS

The CONSULTANT shall be entitled to submit not more than one invoice statement to the COUNTY each calendar month covering services rendered during the preceding calendar month. The CONSULTANT'S invoice statement(s) shall be itemized to correspond to the basis of compensation as set forth in the Agreement, or CHANGE ORDER(S), and SUPPLEMENTAL TASK AUTHORIZATION(S) thereunder. The CONSULTANT'S invoice statements shall contain a breakdown of charges, description of service(s) and work provided and/or performed, and where appropriate,

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supportive documentation of charges consistent with the basis of compensation set forth in the Agreement, or in CHANGE ORDER(S), and/or SUPPLEMENTAL TASK AUTHORIZATION(S) thereunder.

(2) PAYMENT FOR SERVICES PERFORMED

The COUNTY shall pay the CONSULTANT for services performed using either of the following methods, or using a combination thereof:

- (A) The COUNTY shall pay the CONSULTANT on the basis of services completed for tasks set forth in Exhibits "A" and "B", as evidenced by work products such as reports, drawings, specifications, etc., submitted by the CONSULTANT and accepted by the COUNTY. No payments shall be made for CONSULTANT'S Work-in-Progress until service items for which payment amounts have been established and set forth in this Agreement have been completed by the CONSULTANT and accepted by the COUNTY. Whenever an invoice statement covers services for which no work product is required to be furnished by the CONSULTANT to the COUNTY, the COUNTY reserves the right to retain ten percent (10%) of the amount invoiced until such service requirements are fully completed.
- (B) The COUNTY shall pay the CONSULTANT for services performed for tasks set forth in Exhibits "A" and "B" on the basis of an invoice statement covering CONSULTANT'S Work-in-Progress expressed as a percentage of the total cost of the service and/or work required for each task invoiced in this manner. All such Work-in-Progress percentages are subject to the review and approval of the COUNTY. The decision of the COUNTY shall be final as to the Work-in-Progress percentages paid. Payment by the COUNTY for tasks on a Work-in-Progress percentage basis shall not be deemed or interpreted in any way to constitute an approval or acceptance by the COUNTY of any such service or Work-in-Progress. The CONSULTANT shall be responsible for correcting, re-doing, modifying or otherwise completing the services and work required for each task before receiving final, full payment whether or not previous Work-in-Progress payments have been made. All tasks to be paid for on a Work-in-Progress percentage basis shall be agreed to by both parties to the Agreement and each task to be paid in this manner shall be identified in Exhibit "B" with the notation (WIPP). Only tasks so identified will be paid on a Work-in-Progress percentage basis. The COUNTY reserves the right to retain ten percent (10%) of the amount invoiced until such service requirements are fully completed.

(3) PAYMENT SCHEDULE

The COUNTY shall issue payment to the CONSULTANT within thirty (30) calendar days after receipt of an invoice statement from the CONSULTANT in an acceptable form and containing the requested breakdown and detailed description and documentation of charges. Should the COUNTY object or take exception to the amount of any CONSULTANT'S invoice statement, the COUNTY shall notify the CONSULTANT of such objection or exception within the thirty (30) calendar day payment period set forth hereinbefore. If such objection or exception remains unresolved at the end of said thirty (30) calendar day period, the COUNTY shall withhold the disputed amount and make payment to the CONSULTANT of the amount not in dispute. Payment of any disputed amount, or adjustments thereto, shall be made within thirty (30) calendar days of the date such disputed amount is resolved by mutual agreement of the parties to this Agreement.

5.04 PAYMENT WHEN SERVICES ARE TERMINATED AT THE CONVENIENCE OF THE COUNTY

In the event of termination of this Agreement at the convenience of the COUNTY, not at the fault of the CONSULTANT, the COUNTY shall compensate the CONSULTANT only for: (1) all services performed prior to the effective date of termination; (2) reimbursable expenses then due; and (3) reasonable expenses incurred by the CONSULTANT in affecting the termination of services and work, and incurred by the submittal to the COUNTY of project drawings, plans, data, and other project documents.

5.05 PAYMENT WHEN SERVICES ARE SUSPENDED

In the event the COUNTY suspends the CONSULTANT'S services and work on all or part of the services required to be provided and performed by the CONSULTANT pursuant to this Agreement, the COUNTY shall compensate the CONSULTANT only for the services performed prior to the effective date of suspension and reimbursable expenses then due and any reasonable expenses incurred or associated with, or as a result of such suspension.

5.06 NON-ENTITLEMENT TO ANTICIPATED FEES IN THE EVENT OF SERVICE TERMINATION, SUSPENSION, ELIMINATION, CANCELLATION AND/OR DECREASE

In the event the services required pursuant to this Agreement are terminated, eliminated, cancelled, or decreased due to: (1) termination; (2) suspension in whole or in part; and (3) and/or are modified by the subsequent issuance of SUPPLEMENTAL TASK AUTHORIZATION(S) and/or CHANGE ORDER(S), other than receiving the compensation set forth in Sub-Articles 5.04 and 5.05, the CONSULTANT shall not be entitled to receive compensation for anticipated professional fees, profit, general and administrative overhead expenses or for any other anticipated income or expense which may be associated with the services which are terminated, suspended, eliminated, cancelled or decreased.

ARTICLE 6.00 - TIME AND SCHEDULE OF PERFORMANCE

6.01 NOTICE TO PROCEED

Following the execution of this Agreement by both parties, and after the CONSULTANT has complied with the insurance requirements set forth hereinafter, the COUNTY shall issue the CONSULTANT a WRITTEN NOTICE TO PROCEED. Following the issuance of such NOTICE TO PROCEED the CONSULTANT shall be authorized to commence work and the CONSULTANT thereafter shall commence work promptly and shall carry on all such services and work as may be required in a timely and diligent manner to completion.

6.02 TIME OF PERFORMANCE

The CONSULTANT agrees to complete the services required pursuant to this Agreement within the time period(s) for completion of the various phases and/or tasks of the project services set forth and described in this Agreement, as set forth in EXHIBIT "C", entitled "SCHEDULE OF PERFORMANCE, which EXHIBIT "C" is attached hereto and made a part of this Agreement.

Should the CONSULTANT be obstructed or delayed in the prosecution or completion of its obligations under this Agreement as a result of causes beyond the control of the CONSULTANT, or its sub-consultant(s) and/or subcontractor(s), and not due to their fault or neglect, the CONSULTANT shall notify the COUNTY, in writing, within five (5) calendar days after the commencement of such delay, stating the cause(s) thereof and requesting an extension of the CONSULTANT'S time of performance. Upon receipt of the CONSULTANT'S request for an extension of time, the COUNTY shall grant the extension if the COUNTY determines the delay(s) encountered by the CONSULTANT, or its sub-consultant(s) and/or subcontractor(s), is due to unforeseen causes and not attributable to their fault or neglect.

6.03 CONSULTANT WORK SCHEDULE

The CONSULTANT shall be required as a condition of this Agreement to prepare and submit to the COUNTY, on a monthly basis, commencing with the issuance of the NOTICE TO PROCEED, a CONSULTANT'S WORK SCHEDULE. The WORK SCHEDULE shall set forth the time and manpower scheduled for all of the various phases and/or tasks required to provide, perform and complete all of the services and work required completion of the various phases and/or tasks of the project services set forth and described in this Agreement, as set forth in EXHIBIT "C", pursuant to this Agreement in such a manner that the CONSULTANT'S planned and actual work progress can be readily determined. The CONSULTANT'S WORK SCHEDULE of planned and actual work progress shall be updated and submitted by the CONSULTANT to the COUNTY on a monthly basis.

6.04 FAILURE TO PERFORM IN A TIMELY MANNER

Should the CONSULTANT fail to commence, provide, perform and/or complete any of the services and work required pursuant to this Agreement in a timely and diligent manner, the COUNTY may consider such failure as justifiable cause to terminate this Agreement. As an alternative to termination, the COUNTY at its option, may, upon written notice to the CONSULTANT, withhold any or all payments due and owing to the CONSULTANT, not to exceed the amount of the compensation for the work in dispute, until such time as the CONSULTANT resumes performance of his obligations in such a manner as to get back on schedule in accordance with the time and schedule of performance requirements set forth in this Agreement, or any CHANGE ORDER(S), or SUPPLEMENTAL TASK AUTHORIZATION(S) issued thereto.

ARTICLE 7.00 - SECURING AGREEMENT

The CONSULTANT warrants that the CONSULTANT has not employed or retained any company or person other than a bona fide, regular, full time employee working for the CONSULTANT to solicit or secure this Agreement and that the CONSULTANT has not paid or agreed to pay any person, company, corporation or firm other than a bona fide employee working solely for the CONSULTANT any fee, commission, percentage, gift or any other consideration contingent upon or resulting from the award or making of this Agreement.

ARTICLE 8.00 - CONFLICT OF INTEREST

The CONSULTANT represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder. The CONSULTANT further agrees that no person having any such interest shall be employed or engaged by the CONSULTANT for said performance.

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If CONSULTANT, for itself and on behalf of its subconsultants, is about to engage in representing another client, which it in good faith believes could result in a conflict of interest with the work being performed by CONSULTANT or such sub-consultant under this Agreement, then it will promptly bring such potential conflict of interest to the COUNTY'S attention, in writing. The COUNTY will advise the CONSULTANT, in writing, within ten (10) calendar days as to the period of time required by the COUNTY to determine if such a conflict of interest exists. If the COUNTY determines that there is a conflict of interest, CONSULTANT or such sub-consultant shall decline the representation upon written notice by the COUNTY.

If the COUNTY determines that there is not such conflict of interest, then the COUNTY shall give its written consent to such representation. If CONSULTANT or sub-consultant accepts such a representation without obtaining the COUNTY'S prior written consent, and if the COUNTY subsequently determines that there is a conflict of interest between such representation and the work being performed by CONSULTANT or such sub-consultant under this Agreement, then the CONSULTANT or such sub-consultant agrees to promptly terminate such representation. CONSULTANT shall require each of such sub-consultants to comply with the provisions of this Section.

Should the CONSULTANT fail to advise or notify the COUNTY as provided hereinabove of representation which could, or does, result in a conflict of interest, or should the CONSULTANT fail to discontinue such representation, the COUNTY may consider such failure as justifiable cause to terminate this Agreement.

ARTICLE 9.00 - ASSIGNMENT, TRANSFER AND SUBCONTRACTS

The CONSULTANT shall not assign or transfer any of its rights, benefits or obligations hereunder, except for transfers that result from: (1) the merger or consolidation of CONSULTANT with a third party; or (2) the disestablishment of the CONSULTANT'S professional practice and the establishment of a successor consultant, or consulting organization. Nor shall the CONSULTANT subcontract any of its service obligations hereunder to third parties, except as otherwise authorized in this Agreement thereto, without prior written approval of the COUNTY. The CONSULTANT shall have the right, subject to the COUNTY'S prior written approval, to employ other persons and/or firms to serve as sub-consultants and/or subcontractors to CONSULTANT in connection with CONSULTANT providing and performing services and work pursuant to the requirements of this Agreement. The COUNTY shall have the right and be entitled to withhold such approval. Such approval shall not be unreasonably withheld.

In providing and performing the services and work required pursuant to this Agreement, CONSULTANT intends to engage the assistance of the sub-consultant(s) and/or subcontractor(s) set forth in EXHIBIT "D", entitled "CONSULTANT'S ASSOCIATED SUB-CONSULTANTS AND SUBCONTRACTORS", which EXHIBIT "D" is attached hereto and made a part of this Agreement.

ARTICLE 10.00 - APPLICABLE LAW

Unless otherwise specified, this Agreement shall be governed by the laws, rules, and regulations of the State of Florida, or the laws, rules, and regulations of the United States when providing services funded by the United States government.

ARTICLE 11.00 - COVENANTS AGAINST DISCRIMINATION

11.01 FOR PROJECTS WITH FUNDS APPROPRIATED FROM GENERAL LEE COUNTY REVENUES

The CONSULTANT for itself, its successors in interest, and assigns as part of the consideration thereof, does hereby covenant and agree that in the furnishing of services to COUNTY hereunder, no person on the grounds of race, color, national origin, handicap, or sex shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination. The CONSULTANT shall comply with Lee County's Affirmative Action Plan or state laws in the hiring of sub-consultants. CONSULTANTS who are uncertain of their obligation must obtain a copy of all relevant guidelines concerning Lee County's Affirmative Action Plan from the Lee County Department of Equal Opportunity.

11.02 FOR PROJECTS WITH FUNDS APPROPRIATED EITHER IN PART OR WHOLLY FROM FEDERAL OR STATE SOURCES

The CONSULTANT for itself, its successors in interest, and assigns as part of the consideration thereof, does hereby covenant and agree that in the furnishing of services to COUNTY hereunder, no person on the grounds of race, color, national origin, handicap, or sex shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination. The CONSULTANT shall make every effort to comply with any Disadvantaged Business Enterprise goals which have been established for this project. CONSULTANTS who are uncertain of their obligations regarding Disadvantaged Business Enterprises for this project must obtain a copy of all relevant federal or state guidelines from the Lee County Department of Equal Opportunity. The failure of the CONSULTANT to adhere to relevant guidelines shall subject the CONSULTANT to any sanctions which may be imposed upon the COUNTY.

ARTICLE 12.00 - WAIVER OF BREACH

Waiver by either party of a breach of any provision of this Agreement shall not be deemed to be a waiver of any other breach and shall not be construed to be a modification of the terms of this Agreement.

ARTICLE 13.00 - INSURANCE

13.01 INSURANCE COVERAGE TO BE OBTAINED

- (1) The CONSULTANT shall obtain and maintain such insurance as will protect him from: (1) claims under workers' compensation laws, disability benefit laws, or other similar employee benefit laws; (2) claims for damages because of bodily injury, occupational sickness or disease or death of his employees including claims insured by usual personal injury liability coverage; (3) claims for damages because of bodily injury, sickness or disease, or death of any person other than his employees including claims insured by usual personal injury liability coverage; and (4) from claims for injury to or destruction of tangible property including loss or use resulting therefrom; any or all of which claims may arise out of, or result from, the services, work and operations carried out pursuant to and under the requirements of this Agreement, whether such services, work and operations be by the CONSULTANT, its employees, or by any sub-consultant(s), subcontractor(s), or anyone employed by or under the supervision of any of them, or for whose acts any of them may be legally liable.
- (2) The insurance protection set forth hereinabove shall be obtained and written for not less than the limits of liability specified hereinafter, or as required by law, whichever is greater.

Date: 09/25/01

- (3) The CONSULTANT, throughout the time this Agreement is in effect, shall require and ensure that any and all of its Sub-Consultants and/or SubContractors obtain, have, and maintain the insurance coverage's required by law to be provided.
- (4) The CONSULTANT shall obtain, have and maintain during the entire period of this Agreement all such insurance policies as are set forth and required herein.
- (5) In the event that the CONSULTANT engages Sub-Consultants or Sub-Contractors to assist the CONSULTANT in providing or performing services or work pursuant to the requirements of this Agreement, the insurance coverage's required under Article 13.03 to be provided by the CONSULTANT shall cover all of the services or work to be provided or performed by all of the Sub-Consultants or SubContractors engaged by the CONSULTANT. However, in the event the services or work of Sub-Consultants or Sub-Contractors engaged by the CONSULTANT is not covered by the CONSULTANT'S INSURANCE POLICY(s), it shall be the responsibility of the CONSULTANT to ensure that all Sub-Consultants or Sub-Contractors have fully complied with the COUNTY insurance requirements for: (1) Worker's Compensation; (2) Comprehensive General Liability; (3) Comprehensive Automobile Liability; or (4) Professional Liability as required and set forth in Agreement Article 13.00.

The services or work to be provided or performed by the following Sub-Consultant(s) or Sub-Contractor(s) identified in Agreement Exhibit "D" are exempted and excluded from the Professional Liability insurance coverage requirements set forth in this Agreement:

Service and/or work to be Provided and/or Performed	Indicate Name of Individual or Firm
---	-------------------------------------

(If none, enter the word "none" in the space below.)

NONE

13.01 INSURANCE COVERAGE TO BE OBTAINED (Continued)

- (6) The insurance coverage to be obtained by the CONSULTANT or by Sub-Consultants or Sub-Contractors engaged by the CONSULTANT, as set forth in Agreement Article 13.03 for: (1) Workers' Compensation; (2) Comprehensive General Liability; (3) Comprehensive Automobile Liability; or (4) Professional Liability is understood and agreed to cover any and all of the services or work set forth in Agreement Exhibit "A" and all subsequent Change Order(s), or Supplemental Task Authorization(s). In the event the COUNTY shall execute and issue a written Change Order(s), or Supplemental Task Authorization(s) authorizing the CONSULTANT to provide or perform services or work in addition to those set forth in Agreement Exhibit "A", it is agreed that the COUNTY has the right to change the amount of insurance coverage's required to cover the additional services or work. If the additional insurance coverage's established exceeds the amount of insurance coverage carried by the CONSULTANT, the compensation established for the Change Order(s), or Supplemental Task Authorization(s) shall include consideration of any increased premium cost incurred by the CONSULTANT to obtain same.

13.02 CONSULTANT REQUIRED TO FILE INSURANCE CERTIFICATE(S)

- (1) The CONSULTANT shall submit to the COUNTY'S RISK MANAGEMENT DIVISION all insurance certificates which are required under this Agreement for review and approval with respect to compliance with the insurance requirements. After approval by the RISK MANAGEMENT DIVISION, the COUNTY will execute this Agreement and issue a written Notice to Proceed. The CONSULTANT may then commence with any service or work pursuant to the requirements of this Agreement.
- (2) All such insurance certificates shall be in a form and underwritten by an insurance company(s) acceptable to the COUNTY and licensed in the State of Florida.
- (3) Each Certificate of Insurance submitted to the COUNTY shall be an original and shall be executed by an authorized representative of the insurance company affording coverage.
- (4) Each Certificate of Insurance shall be addressed to the Lee County Board of County Commissioners, Attention: Lee County Procurement Management, P O Box 398, Fort Myers, Florida 33902-0398.
- (5) Each Certificate of Insurance shall specifically include all of the following:
 - (A) The name and type of policy and coverage's provided; and
 - (B) The amount or limit applicable to each coverage provided and the deductible amount, if any, applicable to each type of insurance coverage being provided; and
 - (C) The date of expiration of coverage; and
 - (D) The designation of the Lee County Board of County Commissioners both as an additional insured and as a certificate holder. (This requirement is excepted for Professional Liability Insurance and for Workers' Compensation Insurance); and
 - (E) A specific reference to this Agreement and the Project to which it pertains. (This requirement may be excepted for Professional Liability Insurance); or

In the event the CONSULTANT has, or expects to enter into an agreement for professional services other than those provided for in this Agreement, the CONSULTANT may elect to submit a certificate of insurance containing the following statement:

"This policy covers the services or work provided or performed by the Named Insured for any and all projects undertaken for Lee County pursuant to one or more written Professional Services Agreements, or written Supplemental Task Authorizations, or Change Orders thereto, and the limit(s) of liability shown shall not be intended or construed as applying to only one project."

Upon receipt and approval of such a certificate of insurance the COUNTY will administer the insurance required for all such agreements utilizing the single "multi-project" certificate of insurance and a separate certificate of insurance will not be required for each separate agreement.

- (F) A statement indicating any services or work included in or required under Agreement Exhibit "A" Scope of Professional Services that is specifically excluded or exempted from coverage under the provisions, terms, conditions or endorsements of the CONSULTANT'S insurance policy(s). A statement which indicates any and all deductible amounts applicable to each type of insurance coverage required. In the absence of any such statements, the COUNTY will proceed with the understanding, stipulation and condition that there are no deductible amount(s), or exclusions or exemptions to the insurance coverage(s) provided.
- (6) Each Certificate of Insurance shall be issued by an insurance agent and/or agency duly authorized to do so by and on behalf of the insurance company affording the insurance coverage(s) indicated on each Certificate of Insurance.
- (7) If the initial or any subsequently issued Certificate of Insurance expires prior to the completion of the work or termination of this Agreement, the CONSULTANT shall furnish to the COUNTY renewal or replacement Certificate(s) of Insurance, or Certified Binder(s), not later than fifteen (15) calendar days prior to the date of their expiration. Failure of the CONSULTANT to provide the COUNTY with such renewal certificate(s) shall be considered justification for the COUNTY to terminate this Agreement.
- (8) If any of the insurance coverage(s) required by this Agreement shall reach the date of expiration indicated on the approved Certificate(s) of Insurance without the COUNTY having received satisfactory evidence of renewal or replacement, the CONSULTANT shall automatically and without further notice stop performing all previously authorized services and work. During any time period that the CONSULTANT'S services or work is suspended for failure to comply with the insurance requirements set forth in the Agreement, the CONSULTANT shall not be entitled to any additional compensation or time to provide and perform the required services or work and the COUNTY shall not be required to make payment on any invoices submitted by the CONSULTANT. Upon receipt and approval of renewal or replacement Certificates of Insurance, payment for any such invoices shall be made promptly by the COUNTY.

13.03 - INSURANCE COVERAGES REQUIRED

The CONSULTANT shall obtain and maintain the following insurance coverages as provided hereinbefore, and in the type, amounts and in conformance with the following minimum requirements:

(1) 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:

\$100,000 per accident
\$100,000 disease limit
\$500,000 disease – policy limit

(2) COMMERCIAL GENERAL LIABILITY

Coverage must be afforded on a form no more restrictive than the last edition of the Commercial General Liability Policy filed by the Insurance Services Office. Coverage shall apply to premises and/or operations, products and completed operations, independent contractors, contractual liability exposures with minimum limits of:

\$500,000 per occurrence
\$1,000,000 general aggregate
\$500,000 products and completed operations
\$500,000 personal and advertising injury

Coverage must include the following:

- (A) Contractual coverage applicable to this specific Agreement including any hold harmless and/or such indemnification agreement.
- (B) Such additional requirements as are set forth in Article 13.01 and 13.02 hereinabove.

(3) BUSINESS AUTOMOBILE LIABILITY

Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability Policy filed by the Insurance Services Office and must include the following:

- (A) Minimum limits of \$500,000.00 combined single limit (CSL).
- (B) Coverage shall include owned vehicles, hired and leased, or non-owned vehicles.
- (C) Such additional requirements as are set forth in Articles 13.01

(4) ERRORS AND OMISSIONS

Coverage shall include professional liability insurance, to cover claims arising out of negligent acts, errors or omissions of professional advice or other professional services.

Coverage must include the following:

- (A) \$1,000,000 combined single limit (CSL) of BI and PD
- (B) Such additional requirements as are set forth in Articles 13.01 and 13.02 hereinabove.
- (C) Should the Professional Liability Insurance Policy issued pursuant to the above requirements and limits be written so as to provide an applicable deductible amount, or other exclusion or limitation as to the amount of coverage to be provided within the minimum coverage limits set forth above, the COUNTY shall hold the CONSULTANT responsible and liable for any such difference in the amount of coverage provided by the insurance policy. In the event of any such deductible amount, exclusion or limitation, the CONSULTANT shall be required to provide written documentation that is acceptable to the COUNTY establishing that the CONSULTANT has the financial resources readily available to cover damages, injuries and/or losses which are not covered by the policy's deductible amounts, exclusions and/or limitations as stated above.

*The required minimum limit of liability shown in (2) Commercial General Liability and (3) Business Automobile Liability, 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."

ARTICLE 14.00 - DUTIES AND OBLIGATIONS IMPOSED ON THE CONSULTANT

The duties and obligations imposed upon the CONSULTANT by this Agreement and the rights and remedies available hereunder shall be in addition to, and not a limitation of, any otherwise imposed or available by law or statute.

ARTICLE 15.00 - REPRESENTATION OF THE COUNTY

The CONSULTANT in providing and performing the services and work required pursuant to this Agreement thereto shall only represent the COUNTY in the manner and to the extent specifically set forth in writing in this Agreement or thereto, and as provided in any written SUPPLEMENTAL TASK AUTHORIZATION(S), and CHANGE ORDER(S) issued thereunder.

In the event the CONSULTANT'S services or work involves construction contract administrative support services, the CONSULTANT is not authorized to act on the COUNTY'S behalf, and shall not act on the COUNTY'S behalf, in such a manner as to result in change(s) to (1) the cost or compensation to be paid the construction contractor, or (2) the time for completing the work as required and agreed to in the construction contract, or (3) the scope of the work set forth in the construction contract documents, unless such representation is specifically provided for, set forth and authorized in this Agreement or thereto.

The COUNTY will neither assume nor accept any obligation, commitment, responsibility or liability which may result from representation by the CONSULTANT not specifically provided for and authorized as stated hereinabove.

Date: 09/25/01

ARTICLE 16.00 - OWNERSHIP OF DOCUMENTS

All documents such as drawings, tracings, notes, computer files, photographs, plans, specifications, maps, evaluations, reports and other records and data relating to this project, other than working papers, specifically prepared or developed by the CONSULTANT under this Agreement shall be property of the CONSULTANT until the CONSULTANT has been paid for providing and performing the services and work required to produce such documents.

Upon completion or termination of this Agreement, or upon the issuance by the COUNTY of a written Change Order deleting all or portions of the scope of services or task(s) to be provided or performed by the CONSULTANT, all of the above documents, to the extent requested in writing by the COUNTY, shall be delivered by the CONSULTANT to the COUNTY within seven (7) calendar days of the COUNTY making such a request. In the event the COUNTY gives the CONSULTANT a written Notice of Termination of all or part of the services or work required, or upon the issuance to the CONSULTANT by the COUNTY of a written Change Order deleting all or part of the services or work required, the CONSULTANT shall deliver to the COUNTY the requested documents as set forth hereinabove, with the mutual understanding and commitment by the COUNTY that compensation earned or owing to the CONSULTANT for services or work provided or performed by the CONSULTANT prior to the effective date of any such termination or deletion will be paid to the CONSULTANT within thirty (30) calendar days of the date of issuance of the Notice of Termination or Change Order.

The CONSULTANT, at its expense, may make and retain copies of all documents delivered to the COUNTY for reference and internal use. The CONSULTANT shall not, and agrees not to; use any of these documents, and data and information contained therein on any other project or for any other client without the prior expressed written permission of the COUNTY.

Any use by the COUNTY of said documents, and data and information contained therein, obtained by the COUNTY under the provisions of this Agreement for any purpose not within the scope of this Agreement shall be at the risk of the COUNTY, and without liability to the CONSULTANT. The COUNTY shall be liable and agrees to be liable for and shall indemnify, defend and hold the CONSULTANT harmless for any and all claims, suits, judgments or damages, losses and expenses including court costs, expert witness and professional consultation services, and attorneys' fees arising out of the COUNTY'S use of such documents in a manner contrary to the provisions set forth hereinabove. The COUNTY hereby acknowledges receipt of \$10.00 (ten and no hundreds dollars) and other good and valuable consideration from the CONSULTANT which has been paid as specific consideration for the indemnification provided herein.

ARTICLE 17.00 - MAINTENANCE OF RECORDS

The CONSULTANT 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 for a minimum of five (5) years from the date of termination of this Agreement.

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 five (5) years thereafter; provided, however, such activity shall be conducted only during normal business hours and at the expense of the COUNTY, and provided further that to the extent provided by law the COUNTY shall retain all such records confidential.

Date: 09/25/01

ARTICLE 18.00 - HEADINGS

The HEADINGS of the Articles, Sections, Exhibits, Attachments, Phases or Tasks as contained in this Agreement are for the purpose of convenience only and shall not be deemed to expand, limit or change the provisions contained in such Articles, Sections, Exhibits, Attachments, Phases or Tasks.

ARTICLE 19.00 - ENTIRE AGREEMENT

This Agreement, including referenced Exhibits and Attachments hereto, constitutes the entire Agreement between the parties hereto and shall supercede, replace and nullify any and all prior agreements or understandings, written or oral, relating to the matters set forth herein, and any such prior agreements or understandings shall have no force or effect whatever on this Agreement.

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

- (1) EXHIBIT "A" entitled "Scope of Professional Services", dated May 28, 2013.
- (2) EXHIBIT "B" entitled "Compensation and Method of Payment", dated May 28, 2013.
- (3) EXHIBIT "C" entitled "Time and Schedule of Performance", dated May 28, 2013.
- (4) EXHIBIT "D" entitled "Consultant's Associated Sub-Consultant(s) and SubContractor(s)", dated _____, 20____.
- (5) EXHIBIT "E" entitled "Project Guidelines and Criteria", dated May 28, 2013.
- (6) EXHIBIT "F" entitled "Truth in Negotiation Certificate", dated May 28, 2013.
- (7) EXHIBIT "G" entitled "Insurance". (Containing copies of applicable Certificates of Insurance)
- (8) EXHIBIT "H" entitled "Amendment to Articles", dated May 28, 2013.

ARTICLE 20.00 - NOTICES AND ADDRESS OF RECORD

20.01 NOTICES BY CONSULTANT TO COUNTY

All notices required and/or made pursuant to this Agreement to be given by the CONSULTANT to the COUNTY shall be in writing and shall be given by the United States Postal Service Department first class mail service, postage prepaid, addressed to the following COUNTY address of record and sent to the attention of the County's Project Manager:

Lee County Board of County Commissioners
Post Office Box 398
Fort Myers, Florida 33902-0398
Department: Department of Natural Resources

20.02 NOTICES BY COUNTY TO CONSULTANT

All notices required and/or made pursuant to this Agreement to be given by the COUNTY to the CONSULTANT shall be made in writing and shall be given by the United States Postal Service Department first class mail service, postage prepaid, addressed to the following CONSULTANT'S address of record:

Date: 09/25/01

Hole Montes, Inc
6200 Whiskey Creek Drive
Fort Myers, FL 33919
Telephone Number: 239-985-1200
Fax Number: 239-985-1260
ATTENTION: Richard Brylanski
Project Director

20.03 CHANGE OF ADDRESS OF RECORD

Either party may change its address of record by written notice to the other party given in accordance with the requirements of this Article.

ARTICLE 21.00 - TERMINATION

This Agreement may be terminated by the COUNTY at its convenience, or due to the fault of the CONSULTANT, by the COUNTY giving thirty (30) day written notice to the CONSULTANT.

If the CONSULTANT is adjudged bankrupt or insolvent; if it makes a general assignment for the benefit of its creditors; if a trustee or receiver is appointed for the CONSULTANT or for any of its property; if it files a petition to take advantage of any debtor's act or to reorganize under the bankruptcy or similar laws; if it disregards the authority of the COUNTY'S designated representatives; if it otherwise violates any provisions of this Agreement; or for any other just cause, the COUNTY may, without prejudice to any other right or remedy, and after giving the CONSULTANT a thirty (30) calendar day written notice, terminate this Agreement.

In addition to the COUNTY'S contractual right to terminate this Agreement in its entirety as set forth above, the COUNTY may also, at its convenience, stop, suspend, supplement or otherwise change all, or any part of, the Scope of Professional Services as set forth in Exhibit "A", or the Project Guidelines and Criteria as set forth in Exhibit "E", or as such may be established by a Supplemental Task Authorization or Change Order Agreement. The COUNTY shall provide written notice to the CONSULTANT in order to implement a stoppage, suspension, supplement or change.

The CONSULTANT may request that this Agreement be terminated by submitting a written notice to the COUNTY dated not less than thirty (30) calendar days prior to the requested termination date and stating the reason(s) for such a request. However, the COUNTY reserves the right to accept or not accept the termination request submitted by the CONSULTANT, and no such termination request submitted by the CONSULTANT shall become effective unless and until CONSULTANT is notified, in writing, by the COUNTY of its acceptance.

21.01 CONSULTANT TO DELIVER MATERIAL

Upon termination, the CONSULTANT shall deliver to the COUNTY all papers, drawings, models, and other material in which the COUNTY has exclusive rights by virtue hereof or of any business done, or services or work performed or provided by the CONSULTANT on behalf of the COUNTY.

ARTICLE 22.00 - AMENDMENTS

The covenants, terms and provisions set forth and contained in all of the Articles to this Agreement may be amended upon the mutual acceptance thereof, in writing, by both parties to this Agreement, as evidenced by Exhibit H for amending articles. In the event of any conflicts between the requirements, provisions and/or terms of the Agreement and any written Amendment (Exhibit H), the requirements, provisions and/or terms of the Amendment shall take precedence.

ARTICLE 23.00 - MODIFICATIONS

Modifications to covenants, terms and provisions of this Agreement shall only be valid when issued in writing as a properly executed CHANGE ORDER(S) or SUPPLEMENTAL TASK AUTHORIZATION(S). In the event of any conflicts between the requirements, provisions, and/or terms of this Agreement and any written CHANGE ORDER(S), and/or SUPPLEMENTAL TASK AUTHORIZATIONS, the latest executed CHANGE ORDER(S), and/or SUPPLEMENTAL TASK AUTHORIZATION(S) shall take precedence.

In the event the COUNTY issues a purchase order, memorandum, letter, or other instruments covering the professional services, work and materials to be provided and performed pursuant to this Agreement, it is hereby specifically agreed and understood that such purchase order, memorandum, letter or other instruments are for the COUNTY'S internal control purposes only, and any and all terms, provisions and conditions contained therein, whether printed or written, shall in no way modify the covenants, terms and provisions of this Agreement and shall have no force or effect thereon.

No modification, waiver, or termination of the Agreement or of any terms thereof shall impair the rights of either party.

ARTICLE 24.00 – SEVERABILITY

If any word, phrase, sentence, part, subsection, or other portion of this Agreement, or any application thereof, to any person, or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, subsection, other portion, or the proscribed application thereof, shall be severable, and the remaining portions of this Agreement, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force, and effect.

ARTICLE 25.00 – VENUE

Venue for any administrative and/or legal action arising under this Agreement shall be in Lee County, Florida.

ARTICLE 26.00 – NO THIRD PARTY BENEFICIARIES

Both parties explicitly agree, and this Agreement states that no third party beneficiary status or interest is conferred to, or inferred to, any other person or entity.

ARTICLE 27.00 - ACCEPTANCE

Acceptance of this Agreement shall be indicated by the signature of the duly authorized representative of the hereinabove named parties in the space provided hereinafter and being attested and witnessed as indicated.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have executed this Agreement effective the day and year first written above.

ATTEST:
CLERK OF CIRCUIT COURT
Linda Doggett, Clerk

COUNTY: LEE COUNTY, FLORIDA
BOARD OF COUNTY COMMISSIONERS

BY: _____

BY: _____
Chair

DATE: _____

APPROVED AS TO FORM

BY: _____
County Attorney's Office

ATTEST:

Firm
BY: _____
Authorized Signature

Kristen G. Chumerton
(Witness)

Richard Brylanski

Authorized Signature Printed Name

Kris Hawk
(Witness)

Vice President, Hole Montes, Inc.

Authorized Signature Title

DATE: 7/30/2013

CORPORATE SEAL:



SCOPE OF SERVICES

for CN130299 Implementation of North Fort Myers Surface Water Management Plan Phase One; Task Two; Design, Permitting and CEI Services of Nalle Grade Stormwater Park

BASIC SERVICES

Section 1. GENERAL SCOPE STATEMENT

The CONSULTANT shall provide and perform the following services, which shall constitute the GENERAL SCOPE of the BASIC SERVICES under the covenants, terms, and provisions of this SERVICE PROVIDER AGREEMENT.

Design, Permitting and CEI Services of Nalle Grade Stormwater Park

This Task entails design and permitting of a facility within Bayshore Creek watershed intended for providing water quality benefits, flood protection, wild life habitat and recreational opportunities for the community. The Bayshore Creek is considered an impaired water body and one of the main objectives of this Task is to reduce pollutant load discharge into the Caloosahatchee River. The proposed location for this Task is at 8350 Nalle Grade Road, North Fort Myers, FL 33917, with a driveway access to Nalle Grade Road within the Bayshore Creek watershed. The drainage basin that originates within Charlotte County contributes heavily to the problems within Bayshore Creek watershed in Lee County. Contributing area for Bayshore Creek watershed is approximately 3.1 square miles in Lee County and 12 square miles in Charlotte County. The drainage within this part of the county is somewhat complex. Bayshore Creek drainage interacts with Popash Creek drainage depending on water levels and rainfall. Both Popash and Bayshore Creek watersheds are included in the North Fort Myers Surface Water Management Plan. The subject Task is one of the recommended projects in the master plan. The master plan can be found under the surface water section on natural resources web site at

<http://www.lee-county.com/gov/dept/NaturalResources/SurfaceWater/Pages/WatershedTopics.aspx>

In order to meet the objectives of this Task it is expected to include a higher resolution and more refined analysis of the watershed within the Bayshore Creek. The Task will include an overall assessment of the existing conditions of the proposed location, alternative analysis of multiple preliminary design concepts to achieve the goals prior to developing detailed plans and specifications. The scope of work includes, but is not limited to the following:

Task 1: Data Collection

- The study boundary will cover both Bayshore Creek and Popash Creek watersheds and their tributaries.
- Review basin boundaries developed by other consultants for adequacy and accuracy.
- Delineate watershed and subwatershed boundaries.
- While water quality treatment, flood control and drainage are the main focus of the study, issues with regard to wetland preservation, protection of wildlife, recreation, and water conservation should also be addressed.
- Review of the existing surface water management plans, basin boundaries, flood plain and watershed maps, aerial maps, LIDAR maps, FEMA maps, and elevation contour maps within the region to identify issues of concern.
- Develop preliminary conceptual design alternatives and project descriptions necessary to hold public meetings, and to obtain public input and comments.
- An analysis of past flood events to determine the need for flood control. Solutions to flood control alternatives may include an above ground reservoir with a pumping system.
- Boundary (if necessary) and topographic survey, geotechnical exploration, and other field explorations to collect pertinent data in the project area.

Date: May 28, 2013

- Develop hydraulic/hydrologic numerical models and methodologies to evaluate flood risks and savings.
- Develop integrated recreation and storm water elements into the design.
- Identify project needs and associated costs for implementation. Also estimate maintenance and operational costs.
- Review water quality data to identify the parameters that need improvements and develop a design to reduce nutrients and enhance water quality.
- Nutrient load reduction analysis using DEP approved methodology for TMDL compliance.
- Identify water based recreation opportunities for this location and incorporate them into the design.
- Development of a detailed design and preliminary cost estimate acceptable to the staff and obtain necessary permits for construction.
- Develop construction plans and specifications necessary for bidding and implementation of this Task.
- Assist the county staff in bidding this Task, evaluating bids, and providing recommendations for hiring a contractor for implementation of the Task.
- Assist the county staff in obtaining grant funding for the project.
- CEI Services are included in this task. Those services will be considered under a separate authorization and will be negotiated at a later date. Lee County reserves the rights to continue with the consultant selected for task 2 or with a different consultant, or other method of procurement that complies with the State of Florida procurement law.

Section 2. TASKS

Pursuant to the GENERAL SCOPE of the BASIC SERVICES stated herein above, the CONSULTANT shall perform all services and/or work necessary to complete the following task(s) and/or provide the following item(s) which are enumerated to correspond to the task(s) and/or items set forth in EXHIBIT "B" entitled "COMPENSATION AND METHOD OF PAYMENT".

The following scope of services is based upon the first phase, labeled as Phase 1, of the project which includes: data collection and property survey data of the subject parcel; preparing alternative design concepts and providing the potential water quality/flood protection benefits and detailed costs of each concept; review permit requirements of the concept alternatives; and general staff coordination and project meetings.

Phase 1 Tasks:

Task 1A: Hydrologic and Hydraulic Data Collection

Review current County hydrologic and hydraulic data conducted as part of the Popash Creek watershed improvements, Popash Creek Preserve Improvements, North Fort Myers Master Surface Water Plan, I-75 Charlotte/Lee drainage improvements, and FIRM floodway modeling related to Bayshore Creek for data which may be utilized to analyze the existing conditions for the subject parcel. Review existing LIDAR data and determine general sub-basin delineation upstream of the project area for estimating the contributing drainage system to the proposed water quality and flood protection improvements. Review existing County stream and groundwater gauge data of subject watershed with respect to rainfall data.

Task 1A Deliverable: Computer data disk of data collected.

Task 2A: Boundary Survey

Prepare a property boundary survey of the subject site, consisting of approximately 75 acres, in accordance with State of Florida standards for professional mapping and surveys. Locate all above ground improvements and install field property corners. The survey shall be supplemented with title data provided by Owner which depicts recorded easements and encumbrances to the property.

Task 2A Deliverable: Signed and Sealed Boundary Survey.

Task 3A: Topographic Survey

Establish at least two (2) vertical benchmarks within proximity of the site for use in obtaining relevant elevations in vertical datum NAVD 1988, and that may be utilized by subsequent contractor during construction. Obtain existing site topography at an average grid pattern of 100 feet, and obtain elevations within at least 200 feet of perimeter of site. Locate unique topographic elements within and adjacent to property limits, such as: drainage swales, roadway pavement, above ground utilities, permanent structures, berms/levees and drainage structures. Obtain locations and elevations of hydro-period indicators within existing wetland that will be established as part of Task 4A.

Task also includes obtaining additional offsite culvert size, inverts and locations for all structures along Nalle Grade Road for driveways and roadways from Popash Creek up to and including Williams Drive.

Task 3A Deliverable: Topographic data obtained will be incorporated into Design Alternatives, Task 5A. ACAD file provided on computer data disk.

Task 4A: Environmental Survey:

Vegetation /FLUCFCS Mapping

The site will be inspected and a current vegetation map prepared to reflect existing site conditions. The mapping will be according to the Florida Land Use, Cover and Forms Classification System and utilized Lee County's 2013 aerials. Exotic densities, wildfire locations, and other habitat changes will be noted and incorporated into the habitat mapping.

Wetland Inventory-Flagging/Mapping:

The limits of any existing wetlands will be flagged and GPS located in the field. The wetland lines will be based on the type of vegetation present, evidence of wetland hydrology and the presence of hydric soils. The flag locations and numbers will be provided to the Engineer/Surveyor on an aerial and in CAD. The results will be included on the FLUCFCS maps for use during site planning. WSWT lines will be marked in the field using acceptable environmental indicators.

U.S. Army Corps of Engineers Wetland Determination/Data Forms:

A site inspection will be conducted for the collection of data to complete wetland determination data forms pursuant to the Regional Supplement to the Corps of Engineers Wetland Manual: Atlantic and Gulf Coastal Plain Region (Version 2.0). This data will include soil profile data, photos and a vegetation summary at the sampling locations. The completed forms will be included with the initial submittal for the Joint ERP Application for the wetland determination with the ACOE.

Lump Listed Species Survey:

A listed species survey will be conducted according to the requirements of the regulatory agencies. The survey will consist of numerous pedestrian transects throughout all potential occupied habitat on site. Any sightings of listed species or signs of listed species will be marked in the field and GPS located on the vegetation mapping. Gopher Tortoise Burrows will be flagged in the field and GPS located. A map summarizing the findings of the survey will be prepared for submittal to the client and engineer for use during site planning.

Task 4A Deliverable: FLUCCS mapping Exhibit and Species Survey report with exhibits depicting burrows, nest or other relevant species concerns. ACAD file of property and existing jurisdictional wetland areas.

Task 5A: Design Alternatives

Upon completion of Data Collection, design team shall prepare three (3) Design Alternative Concepts for staff review and comment. The Design Alternatives Concepts shall attempt to provide the goals of flood protection and water quality improvement on site, with consideration to preservation of the existing on-site wetland and maintaining current recreational uses provided by the public picnic shelter and lease agreement within southern portion of site to Lee County Archers, Inc.

Design concepts shall be a graphical presentation suitable for staff review and comment, as well as for subsequent presentation to regulatory agencies as to possible grant participation and/or permit review considerations. In addition to preparation of design concepts, project team shall provide County staff results of flood protection and water quality treatment provided by site improvements. Water quality treatment will be evaluated in general by the amount of wet and/or dry treatment storage which may be obtained by the project. Flood protection benefits will be estimated based upon supplementing existing ICPR modeling completed as part of the Popash Creek and Bayshore Creek watershed with the proposed site water management storage and drainage conveyance improvements.

A Cost Analysis of the site improvements will be prepared which estimates the costs attributed to the construction of the improvements in an FDOT Basis of Estimate format. A description of any unique operation and/or maintenance considerations will also be presented in narrative. At this time, there are no Park and Recreational improvements cited for the project, with the exception that the design concept attempt to integrate passive recreational benefits of walking trails as part of the considerations for County operational and maintenance access to the proposed wetland, lake, marsh and/or site drainage systems.

Task 5A Deliverable: Provide three (3) Design Alternative graphics depicting relevant engineering, surveying and environmental existing and proposed conditions suitable for staff review; cost estimates in a tabular format, concept benefits and Operation and Maintenance considerations narratives in pdf format.

Task 6A: Pre-Application Agency Review

Consultant shall obtain relevant permit data of the project site and surrounding area, i.e. Lee County Development Orders, SFWMD water management permits and utility data. Consultant shall contact relevant Federal (USCOE) and State (FDEP or SFWMD) staff to review design concept to obtain permit review challenges which may influence cost or schedule of the project.

Task 6A Deliverable: Meeting minutes will be prepared by Consultant as a deliverable.

Task 7A: Phase A Project Meetings and Coordination

Consultant shall attend an estimated six (6) meetings with County staff to review stages of the Phase A task development. The meetings will be arranged at the general completion of the following milestones: Kick-off/Project Introduction; Completion of Data Collection; Design Concept evaluations (assume three meetings); and upon completion of cost analysis/permit review. Task includes Consultant preparing meeting agenda; meeting minutes discussion summary; graphics and relevant handouts for meeting discussion purposes. Deliverables will be furnished in a digital format suitable for project archiving by County staff.

Task 7A Deliverable: Meeting minutes will be prepared by Consultant as a deliverable.

Task 8A: Public Meeting and Presentation

Consultant engineering and environmental representative(s) shall attend a public presentation meeting with County staff to review Design Alternatives. Consultant shall prepare graphics of each alternative for the presentation in a hard copy and digital pdf formats. County will provide any mailings, public notification advertisement, and presentation space arrangements as needed for the public meeting. Consultant will prepare summary of main discussion points, public written comments, and other relevant public input provided from meeting. Deliverables will be furnished in a digital format suitable for project archiving by County staff.

Task 8A Deliverable: Public presentation graphics and Public Meeting Minutes will be prepared by Consultant as a deliverable.

Phase 2 Tasks: Phase 2 tasks shall be determined at a future date to provide services for Design, Permitting and Bidding.

Phase 3 Tasks: Phase 3 tasks shall be determined at a future date to provide services for Construction Administration.

Date: May 28, 2013COMPENSATION AND METHOD OF PAYMENTFor CN130299 Implementation of North Fort Myers Surface Water Management Plan Phase One; Task Two; Design, Permitting and CEI Services of Nalle Grade Stormwater ParkSection 1. BASIC SERVICES/TASK(S)

The COUNTY shall compensate the CONSULTANT for providing and performing the Task(s) set forth and enumerated in EXHIBIT "A", entitled "SCOPE OF PROFESSIONAL SERVICES", as follows:

NOTE: A Lump Sum (L.S.) or Not-to-Exceed (N.T.E.) amount of compensation to be paid the CONSULTANT should be established and set forth below for each task or sub-task described and authorized in Exhibit "A". In accordance with Agreement Article 5.02(2) "Method of Payment", tasks to be paid on a Work-in-Progress payment basis should be identified (WIPP).

Task Number	Task Title	Amount of Compensation	Indicate Basis of Compensation LS or NTE	If Applicable Indicate (W.I.P.P.)
1A	<u>Hydrologic and Hydraulic Data Collection</u>	\$ 10,800.00	NTE	
2A	<u>Boundary Survey</u>	\$ 7,100.00	LS	
3A	<u>Topographic Survey</u>	\$ 27,100.00	LS	
4A	<u>Environmental Survey</u>	\$ 15,400.00	LS	
5A	<u>Design Alternatives</u>	\$ 27,700.00	NTE	
6A	<u>Pre-Application Agency Review</u>	\$ 3,800.00	NTE	
7A	<u>Phase 1 Project Meetings and Coordination</u>	\$ 6,800.00	NTE	
8A	<u>Public Meeting and Presentation</u>	\$ 2,900.00	NTE	
	<u>PHASE 2 TASKS</u> Design, Permitting, Bidding	TBD	TBD	
	<u>PHASE 3 TASKS</u> Construction Administration	TBD	TBD	
TOTAL (Unless list is continued on next page)		\$ 101,600.00	NTE	

Section 2. ADDITIONAL SERVICES

The COUNTY shall compensate the CONSULTANT for such ADDITIONAL SERVICES as are requested and authorized in writing for such amounts or on such a basis as may be mutually agreed to in writing by both parties to this Agreement. The basis and/or amount of compensation to be paid the CONSULTANT for ADDITIONAL SERVICES requested and authorized in writing by the COUNTY shall be as set forth in Article 3.11 of this Agreement.

Should it be mutually agreed to base compensation for ADDITIONAL SERVICES on an hourly rate charge basis for each involved professional and technical employee's wage rate classification, the applicable hourly rates to be charged are as set forth and contained in ATTACHMENT NO. 1 hereto dated May 28, 2013, entitled "CONSULTANT'S PERSONNEL HOURLY RATE SCHEDULE".

Section 3. REIMBURSABLE EXPENSES AND COSTS

When the CONSULTANT'S compensation and method of payment is based on an hourly rate for professional and/or technical personnel, the CONSULTANT shall, in addition to such hourly rates as are set forth in Attachment No. 1 hereto, be entitled to reimbursement of out-of-pocket, non-personnel expenses and costs as set forth in ATTACHMENT NO. 2 hereto dated May 28, 2013, entitled "NON-PERSONNEL REIMBURSABLE EXPENSES AND COSTS".

Date: May 28, 2013

CONSULTANT'S PERSONNEL HOURLY RATE SCHEDULE ***

for CN130299 Implementation of North Fort Myers Surface Water Management Plan Phase One; Task Two; Design, Permitting and CEI Services of Nalle Grade Stormwater Park

CONSULTANT OR SUB-CONSULTANT NAME Hole Montes, Inc.
(A separate Attachment No. 1 should be included for each Sub-Consultant)

(1) Project Position or Classification (Function to be Performed)	(2) Current Direct* Payroll Average Hourly Rate	(3) Multiplier**	(4) Hourly Rate To Be Charged (Column 2x3)
Senior Principal Engineer IX			\$210.00
Principal Engineer VIII			\$195.00
Engineer VII			\$170.00
Engineer VI			\$155.00
Engineer V			\$140.00
Engineer IV			\$130.00
Engineer III			\$115.00
Engineer II			\$100.00
Engineer I			\$ 90.00
Environmental Operations Specialist			\$ 90.00
Permitting Coordinator			\$ 75.00
Senior Landscape Architect			\$135.00
Landscape Designer II			\$115.00
Landscape Designer I			\$ 80.00
Senior Designer			\$ 95.00
Designer			\$ 85.00
Senior Computer Technician			\$ 75.00
Computer Technician			\$ 65.00
Senior Contract Administrator			\$105.00
Contract Administrator			\$ 90.00
Senior Construction Field Representative			\$ 85.00
Construction Field Representative			\$ 70.00
Senior Planner			\$155.00
Planner			\$ 90.00
Principal Surveyor			\$145.00
Senior Surveyor			\$130.00
Surveyor			\$110.00
2 Person Survey Crew			\$130.00
3 Person Survey Crew			\$160.00
4 Person Survey Crew			\$180.00
GPS Operator			\$ 65.00
Technician IV			\$100.00
Technician III			\$ 65.00
Technician II			\$ 55.00
Technician I			\$ 45.00
			\$ 40.00

*NOTE: Direct Payroll hourly rate means the actual gross hourly wage paid.

**NOTE: Indicate applicable multiplier for indirect personnel costs, general administrative and overhead costs, and profit.

***NOTE: A separate personnel hourly rate schedule should also be attached for each Sub-Consultant listed in Exhibit "D".

ATTACHMENT NO. 1 TO EXHIBIT B

Date: May 28, 2013

CONSULTANT'S PERSONNEL HOURLY RATE SCHEDULE ***

for **CN130299 Implementation of North Fort Myers Surface Water Management Plan Phase One; Task Two; Design, Permitting and CEI Services of Nalle Grade Stormwater Park**

CONSULTANT OR SUB-CONSULTANT NAME **Boylan Environmental Consultants**
 (A separate Attachment No. 1 should be included for each Sub-Consultant)

(1) Project Position or Classification (Function to be Performed)	(2) Current Direct* Payroll Average Hourly Rate	(3) Multiplier**	(4) Hourly Rate To Be Charged (Column 2x3)
Environmental Consultant			\$125.00
Senior Environmental Scientist			\$115.00
Environmental Scientist II			\$110.00
Environmental Scientist I			\$100.00
Information Technician			\$110.00
Environmental Technician			\$70.00

*NOTE: Direct Payroll hourly rate means the actual gross hourly wage paid.

**NOTE: Indicate applicable multiplier for indirect personnel costs, general administrative and overhead costs, and profit.

***NOTE: A separate personnel hourly rate schedule should also be attached for each Sub-Consultant listed in Exhibit "D".

EXHIBIT C

Date: May 28, 2013

TIME AND SCHEDULE OF PERFORMANCE

for CN130299 Implementation of North Fort Myers Surface Water Management Plan Phase One; Task Two; Design, Permitting and CEI Services of Nalle Grade Stormwater Park

This EXHIBIT C establishes times of completion for the various phases and tasks required to provide and perform the services and work set forth in EXHIBIT "A" of this Agreement. The times and schedule of performance set forth hereinafter is established pursuant to Article 6.00 of this Agreement.

Phase and/or Task Reference As Enumerated in EXHIBIT "A"	NAME OR TITLE Of Phase and/Task	Number Of Calendar Days For Completion Of Each Phase And/or Task	Cumulative Number Of Calendar Days For Completion From Date of Notice to Proceed
1A	<u>Hydrologic and Hydraulic Data Collection</u>	45	45
2A	<u>Boundary Survey</u>	45	45
3A	<u>Topographic Survey</u>	45	45
4A	<u>Environmental Survey</u>	45	45
5A	<u>Design Alternatives</u>	30	75
6A	<u>Pre-Application Agency Review</u>	15	90
7A	<u>Phase A Project Meetings and Coordination</u>	N/A	105
8A	<u>Public Meeting and Presentation</u>	N/A	135
	<u>PHASE 2 TASKS Design, Permitting, Bidding and Construction Administration</u>	TBD	TBD

EXHIBIT D

Date: May 28, 2013

CONSULTANT'S ASSOCIATED SUB-CONSULTANT(S) AND SUBCONTRACTOR(S)

for CN130299 Implementation of North Fort Myers Surface Water Management Plan Phase One; Task Two; Design, Permitting and CEI Services of Nalle Grade Stormwater Park

CONSULTANT has identified the following Sub-Consultant(s) and/or SubContractor(s) which may be engaged to assist the CONSULTANT in providing and performing services and work on this Project:

(If none, enter the word "none" in the space below.)

Service and/or Work to be Provided or Performed	Name and Address of Individual or Firm	Disadvantaged, Minority or Women Business Enterprise. (If Yes, Indicate Type)			Sub-Consultant Services are Exempted from Prime Consultant's Insurance Coverage	
		Yes	No	Type	Yes	No
ENVIRONMEN TAL	Boylan Environmental Consultants, Inc. 11000 Metro Parkway, Suite 4 Fort Myers, FL 33966	YES		DBE		NO

EXHIBIT E

Date: May 28, 2013

PROJECT GUIDELINES AND CRITERIA

for CN130299 Implementation of North Fort Myers Surface Water Management Plan Phase One; Task Two; Design, Permitting and CEI Services of Nalle Grade Stormwater Park

The COUNTY has established the following Guidelines, Criteria, Goals, Objectives, Constraints, Schedule, Budget and/or Requirements which shall serve as a guide to the CONSULTANT in performing the professional services and work to be provided pursuant to this Agreement:

(If none, enter the word "none" in the space below)

Item No. 1 NONE

EXHIBIT F
DATE: May 28, 2013

TRUTH IN NEGOTIATION CERTIFICATE

This Certificate is executed and given by the undersigned as a condition precedent to entering into a Professional Services Agreement with the Lee County Board of County Commissioners for the project known as:


Before me, the undersigned authority personally appeared, who having personal knowledge as to the facts and statements contained herein after being duly sworn, deposes and states under oath that:

1. This Certificate shall be attached to and constitute an integral part of the above said Professional Services Agreement as provided in Article 3.11.
2. The undersigned hereby certifies that the wage rates and other factual unit costs supporting the compensation on which this Professional Services Agreement is established are accurate, complete, and current on the date set forth here-in-above.
3. The truth of statements made herein may be relied upon by the County and the undersigned is fully advised of the legal effect and obligations imposed upon him by the execution of this instrument under oath.

Executed on behalf of the Party to the Professional Services Agreement referred to as the CONSULTANT, doing business as:
Hole Montes, Inc.

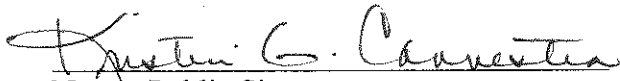
6200 Whiskey Creek Drive Fort Myers FL 33919

BY: Richard E. Brylanski

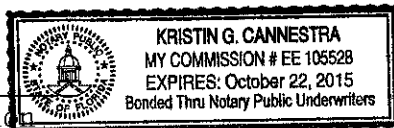
 7/30/2013

TITLE: Vice President

The foregoing instrument was signed and acknowledged before me this 30th day of July, 2013, by Richard E. Brylanski who has produced x x identification. (Print or Type Name) is personally known.
(Type of Identification and Number)


Notary Public Signature

Kristin G. Cannestra
Printed Name of Notary Public



Notary Commission Number/Expiration

EXHIBIT H

Date: May 28, 2013

AMENDMENT TO ARTICLES

for CN130299 Implementation of North Fort Myers Surface Water Management Plan Phase One; Task Two; Design, Permitting and CEI Services of Nalle Grade Stormwater Park

For amending (i.e., changing, deleting from or adding to) the articles.

(NOTE: Each Article to be amended should be set forth and described in such a manner as to clearly indicate what the proposed changes, deletions or additions are with respect to the present Article provisions, and should set forth the wording of the Article resulting from the Amendment. The following identification system should be followed: Indicate additional (new) words or phrases by inserting the words in the text and then underline, (i.e., Months) and indicated words or phrases in the text to be deleted by striking over (i.e. ~~Weeks~~).

THE PROVISIONS HEREBY SUPERCEDE ANY PROVISIONS TO THE CONTRARY CONTAINED ELSEWHERE IN THE ARTICLES OR EXHIBITS.

AMENDMENT NO.

ARTICLE No. ___ is hereby amended as follows:

None.



LETTER OF TRANSMITTAL

6200 Whiskey Creek Drive
 Fort Myers, FL 33919
 (230)985-1200 Fax: (239)985-1258

Date:	July 31, 2013
Attention:	Amy Hofschneider
Job No:	2013.046

To: <u>Lee County Procurement Management</u> <u>Attn: Amy Hofschneider, Proc. Analyst</u> <u>1825 Hendry Street, 3rd Floor</u> <u>Fort Myers, FL 33901</u>	Re: CN130299 – Task Two Nalle Grade Stormwater Park Hole Montes, Inc. PSA
--	--

Via:	<input type="checkbox"/> U.S.Mail	<input type="checkbox"/> Courier	<input type="checkbox"/> Federal Express	<input type="checkbox"/> UPS	<input checked="" type="checkbox"/> Other hand delivery
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We are sending the following items:	<input checked="" type="checkbox"/> Attached	<input type="checkbox"/> Under Separate Cover			
	<input type="checkbox"/> Shop drawings	<input type="checkbox"/> Prints	<input type="checkbox"/> Plans	<input type="checkbox"/> Samples	<input type="checkbox"/> Specifications
	<input type="checkbox"/> Copy of Letter	<input type="checkbox"/> Change Order	<input checked="" type="checkbox"/> Other PSA		

COPIES	DATE	NO.	DESCRIPTION
2			CN130299 PSA – Task Two front end signed and w/ corporate seal

THESE ARE TRANSMITTED AS CHECKED BELOW:

<input checked="" type="checkbox"/> For Approval	<input type="checkbox"/> Approved as Submitted	<input type="checkbox"/> Copies for Approval _____
<input type="checkbox"/> For Your Use	<input type="checkbox"/> Approved as Noted	<input type="checkbox"/> Copies for Distribution _____
<input type="checkbox"/> As Requested	<input type="checkbox"/> Returned for Corrections	<input type="checkbox"/> Corrected Prints _____
<input type="checkbox"/> For Review & Comment	<input type="checkbox"/> For Bids Due	
<input type="checkbox"/> Prints Returned After Loan To Us	<input type="checkbox"/> Other _____ For _____	

Comments: **Amy – as requested via email, attached are two (2) signed w/ corporate seal front-end of the agreement submitted for County processing. Please let me know if I can be of any further assistance.**

Copy To: _____ From: **Richard Brylanski** 



LETTER OF TRANSMITTAL

6200 Whiskey Creek Drive
 Fort Myers, FL 33919
 (230)985-1200 Fax: (239)985-1258

Date:	July 30, 2013
Attention:	Amy Hofschneider
Job No:	2013.046

To: <u>Lee County Procurement Management</u> <u>Attn: Amy Hofschneider, Proc. Analyst</u> <u>1825 Hendry Street, 3rd Floor</u> <u>Fort Myers, FL 33901</u>	Re: CN130299 – Task Two Nalle Grade Stormwater Park Hole Montes, Inc. PSA
--	--

Via:	<input type="checkbox"/> U.S. Mail	<input type="checkbox"/> Courier	<input type="checkbox"/> Federal Express	<input type="checkbox"/> UPS	<input checked="" type="checkbox"/> Other hand delivery
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We are sending the following items:	<input checked="" type="checkbox"/> Attached	<input type="checkbox"/> Under Separate Cover			
	<input type="checkbox"/> Shop drawings	<input type="checkbox"/> Prints	<input type="checkbox"/> Plans	<input type="checkbox"/> Samples	<input type="checkbox"/> Specifications
	<input type="checkbox"/> Copy of Letter	<input type="checkbox"/> Change Order	<input checked="" type="checkbox"/> Other PSA		

COPIES	DATE	NO.	DESCRIPTION
2			CN130299 PSA – Task Two signed and notarized
1			Insurance Certificate

THESE ARE TRANSMITTED AS CHECKED BELOW:

<input checked="" type="checkbox"/> For Approval	<input type="checkbox"/> Approved as Submitted	<input type="checkbox"/> Copies for Approval	_____
<input type="checkbox"/> For Your Use	<input type="checkbox"/> Approved as Noted	<input type="checkbox"/> Copies for Distribution	_____
<input type="checkbox"/> As Requested	<input type="checkbox"/> Returned for Corrections	<input type="checkbox"/> Corrected Prints	_____
<input type="checkbox"/> For Review & Comment	<input type="checkbox"/> For Bids Due		
<input type="checkbox"/> Prints Returned After Loan To Us	<input type="checkbox"/> Other _____ For		

Comments: **Amy – as requested via email, attached are two (2) signed and notarized agreements submitted for County processing. Please let me know if I can be of any further assistance.**

Copy To: _____ From: Richard Brylanski 

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

Blue Sheet No. 20130774

ACTION REQUESTED/PURPOSE:

Request Board approves disbursements. The check and wire registers can now be viewed on the Clerk's website, www.leeclerk.org by accessing the BoCC Minutes and Documents link.

FUNDING SOURCE:

N/A.

WHAT ACTION ACCOMPLISHES:

Florida Statute Chapter 136.06(1) requires that all County disbursements be recorded in the Minutes of the Board.

MANAGEMENT RECOMMENDATION: Compliance with the requirements of FS 136.06(1).

Departmental Category: C16A

Meeting Date: 9/17/2013

Agenda:

Consent

Requirement/Purpose: (specify)

- Statute 136.06(1)
- Ordinance
- Admin Code
- Other

Request Initiated

Commissioner: All

Department: CONSTITUTIONAL OFFICERS

Division: Clerk of Courts

By: Terry Mallow

Background:

11. Required Review:

<i>Terry Mallow</i>					
FINANCE					

12. Commission Action:

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

Blue Sheet No. 20130774

1. ACTION REQUESTED/PURPOSE:

Request Board approves disbursements. The check and wire registers can now be viewed on the Clerk's website, www.leeclerk.org by accessing the BoCC Minutes and Documents link.

2. FUNDING SOURCE: N/A

3. WHAT ACTION ACCOMPLISHES:

Florida Statute Chapter 136.06(1) requires that all County disbursements be recorded in the Minutes of the Board

4. MANAGEMENT RECOMMENDATION:

Compliance with the requirements of FS 136.06(1)

5. Departmental Category:

CILA

6. Meeting Date: 09/17/2013

7. Agenda:

- Consent
- Administrative
- Appeals
- Public
- Walk-On

8. Requirement/Purpose: (specify)


- Statute 136.06 (1)
- Ordinance
- Admin. Code
- Other

9. Request Initiated:

- Commissioner:** All
- Department:** Constitutional Officers
- Division:** Clerk of Courts
- By:** Terry Mallow

10. Background:

11. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
					Analyst	Risk	Grants	Mgr.	
									

12. Commission Action:

- Approved
- Deferred
- Denied
- Other

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

Blue Sheet No. 20130779

ACTION REQUESTED/PURPOSE:

Approve the Minutes for the following meetings of the Board of County Commissioners held during the week of September 2 thru September 6, 2013: September 3, 2013 (Regular), September 4, 2013 (1st Budget Hearing), September 4, 2013 (Transit Hearing).

FUNDING SOURCE:

N/A.

WHAT ACTION ACCOMPLISHES:

Approval of the Board Minutes, pursuant to Florida Statute 286.011.

MANAGEMENT RECOMMENDATION: Approve.

Departmental Category: C16B

Meeting Date: 9/17/2013

Agenda:

Requirement/Purpose: *(specify)*

Request Initiated

Consent

- Statute 286.011
- Ordinance
- Admin Code
- Other

Commissioner: All
Department: CONSTITUTIONAL OFFICERS
Division: Clerk of Courts
By: Lisa L. Pierce

Background:

The summary of each of the above Minutes were provided to the Board members sitting at those meetings within one week of the meeting. Any comments from the Commissioners were taken into consideration in the development of the final minutes now presented for approval.

Attached is a listing of all documents that have not been received as of the date the Blue Sheet approval request was submitted for the Agenda.

11. Required Review:

<i>Lisa Pierce</i>					
MINUTES					

12. Commission Action:

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

Blue Sheet No. 20130779

1. ACTION REQUESTED/PURPOSE:

Approve the Minutes for the following meetings of the Board of County Commissioners held during the week of September 2 thru September 6, 2013

September 3, 2013 (Regular) September 4, 2013 (1st Budget Hearing)
September 4, 2013 (Transit Hearing)

2. FUNDING SOURCE:

Not Applicable.

3. WHAT ACTION ACCOMPLISHES:

Approval of the Board Minutes, pursuant to Florida Statute 286.011

4. MANAGEMENT RECOMMENDATION:

Approve.

5. Departmental Category: <u>C16B</u>		6. Meeting Date: <u>9/17/13</u>
7. Agenda: <input type="checkbox"/> Consent <input type="checkbox"/> Administrative <input type="checkbox"/> Appeals <input type="checkbox"/> Public <input type="checkbox"/> Walk-On	8. Requirement/Purpose: <i>(specify)</i>	9. Request Initiated: Commissioner _____ Department <u>Minutes Office</u> Division _____ By: <u>Lisa L. Pierce,</u> <u>Minutes Office Manager</u>
	<input type="checkbox"/> Statute	
	<input type="checkbox"/> Ordinance	
	<input type="checkbox"/> Admin. Code	
	<input type="checkbox"/> Other	

10. Background:

The summary of each of the above Minutes were provided to the Board members sitting at those meetings within one week of the meeting. Any comments from the Commissioners were taken into consideration in the development of the final minutes now presented for approval.

Attached is a listing of all documents that have not been received as of the date the Blue Sheet approval request was submitted for the Agenda.

11. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
					Analyst	Risk	Grants	Mgr.	
<u>Lisa L. Pierce</u>									

12. Commission Action:

- Approved
- Deferred
- Denied
- Other

REGULAR MEETING NEEDS LIST – SEPTEMBER 03, 2013

ITEM NO.	BLUE SHEET	DESCRIPTION	COPY	ORIGINAL	SCAN
n/a	n/a	MEETING AFFIDAVIT			
C5a	20130650	Purch Agr – Parcel 209 Deed, Title, Closing Docs			
C7c	20130735	Agr Software House Int'l – Microsoft Enterprise license Electronic Document Submission Authorization (Signed contract to be sent electronically to Microsoft; they will return non-original copy with their original signature)			
C13b	20130693	RESO 13-09-01 – Ministerio Nueva Esperanza Roller Rink			
C16c	20130742	Disbursements			
A1a	20130754	LCJOP Incentive Award Agr – Hertz - \$187,500			
A2a	20130720	Grant Award Agr – Captiva Community Panel \$50,000			
A3b	20130719	Grant Award Agr – East Lee County Council \$50,000			
A14a	20130622	RESO 13-09-02 – Parcel 1 Project 5077 RESO 13-09-03 – Parcel 2 Project 5077			

BUDGET HEARING NEEDS LIST - SEPTEMBER 04, 2013

DATE DISTRIBUTED:

BID/QUOTE SHEET COPIED FOR FILE:

BOARD APPROVAL:

ITEM NO.	BLUE SHEET	DESCRIPTION	COPY	ORIGINAL	SCAN
N/A	N/A	MEETING AFFIDAVIT			
VI	N/A	RESO 13-09-06 – Spec Taxing Units			
VII	N/A	RESO 13-09-07 - Countywide			
VII	N/A	RESO 13-09-08 - Library			
VII	N/A	RESO 13-09-09 – Unincorp Area MSTU			
VII	N/A	RESO 13-09-10 – All Hazards			
VII	N/A	RESO 13-09-11 – All other (non-millage)			
VIII	N/A	RESO 13-09-12 – Total Lee County Millage			

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

Blue Sheet No. 20130752

ACTION REQUESTED/PURPOSE:

Authorize staff to write off uncollected sewer assessment principal, interest and penalties for the long-term Sewer Projects Special Assessments for East Lee County filed on April 6, 1983; South Fort Myers filed on March 5, 1991; and, McGregor filed on November 21, 1991, as bad debt and remove property liens. (BS 20130752/27075, JR/SDG).

FUNDING SOURCE:

No funds required for this action.

WHAT ACTION ACCOMPLISHES:

Policy direction regarding uncollected principal, interest and penalties for long-term Sewer Projects Special Assessments. The original amount covered by the bond revenue was \$31,383,675. As of November 2012, 98.7% of the bond revenue amount was collected and the bonds were paid in full when due during 2003, 2010 and 2011.

MANAGEMENT RECOMMENDATION: Approval to write off uncollected principal, penalty and interest as bad debt. The bonds secured to pay for the expansion of the sewer system have been paid in full, 98.7% of the bond revenue was collected as of November 2012 and the term of installments approved by resolution allows payment terms of 20-years.

Departmental Category: A13A

Meeting Date: 9/17/2013

Agenda:

Administrative

Requirement/Purpose: *(specify)*

- Statute
- Ordinance
- Admin Code
- Other

Approval

Request Initiated

Commissioner: All

Department: UTILITIES

Division: No Divisions

By: Pam Keyes

Background:

This Blue Sheet provides the BoCC a REPORT OF UNCOLLECTED SEWER ASSESSMENT PRINCIPAL (see attached chart) and OPTIONS (see next page) to manage the uncollected assessment balances. Lee County Utilities (LCU) continues to administer three long-term Sewer Projects Special Assessments, which include: East Lee County filed on April 6, 1983, South Fort Myers filed on March 5, 1991, and McGregor filed on November 21, 1991.

The assessments were established to pay back bond financing for installation of sewer collection infrastructure within these neighborhood areas. The 20-year payment terms were established by Resolution 83-4-5 for East Lee County; Resolution 90-11-21 for South Ft. Myers; and, Resolution 91-09-19 for McGregor to allow property owners to pay for their assessment over time. The bonds issued to fund the expansion costs have been repaid in full and several properties continue to be assessed with significant penalties.

Under Resolution 01-07-15, the BoCC authorized the LCU Director the authority to waive 50% of the penalties for delinquent payment. Any request for a waiver of penalties above the 50% threshold is brought before the BoCC as a regular scheduled agenda item. Per County policy, the property lien must be paid in full when the property changes ownership. As a result of no payment or incremental nominal payments, the interest and penalty exceed the principal outstanding for the sewer assessment and can exceed the value of the property.

(CONT'D.)

11. Required Review:

<i>Pam Keyes</i>	<i>James Holloway</i>	<i>Reginald Kantor</i>	<i>Mike Figueroa</i>	<i>Peter Winton</i>	<i>Doug Meurer</i>
UTILITIES	County Attorney	Budget Analyst	Risk	Budget Services	Public Works Director

12. Commission Action:

Background: (CONT'D.) - BS 20130752-UTL

OPTIONS:

1. Continue annual billing of principal, interest and penalty where applicable indefinitely.

Advantage: Eventually over time property owners will pay in full or sell the property with a County lien for unpaid assessments. The uncollected assessment principal, interest and penalty should be collected at time of sale from property purchaser.

Disadvantage: Administrative cost to continue billing and collection and the uncollected assessments result in interest and penalty charges surpassing the uncollected principal. The resulting charges exceed the value of the sewer system expansion and improvements. Today the principal, interest and penalty exceed the value of the property.

2. Implement proposed incentive payment plan so that if property owners pay outstanding principal in full within 5-years, the County will waive the outstanding interest and penalty and remove the County's property lien.

Advantage: Property owners paying incremental or no payments (or interested purchasers of property) will have an opportunity to pay principal only and have lien removed from property with principal payment in full.

Disadvantage: No collections toward interest and penalty from property owners who pay outstanding principal within 5 years.

3. Write off uncollected principal, penalty and interest as bad debt. The bonds secured to pay for the expansion of the sewer system have been paid in full, and the term of installments approved by resolution allows payment terms of 20-years.

Advantage: Reduction in administrative cost to bill outstanding principal, interest and penalty annually and collect small incremental payments throughout the year.

Disadvantage: Small incremental payments and outstanding balances will not be collected throughout the year or at time of sale of property with an assessment lien attached.

Fiscal Impact:

The original amount covered by the bond revenue was \$31,383,675. As of November 2012, 98.7% of the bond revenue was collected and the bonds were paid in full when due during 2003, 2010 and 2011.

Attachments: 1 Chart

ORIGINAL (OUTSIDE SIGNATURE) DOCUMENTS TO FOLLOW: 0

Background Attachment to BS 20130752-UTL:

REPORT OF UNCOLLECTED SEWER ASSESSMENT PRINCIPAL

Initial Bond Funding Amount:

Assessment	Project Funding (Principal and Interest)	Annual Interest	Annual Penalties
East Lee County	\$11,325,795	8%	NA
South Fort Myers	\$5,992,880	8%	12%
McGregor	\$14,065,000	6%	12%
Total Funding	\$31,383,675		

Outstanding Balance Due:

Assessment	Principal	Interest	Penalties	Total Due	% Penalties of Total Due
East Lee County	\$102,669	\$217,179	0	\$319,848	0
South Fort Myers	\$661	\$588	\$1,356	\$2,605	52%
McGregor	\$287,580	\$323,621	\$864,014	\$1,475,215	59%
Total	\$390,909	\$541,388	\$865,370	\$1,797,667	