

**AGREEMENT BETWEEN
LAKE COUNTY, FLORIDA AND
MARK COOK BUILDERS, INC.
FOR
PROVIDE AND INSTALL BUS SHELTERS AND ASSOCIATED FURNITURE
ITB 10-0208**

This is an Agreement between Lake County, Florida, a political subdivision of the State of Florida, hereinafter referred to as COUNTY, by and through its Board of County Commissioners, and Mark Cook Builders, Inc., a Florida corporation, its successors and assigns, hereinafter referred to as CONTRACTOR.

Recitals

WHEREAS, the COUNTY has publicly submitted an Invitation to Bid (ITB), #10-0208, seeking firms or individuals qualified to provide and install bus shelters and associated furniture; and

WHEREAS, CONTRACTOR desires to perform such services subject to the terms of this Agreement.

NOW, THEREFORE, IN CONSIDERATION of the mutual terms, understandings, conditions, promises, covenants and payment hereinafter set forth, and intending to be legally bound, the parties hereby agree as follows:

Article 1. Recitals

1.1 The foregoing recitals are true and correct and incorporated herein.

Article 2. Purpose

2.1 The purpose of this Agreement is for CONTRACTOR to provide and install Public Transportation bus shelters and associated furniture at various stop locations within the COUNTY. hereinafter referred to as the "Project".

Article 3. Scope of Professional Services

3.1 On the terms and conditions set forth in this Agreement, COUNTY hereby engages CONTRACTOR to provide all labor, materials and equipment to complete the Scope of Services as set forth in the Statement of Work and plans and specifications, all of which are attached hereto and incorporated herein by reference as **Exhibit A** and shall become a material part hereof, as amended by Addendum #1, dated March 16, 2010, Addendum #2, dated April 8, 2010, and Addendum #3, dated April 13, 2010, also contained within **Exhibit A**. It is understood that the Scope of Services may be modified by change order as actual construction of

the Project progresses, but to be effective and binding, any such change order must be in writing, executed by the parties, and in accordance with the COUNTY's Purchasing Policies and Procedures. A copy of these policies and procedures shall be made available to the CONTRACTOR upon request.

It is understood that this Agreement specifically provides for the ordering of bus shelters beyond the estimated initial ordering quantity of twenty-eight (28) units, and maintenance at the option of the County of all installed bus shelters, throughout the full duration of the Agreement to include all exercised option periods.

3.2 CONTRACTOR acknowledges that time is of the essence in carrying out CONTRACTOR's responsibilities under this Agreement. CONTRACTOR shall commence construction of each individual structure within ten (10) days of receipt of the Notice to Proceed for that individual structure and shall complete the construction within forty-five (45) calendar days after the Notice to Proceed is issued. No additional days shall be granted for average weather delays. Average number of days of rainfall will be determined by http://www.serec.com/climateinfo/historical/historical_fl.html. Days for calculating actual rainfall are days recorded with rainfall on <http://www.wunderground.com>.

Should the CONTRACTOR fail to complete the work within the "not-to-exceed" timeframe cited above, it is hereby agreed and understood that the COUNTY reserves the authority to cancel the contract with CONTRACTOR and to secure the services of another contractor to complete the work. If COUNTY exercises this authority, COUNTY shall be responsible for reimbursing the contractor for work which was completed and found acceptable in accordance with the contract specifications. The COUNTY may, at its option, demand payment from CONTRACTOR, through an invoice or credit memo, for any additional costs over and beyond the original contract price which were incurred by the COUNTY as a result of having to secure the services of another contractor. If CONTRACTOR fails to honor this invoice or credit memo, the COUNTY may terminate the contract for default.

3.3 This Agreement shall commence on the first calendar day of the month succeeding approval of the contract by the Board of County Commissioners, or designee. The initial contract term shall remain in effect for one (1) year, and then the contract will remain in effect until completion of the express and/or implied warranty period. The Agreement prices shall prevail for the full duration of the initial contract term.

Prior to or upon completion of the initial term of this contract, the COUNTY shall have the option to renew this contract for four (4) additional one (1) year periods. Prior to completion of each exercised contract term, the COUNTY may consider an adjustment, either upward or downward, to price based on the specific request of the CONTRACTOR. It is the CONTRACTOR's responsibility to request in writing any pricing adjustment under this provision. Such request shall be based on changes in the CPI or PPI indices appropriate to the specific CONTRACTOR request. The CONTRACTOR's written request for adjustment must be submitted thirty (30) calendar days prior to expiration of the then current contract term. The CONTRACTOR's adjustment request must clearly substantiate the requested increase. The written request for adjustment should not be in excess of any relevant pricing index change. If no

adjustment request is received from the CONTRACTOR, the COUNTY will assume that the CONTRACTOR has agreed that the optional term may be exercised without pricing adjustment. Any adjustment request received after the commencement of a new option period shall not be considered.

The COUNTY reserves the right to reject any written price adjustments submitted by the CONTRACTOR and/or to not exercise any otherwise available option period based on such price adjustments. Continuation of the contract beyond the initial period, and any option subsequently exercised, is a COUNTY prerogative, and not a right of the CONTRACTOR. This prerogative will be exercised only when such continuation is clearly in the best interest of the COUNTY.

3.4 The CONTRACTOR shall be solely responsible for obtaining all necessary approvals and permits.

3.5 The CONTRACTOR shall remain appropriately licensed throughout the course of the Project. Failure to maintain all required licenses shall entitle the COUNTY, at its option, to terminate this Agreement. CONTRACTOR's License number is CGC 1504155

3.6 The CONTRACTOR acknowledges that it has sufficient understanding of the nature and location of the work; the general and local conditions, including but not limited to, those bearing upon transportation, disposal, handling and storage of materials; availability of labor, water, electric power, and roads; and uncertainties of weather or similar physical conditions at the site; the character of equipment and facilities needed preliminary to and during the completion of the work. The CONTRACTOR further acknowledges that the CONTRACTOR has satisfied itself as to the character, quality and quantity of surface and subsurface materials, obstacles or conditions of the site. Any failure by the CONTRACTOR to acquaint itself with any aspect of the work or with any of the applicable conditions shall not relieve the CONTRACTOR from responsibility for adequately evaluating the difficulty or cost of successfully performing the work required, nor shall it be considered a basis for any claim for additional time or compensation. The COUNTY assumes no responsibility for any conclusions or interpretations made by the CONTRACTOR on the basis of the information made available by the COUNTY. The COUNTY also assumes no responsibility for any understanding or representations made by its officers or agents during or prior to the execution of this contract, unless such understanding or interpretations are made in writing and incorporated herein by reference.

3.7 In the event of any conflict between the drawings and specifications contained within this Agreement, the following shall govern:

A. Addenda shall supersede all other contract documents to the extent specified in the addenda. Subsequent addenda shall supersede prior to addenda only to the extent specified therein.

B. Drawings and specifications are intended to agree and be mutually complete. Any item not contained within the drawings, but contained in the specifications, or vice-versa, shall be provided and/or executed as shown in either the drawing or specification at no extra

costs to the COUNTY. Should anything not included in either the drawing and/or the specifications be necessary for the proper construction and/or operation of the project as herein specified, or should any error or disagreement between the specifications and drawings exist or appear to exist, the CONTRACTOR shall not derive unjust benefit thereby, or use such disagreement counter to the best interests of the COUNTY. The CONTRACTOR shall immediately notify the COUNTY'S Project Manager of any discrepancy and await the Project Manager's direction before proceeding with the work in question.

Article 4. Payment

4.1 The COUNTY shall pay and CONTRACTOR shall accept, as full and complete payment for the timely and complete performance of its obligations hereunder, in accordance with the Pricing Section, attached hereto and incorporated herein as **Exhibit B**. The base price for provision and installation of the shelter is **Eight Thousand Five Hundred Nineteen Dollars (\$8,519.00)** for each unit, a total price of **Two Hundred Thirty-Eight Thousand Five Hundred Thirty-Two Dollars (\$238,532.00)**. The estimated initial ordering quantity of bus shelters to be provided under this Agreement is twenty-eight (28) units. It is understood that the total price for any individual shelter will be comprised of the base price stated above, and any additional site-specific charges agreed to in advance and included in the initial order for each individual shelter. The annual price to maintain each installed shelter is **One Thousand Eight Hundred Dollars (\$1,800.00)** per unit, which is One Hundred Fifty Dollars (\$150.00) per month. These prices include all applicable taxes, materials, labor, supervision, management and overhead, unless a duly authorized change order has been issued in accordance with the COUNTY's purchasing policies and procedures. A copy of such policies and procedures shall be made available to the CONTRACTOR upon request.

4.2 A single one-time invoice shall be submitted in duplicate to the COUNTY user department at P.O. Box 7800, Tavares, Florida 32778, after each individual structure has been completed and accepted by the COUNTY. A monthly invoice shall be submitted in duplicate to the COUNTY user department at P.O. Box 7800, Tavares, Florida 32778, for all structures currently under maintenance, with the charge for any structure installed during the course of the applicable monthly billing period appropriately pro-rated to the day of the COUNTY's acceptance of that structure. In addition to the general invoice requirements set forth below, each invoice shall reference, as applicable, the corresponding delivery ticket number, packing slip number or other acceptance document that was signed by an authorized representative of the COUNTY user department at the time the items were delivered and accepted. Submittal of these periodic invoices shall not exceed thirty (30) calendar days from the delivery of the goods or services. Under no circumstances shall the invoices be submitted to the COUNTY in advance of the delivery and acceptance of the items.

All invoices shall contain the bid number, date and location of delivery or service, confirmation of acceptance of the goods or services by the appropriate COUNTY representative, and a detailed description of services provided. Failure to submit invoices in the prescribed manner will delay payment, and the CONTRACTOR may be considered in default of contract and its contract may be terminated.

4.3 The COUNTY shall make payment on all undisputed invoices in accordance with the Florida Prompt Payment Act, Part VII, Chapter 218, Florida Statutes. The COUNTY shall not make payment on partial delivery of supplies, services, or materials.

4.4 The CONTRACTOR agrees and acknowledges that this Project is to be funded by Federal and State grant monies, to wit:

- FTA ARRA Grant FL-90-X017-00
- FTA 5307 Grant FL-90-X691-00

As such, the CONTRACTOR agrees to cooperate with the COUNTY in order to assure compliance with all requirements of the funding entity applicable to use of the monies, providing access to and the right to examine relative documents related to the Project and as specifically requested by the Federal or State granting agency, and receiving no payment until all required forms are completed and submitted. A copy of the requirements shall be supplied to the CONTRACTOR by the COUNTY upon request. Additionally, the CONTRACTOR shall abide by the following specific provisions of the above-referenced grant:

All clauses and certifications contained within "Lake County, Florida, Federal Funding Clause Set for FTA Grant or Stimulus Program."

Article 5. County Responsibilities

5.1 COUNTY shall designate a County staff member to act as COUNTY'S Project Manager.

5.2 COUNTY shall pay in accordance with the provisions set forth in this Agreement.

5.3 The COUNTY retains the right to inspect all work to verify compliance with the contract documents. Such inspection may extend to all or any part of the work and to the manufacture, preparation or fabrication of the materials to be used.

Article 6. Construction Provisions

6.1 Intent of the Contract Documents.

A. For purposes of this Agreement, the term "contract documents" includes all bid documents, drawings, the Scope of Services, attachments to this Agreement, and provisions within this Agreement, along with any change orders or amendments to this Agreement.

B. It is the intent of the contract documents to describe a functionally complete project which defines the scope of services. Any work, materials, or equipment that may reasonably be inferred from the contract documents as being required to produce the intended result shall be supplied whether or not specifically called for. When words which have a well known technical or trade meaning are used to describe work, material or equipment, such words shall be interpreted in accordance with that meaning. Reference to standard specifications, manuals or codes of any technical society, organization or association or to the laws or

regulations of any governmental authority having jurisdiction over the project, whether such reference be specified or by implication, shall mean the latest standard specification, manual, code, law or regulation in effect at the time the work performed, unless specifically stated otherwise herein.

C. The contract documents and all referenced standards cited therein are essential parts of the contract requirements. A requirement occurring in one is binding as though occurring in all.

6.2 Errors and Omissions. The CONTRACTOR shall not take advantage of any apparent error or omission in the contract documents. If any errors or omission appear in the contract documents, the CONTRACTOR shall immediately notify the COUNTY in writing of such errors or omissions. In the event the CONTRACTOR knows or should have known of any error or omission and failed to provide such notification, the CONTRACTOR shall be deemed to have waived any claim for increased time or compensation the CONTRACTOR may have had and the CONTRACTOR shall be responsible for the results and the costs of rectifying any such error or omission.

6.3 Contractor Personnel.

A. The CONTRACTOR shall assure that all personnel are competent, careful and reliable. All personnel must have sufficient skill and experience to perform their assigned task properly and satisfactorily and to operate any equipment involved, and shall make due and proper effort to execute the work in the manner prescribed in the contract documents.

B. When the COUNTY determines that any person is incompetent, unfaithful, intemperate, disorderly or insubordinate, such person shall, upon written notice, be discharged from the project and shall not again be employed on the project without the written consent of the COUNTY. Should the CONTRACTOR fail to remove such person or persons, the COUNTY may withhold all payments which are or may become due, or may suspend the work with approval of the COUNTY until such orders are complied with.

C. The CONTRACTOR shall at all times have at the Project as his agent a competent superintendent capable and thoroughly experienced in the type of work being performed, who shall receive instructions from the COUNTY. The superintendent shall supervise all trades, direct all project activities, establish and maintain installation schedules, and provide the Project Manager with progress reports as requested. The superintendent shall have full authority to execute the orders or directions of the COUNTY, and if applicable to supply promptly any materials, tools, equipment, labor and incidentals which may be required. Such superintendent shall be furnished regardless of the amount of work sublet. The CONTRACTOR'S superintendent shall speak, write, and understand English and shall be on the job site during all working hours.

D. No alcoholic beverages or drugs are permitted on any COUNTY properties. Evidence of alcoholic beverages or drug use by an individual will result in immediate termination from the job site.

6.4. Subcontractors.

A. Within five (5) calendar days after the award of any subcontract, the CONTRACTOR shall deliver to the COUNTY a statement setting forth the name and address of the subcontractor, a summary description of the work subcontracted and a copy of the subcontract.

B. The CONTRACTOR shall be fully responsible to the COUNTY for the acts and omissions of the CONTRACTOR's subcontractor and of persons either directly or indirectly employed by them.

C. All subcontractors shall have at least one supervisor/foreman on the job site that shall speak and understand English for so long as the subcontractor is working on the job site.

D. The CONTRACTOR shall cause its subcontractors and suppliers to comply with the project schedule and applicable sub-schedules.

E. Releases of liens from subcontractors shall be required before final payment will be released.

6.5. Completion of the Scope of Services. The CONTRACTOR shall give the work the attention necessary to assure the scheduled progress and shall cooperate fully with the COUNTY and with other contractors on the job site. All work shall be done in accordance with the contract documents.

6.6 Emergencies.

A. The CONTRACTOR shall have a responsible person available at or reasonably near the work site on a twenty-four (24) hour basis, seven (7) days a week, who may be contacted in emergencies and in cases where immediate action must be taken to handle any problem that might arise. The CONTRACTOR shall submit to the COUNTY'S Project Manager, by certified mail, phone numbers and names of personnel designated to be contacted in cases of emergencies along with a description of the project location.

B. In the event of an emergency affecting the safety or protection of persons or property at the project site or adjacent thereto, the CONTRACTOR, without special instruction or authorization from the COUNTY is obligated to act to prevent threatened damage, injury or loss. The CONTRACTOR shall give the COUNTY written notice of the event as soon as possible, but in no event later than twenty-four (24) hours after the occurrence of the emergency. If the COUNTY determines that a change in the contract documents is required because of the action taken in response to an emergency, a change order will be issued to document the consequences of the changes or variations. If the CONTRACTOR fails to provide written notice within the twenty-four (24) hour limitation noted above, the CONTRACTOR shall be deemed to

have waived any right it otherwise may have had to seek an adjustment to the contract amount or an extension to the contract time.

6.7. Safety.

A. The CONTRACTOR shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work and for complying with all requirements of the Occupational Safety and Health Administration (OSHA) and any other industry or local government standards. The CONTRACTOR shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to persons or property. The CONTRACTOR shall be aware that while working for the COUNTY, representatives from agencies such as the OSHA are invitees and need not have warrants or permission to enter the work site.

B. All safety devices installed by the manufacturer on equipment utilized by the CONTRACTOR on the jobsite shall be in place and in proper working order at all times. If the COUNTY determines that the equipment is deficient in safety devices, the CONTRACTOR shall be notified immediately. The CONTRACTOR shall immediately repair, or remove the equipment from service until the deficiency is corrected to the satisfaction of the COUNTY.

C. The COUNTY may periodically monitor the work site for safety. Should there be safety and/or health violations, the COUNTY shall have the authority, but not the duty, to require the CONTRACTOR to correct the violation in an expeditious manner. If there is any situation that is deemed unsafe by the COUNTY, the project will be shut down immediately upon notice and will not resume work until the unsafe condition has been remedied.

D. CONTRACTOR shall erect and maintain, as required by existing conditions and contract performance, safeguards for safety and protection such as danger signs, a construction fence, and other warnings against hazardous conditions.

E. CONTRACTOR shall be responsible for the removal of all surplus material and debris from the Project site. Should the CONTRACTOR fail to maintain a clean and safe site, the COUNTY shall retain the right to clean up and deduct the cost of such from the contract price.

F. CONTRACTOR shall confine all equipment, materials and operations to the project site and areas identified in the Contract documents. CONTRACTOR shall assume all responsibility for any damage to any such area resulting from the performance of the work.

G. The CONTRACTOR is responsible for notifying the COUNTY of any hazardous materials used on the work site and providing the COUNTY a copy of the Material Safety Data Sheets. Any spillage of hazardous chemicals and/or wastes caused by the CONTRACTOR shall be reported immediately to the COUNTY and cleaned up in accordance with all State and Federal Regulations. The cost of cleanup of any spillage of hazardous chemicals and/or wastes caused by the CONTRACTOR shall be the sole responsibility of the CONTRACTOR and the COUNTY shall share no responsibility with these costs. A copy of the complete report showing compliance with local, state, and federal agencies shall be given to the COUNTY. If any

hazardous chemicals or conditions are discovered during the normal operation, it is the responsibility of the CONTRACTOR to immediately contact the COUNTY with a description and location of the condition.

6.8. General Inspection Requirements.

A. The CONTRACTOR shall furnish the COUNTY with every reasonable accommodation for ascertaining whether the work performed and materials used are in accordance with the requirements and intent of the contract documents. If the COUNTY so requests, the CONTRACTOR shall, at any time before final acceptance of the work, remove or uncover such portions of the finished work as may be directed. After examination, the CONTRACTOR shall restore the uncovered portions of the work to the standard required by the specifications. Should the work so exposed or examined prove unacceptable in the opinion of the COUNTY, the uncovering or removal, and the replacing of the covering or making good of the parts removed, shall be at the CONTRACTOR'S expense. However, should the work thus exposed or examined prove acceptable in the opinion of the COUNTY, the uncovering or removing and the replacing or the covering or making good of the parts removed, shall be paid for as unforeseen work.

B. If, during or prior to construction operations, the COUNTY should fail to reject defective work or materials, whether from lack of discovery of such defect or for any other reason, such initial failure to reject shall in no way prevent the COUNTY'S later rejection when such defect is discovered, nor obligate the COUNTY to final acceptance or payment, and the CONTRACTOR shall make no claim for losses suffered due to any necessary removals or repairs of such defects.

C. If, during or prior to construction operations, the COUNTY rejects any portion of the work on the grounds that the work or materials are defective, the COUNTY shall give the CONTRACTOR written notice of the defect. The CONTRACTOR shall then have seven (7) calendar days from the date the notice is received to correct the defective condition. If the CONTRACTOR fails to correct the deficiency within the seven (7) calendar days after receipt of the notice, the COUNTY may take whatever action is necessary, including correcting the deficient work utilizing another contractor or terminating the contract.

D. Should the CONTRACTOR fail to remove and renew any defective materials used or work performed, or to make any necessary corrections in an acceptable manner and in accordance with the contract requirements, within the time indicated in writing, the COUNTY shall have the authority to cause the unacceptable or defective materials or work to be corrected as necessary at the CONTRACTOR'S expense. Any expense incurred by the COUNTY, whether direct, indirect or consequential, in making said repairs, removals, or renewals shall be paid for out of any monies due or which may become due the CONTRACTOR. A change order shall be issued, incorporating the necessary revisions to the contract documents, including an appropriate decrease to the contract amount. Such costs shall include, but not be limited to, costs of repair and replacement of work destroyed or damaged by correction, removal or replacement of work of the CONTRACTOR'S defective work and additional compensation due the COUNTY. The CONTRACTOR shall not be allowed an extension of the contract time because

of any delay in performance of the Project attributable to the exercise by the COUNTY of the COUNTY'S rights and remedies hereunder.

E. When the United States Government or the State of Florida is to pay a portion of the cost of construction, the work will be subject to such inspection by federal or state representatives as deemed necessary, but such inspections will in no case make the United States Government or the State of Florida a party to this contract.

6.9 Project Materials and Storage.

A. Unless otherwise specified within the contract documents, all materials to be used to complete the Project shall be new, unused, of recent manufacture, and suitable for its intended purpose. All goods shall be assembled, fully serviced and ready for operation when delivered.

B. Materials shall be placed to permit easy access for proper inspection and identification of each shipment. Any material which has deteriorated, become damaged, or is otherwise unfit for use, as determined by the COUNTY, shall not be used in the work, and shall be removed from the site by the CONTRACTOR at the CONTRACTOR'S expense. Until incorporated into the work, materials shall be the sole responsibility of the CONTRACTOR and the CONTRACTOR shall not be paid for such materials until incorporated into the work.

C. All unusable materials and debris shall be removed from the premises at the end of each workday and disposed of in an appropriate manner.

6.10 Time for Completion and Extensions.

A. The CONTRACTOR shall diligently pursue the completion of the work and coordinate the work being done on the project by its subcontractors and material suppliers, as well as coordinate the CONTRACTOR'S work with the work of other contractors so that the CONTRACTOR'S work or the work of others shall not be delayed or impaired. The CONTRACTOR shall be solely responsible for all construction means, methods, techniques, sequences and procedures, as well as coordination of all portions of the work under the contract documents.

B. Should the CONTRACTOR be obstructed or delayed in the completion of the work as a result of unforeseeable causes beyond the control of the CONTRACTOR, and not due to the CONTRACTOR'S fault or neglect, the CONTRACTOR shall notify the COUNTY in writing within twenty four (24) hours after the commencement of such delay, stating the cause or causes thereof, or be deemed to have waived any right which the CONTRACTOR may have had to request a time extension.

C. If the CONTRACTOR complies with the twenty-four (24) hours notice requirement, the COUNTY shall ascertain the facts and the extent of the delay being claimed and recommend an extension to the contract time when, in the COUNTY'S sole judgment, the findings of fact justify such an extension. The CONTRACTOR shall cooperate with the COUNTY'S investigation of the delays by providing any schedules, correspondence or other

data that may be required to complete the findings of fact. Extensions to the contract time may be granted only for those delays which impact the CONTRACTOR'S construction schedule. Extensions of contract time, if approved by the COUNTY, must be authorized by written change order.

6.11 Changes in the Scope of Services.

A. Without invalidating the contract, the COUNTY may at any time, by written change order, in accordance with the COUNTY'S Purchasing Policy and Procedures, increase or decrease the scope of the services and the contract price or time may be adjusted accordingly. For changes in work requested by CONTRACTOR, the CONTRACTOR shall prepare and submit change order requests for COUNTY approval. Each change order shall include time and monetary impacts of the change, whether the change order is considered alone or with all other changes during the course of the Project. Both the COUNTY and the CONTRACTOR shall execute the change order.

B. The value of such extra work or change shall be determined by the contract unit values, if applicable unit values are set forth in this Agreement. The amount of the change shall be computed from such values and added to or deducted from the contract price.

C. If the COUNTY and the CONTRACTOR are unable to agree on the change order for requested change, the CONTRACTOR, shall, nevertheless, promptly perform the change as directed in writing by the COUNTY. If the CONTRACTOR disagrees with the COUNTY'S adjustment determination, the CONTRACTOR must make a claim pursuant to the Claims and Disputes section herein, or else be deemed to have waived any claim on this matter the CONTRACTOR might have otherwise had.

D. For work not contemplated by the original Agreement, the amount of an increase shall be limited to the CONTRACTOR'S reasonable direct labor and material costs and reasonable actual equipment costs as a result of the change (including allowance for labor burden costs) plus a maximum ten percent (10%) markup for all overhead and profit. In such case, the CONTRACTOR shall keep and present to the COUNTY an itemized accounting together with appropriate supporting data. In the event such changed work is performed by a subcontractor, a maximum ten percent (10%) markup for all overhead and profit for all subcontractors' direct labor and material costs and actual equipment costs shall be permitted, with a maximum five percent (5%) markup thereon by the CONTRACTOR for all of its overhead and profit, for a total overall maximum markup of fifteen percent (15%) of the amount of changed work. All compensation due the CONTRACTOR and any subcontractor or sub-subcontractor for field and home office overhead is included in the markups listed above.

E. The COUNTY shall not be liable to the CONTRACTOR for any increased compensation in the absence of a written change order executed in accordance with COUNTY policy. The payment authorized by such a change order shall represent full and complete compensation to the CONTRACTOR for labor, materials, incidental expenses, overhead, profit, impact costs and time associated with the work authorized by such change order.

F. Execution by the CONTRACTOR of a properly authorized change order shall be considered a waiver of all claims or requests for additional time or compensation for any activities prior to the time of execution related to items included in the change order.

G. Upon receipt of an approved change order, changes in the Scope of Services shall be promptly performed. All changes in work shall be performed under the terms and conditions of this Agreement.

6.12 Claims and Disputes.

A. Claims by the CONTRACTOR shall be made in writing to the COUNTY within two (2) business days, unless another provision of this Agreement sets forth a different time frame, after the commencement of the event giving rise to such claim or the CONTRACTOR shall be deemed to have waived the claim. Written supporting data shall be submitted to the COUNTY within ten (10) calendar days after the occurrence of the event, unless the COUNTY grants additional time in writing, or the CONTRACTOR shall be deemed to have waived the claim. All claims shall be priced in accordance with the section in this document entitled "Changes in Work".

B. The CONTRACTOR shall proceed diligently with its performance as directed by the COUNTY, regardless of any pending claim, action, suit, or administrative proceeding, unless otherwise agreed to by the COUNTY in writing. The COUNTY shall continue to make payments on the undisputed portion of the contract in accordance with the contract documents during the pendency of any claim.

C. Claims by the CONTRACTOR shall be resolved in the following manner: (1) Upon receiving the claim and supporting data, the COUNTY shall within fifteen (15) business days respond to the claim in writing stating that the claim is either approved or denied. If denied, the COUNTY shall specify the grounds for denial. The CONTRACTOR shall then have fifteen (15) calendar days in which to provide additional supporting documentation, or to notify the COUNTY that the original claim stands as is. (2) If the claim is not resolved, the COUNTY may, at its option, choose to submit the matter to mediation. A mediator shall be mutually selected by the parties and each party shall pay one-half (1/2) the expense of mediation. If the COUNTY declines to mediate the dispute, the CONTRACTOR may bring an action in the County or Circuit Court sitting in Lake County, Florida.

D. Claims by the COUNTY against the CONTRACTOR shall be made in writing to the CONTRACTOR as soon as the event leading to the claim is discovered by the COUNTY. Written supporting data shall be submitted to the CONTRACTOR. All claims shall be priced in accordance with the provisions of the section in this document entitled "Changes in Work". The CONTRACTOR shall respond in writing within fifteen (15) business days of receipt of the claim. If the claim cannot be resolved, the COUNTY shall have the option to submit the matter to mediation as set forth in (C)(2) above.

E. Arbitration shall not be considered as a means of dispute resolution.

F. **NO CLAIM FOR DAMAGES OR ANY CLAIM OTHER THAN FOR AN EXTENSION OF TIME SHALL BE MADE OR ASSERTED AGAINST THE COUNTY BY REASON OF ANY DELAYS.** No interruption, interference, inefficiency, suspension or delay in the commencement or progress of the work shall relieve the CONTRACTOR of his duty to perform or give rise to any right to damages or additional compensation from the COUNTY. The CONTRACTOR expressly acknowledges and agrees that the CONTRACTOR shall receive no damages for delay. However, this provision shall not preclude recovery or damages by the CONTRACTOR for hindrances or delays due solely to fraud, bad faith or active interference on the part of the COUNTY. Otherwise, CONTRACTOR shall be entitled to extensions of the contract time as the sole and exclusive remedy for such resulting delay, in accordance with and to the extent specifically provided above.

6.13 Acceptance of the Work and Final Payment.

A. Final Inspection. When all materials have been furnished, all work has been performed, and the construction contemplated by the contract has been satisfactorily completed, the COUNTY shall make the final inspection.

B. Maintenance of Work. The CONTRACTOR shall maintain all work in as-new condition until the final inspection is completed and the work is accepted by the COUNTY. All insurance shall be maintained until final acceptance by the COUNTY.

C. Final Acceptance. When the Project or any portion thereof, as designated by the COUNTY, is ready for its intended use, the COUNTY and any other invited parties shall make an inspection of the Project, to verify its completeness and develop a punch list of items needing completion or correction before final payment will be made. The CONTRACTOR shall have ten (10) calendar days to correct all deficiencies. An eighty dollar (\$80.00) inspection fee shall be applied for the second inspection and any required re-inspection. The COUNTY shall have the right to exclude the CONTRACTOR from those portions of the work designated as complete after the inspection; provided, however, that the CONTRACTOR will have reasonable access for the time allotted by the COUNTY to complete or correct items on the punch list.

When the work provided for under the contract has been completely performed by the CONTRACTOR, and the final inspection has been made by the COUNTY, a final invoice will be prepared by the CONTRACTOR. The amount of this invoice, less any sums that may have been deducted or retained under the provisions of the contract, will be paid to the CONTRACTOR in accordance with Article 4 of this Agreement, and after the CONTRACTOR has agreed in writing to accept the balance due, as determined by the COUNTY, as full settlement of the account under the contract and of all claims in connection therewith. Occupancy by the COUNTY alone does not constitute final acceptance.

D. Waiver of Claims. The CONTRACTOR's acceptance of final payment **shall** constitute a full waiver of any and all claims by the CONTRACTOR against the COUNTY arising out of the contract or otherwise related to the project, except those previously made in writing and identified by the CONTRACTOR as unsettled at the time the final estimate is prepared. Neither the acceptance of the work nor payment by the COUNTY shall be deemed a waiver of the COUNTY'S rights to enforce any continuing obligations of the CONTRACTOR or

to the recovery of damages for defective work not discovered by the COUNTY at the time of final inspection.

E. Termination of Contractor's Responsibilities. The contract will be considered complete when all work has been completed and accepted by the COUNTY and all warranty periods have expired. The CONTRACTOR will then be released from further obligation except as set forth in this Agreement.

F. Recovery Rights Subsequent to Final Payment. The COUNTY reserves the right, should an error be discovered in the invoice, or should proof of defective work or materials used by or on the part of the CONTRACTOR be discovered after the final payment has been made, to claim and recover from the CONTRACTOR by process of law, such sums as may be sufficient to correct the error or make good the defects in the work and materials, including any fees or costs associated with the additional services of the COUNTY.

6.14 Warranties. All warranties shall begin on the date of the COUNTY'S acceptance. The CONTRACTOR shall obtain and assign to the COUNTY all express warranties given to the CONTRACTOR or any subcontractors by any material suppliers, equipment or fixtures to be incorporated into the project. The CONTRACTOR warrants to the COUNTY that any materials and equipment furnished under the contract documents shall be new unless otherwise specified, and that all work shall be of good quality, free from defects and in conformance with the contract documents. The CONTRACTOR further warrants to the COUNTY that all materials and equipment furnished under the contract documents shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable manufacturers, fabricators, suppliers or processors except as otherwise provided for the contract documents. This warranty requirement shall remain in force for the full period identified above, regardless of whether CONTRACTOR is still under contract at the time of the defect. These warranties are in addition to those implied warranties to which the COUNTY is entitled as a matter of law. Further, a specific warranty period is included as a requirement within Exhibit A, Statement of Work.

6.15 Sales Tax Recovery. In accordance with Section 212.08(6), Florida Statutes, and Rule 12A-1.094, Florida Administrative Code, the COUNTY is tax exempt when it purchases tangible personal property for use in public works projects, subject to certain restrictions. In the event this project is declared a sales tax recovery project by the COUNTY, the following procedure shall apply:

- A. The COUNTY, through the Department of Facilities Development and Management, shall determine whether the COUNTY shall directly purchase certain materials required for the Project. If the COUNTY determines that the COUNTY shall directly purchase certain materials, the COUNTY shall notify the CONTRACTOR in writing of the specific materials which the COUNTY intends to purchase.
- B. Within ten (10) calendar days from receipt of the written notice the CONTRACTOR shall advise the COUNTY in writing of: (a) the date upon which the materials must be on-site according to the Construction Schedule approved at

that time, (b) the date that the CONTRACTOR directs that the COUNTY place the order for the described materials, (c) the location to which the materials are to be delivered, and (d) any other particular details of the order which the CONTRACTOR requests that the COUNTY include in the Purchase Order to the vendor.

- C. The COUNTY may, but is not required to, provide the CONTRACTOR with the proposed Purchase Order for the materials. In that case, the CONTRACTOR shall review the Purchase Order for compliance with the Plans and Specifications, or other relevant contract documents. Within the earlier of: five (5) calendar days from the receipt of the proposed Purchase Order or the day prior to the date provided by the CONTRACTOR pursuant to the written notice, the CONTRACTOR shall provide the COUNTY with written approval of the Purchase Order or shall provide written revisions to the Purchase Order, in order that the materials and the delivery thereof shall comply with the contract documents, including, without limitation, the plans, specifications and construction schedule.
- D. The COUNTY, through the Department of Facilities Development and Management, shall thereafter issue a Purchase Order for the materials with the vendor.
- E. The COUNTY shall take title to those materials directly from the vendor and shall bear the risk of loss or damage to the materials which are delivered by the vendor through the time that the materials are delivered to the location designated by the CONTRACTOR. After the materials are delivered to the location designated by the CONTRACTOR, the CONTRACTOR shall have full responsibility for their storage, protection, risk-of-loss and installation pursuant to the contract documents, including, without limitation, the plans, specifications and construction schedule.
- F. The vendor shall invoice the COUNTY directly for the materials purchased from the vendor. The COUNTY shall pay the invoices for the materials directly, presenting its sales tax exemption certificate to each vendor at the time of payment.

With respect to the materials specifically designated by this section, the CONTRACTOR shall be relieved only of its responsibilities to place the order for the subject materials, to pay for the materials and to insure the materials against loss through the date that they are delivered to the location designated by the CONTRACTOR. Otherwise, nothing herein shall revise or modify the CONTRACTOR's responsibilities set forth in this Agreement, including, without limitation, the responsibility to schedule the timely ordering and delivery of the materials purchased under this Section, the management of the materials once delivered or the incorporation of the materials into the Project, as provided in the contract documents, including, without limitation, the plans, specifications and construction schedule.

The cost of any materials purchased through the sales tax recovery program shall be deducted from the contract amount. The COUNTY and CONTRACTOR shall execute a written change order described in this Agreement, and approved in accordance with the COUNTY's policy and procedures. The Change Order shall become a part of the contract documents as provided in this Agreement.

Article 7. Special Terms and Conditions

7.1 Termination. This Agreement may be terminated by the COUNTY upon thirty (30) days advance written notice to the other party; but if any work or service/Task hereunder is in progress but not completed on the date of termination, then this Agreement may be extended upon written approval of the COUNTY until said work or service(s)/Task(s) is completed and accepted.

A. Termination for Convenience. In the event this Agreement is terminated or cancelled upon the request and for the convenience of COUNTY with the required thirty (30) day advance written notice, COUNTY shall reimburse CONTRACTOR for actual work satisfactorily completed.

B. Termination for Cause. Termination by County for cause, default, or negligence on the part of CONTRACTOR shall be excluded from the foregoing provision. Termination costs, if any, shall not apply. The thirty (30) day advance notice requirement is waived in the event of termination for cause.

C. Termination Due to Unavailability of Funds in Succeeding Fiscal Years. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year, this Agreement shall be canceled and the CONTRACTOR shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the supplies or services/Tasks delivered under this Agreement.

7.2 Subletting of Contract. This Agreement shall not be sublet except with the written consent of the COUNTY'S Director of Capital Construction and Facilities. No such consent shall be construed as making the COUNTY a party to the subcontract or subjecting the COUNTY to liability of any kind to any subcontractor. No subcontract shall under any circumstances relieve the CONTRACTOR of liability and obligations under this Agreement and all transactions with the COUNTY must be through the CONTRACTOR.

7.3 Insurance. The CONTRACTOR shall purchase and maintain at all times during the term of this Agreement, without cost or expense to the COUNTY, policies of insurance with a company or companies authorized to do business in the State of Florida, and which are acceptable to the COUNTY, insuring the CONTRACTOR against any and all claims, demands, or causes of action whatsoever, for injuries received or damage to property relating to the performance of duties, services and/or obligations of the CONTRACTOR under the terms and provisions of the Agreement. The CONTRACTOR is responsible for timely provision of certificate(s) of insurance to the COUNTY at the certificate holder address evidencing conformance with the Agreement requirements at all times throughout the term of the

Agreement. Such policies of insurance and confirming certificates of insurance shall insure the CONTRACTOR is in accordance with the following minimum limits:

- (i) General Liability insurance on forms no more restrictive than the latest edition of the Occurrence Form Commercial General Liability policy (CG 00 01) of the Insurance Services Office or equivalent without restrictive endorsements, with the following minimum limits and coverage:

Each Occurrence/General Aggregate	\$1,000,000/2,000,000
Products-Completed Operations	\$2,000,000
Personal & Adv. Injury	\$1,000,000
Fire Damage	\$50,000
Medical Expense	\$5,000
Contractual Liability	Included

- (ii) Automobile liability insurance, including owned, non-owned, and hired autos with the following minimum limits and coverage:

Combined Single Limit	\$1,000,000
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- (iii) Workers' compensation insurance based on proper reporting of classification codes and payroll amounts in accordance with Chapter 440, Florida Statutes, and/or any other applicable law requiring workers' compensation (Federal, maritime, etc). If not required by law to maintain workers compensation insurance, the vendor must provide a notarized statement that if he or she is injured, he or she will not hold the County responsible for any payment or compensation.

- (iv) Employers Liability with the following minimum limits and coverage:

Each Accident	\$1,000,000
Disease-Each Employer	\$1,000,000
Disease-Policy Limit	\$1,000,000

- (v) Professional liability and/or specialty insurance (medical malpractice, engineers, architect, consultant, environmental, pollution, errors and omissions, etc.) insurance as applicable, with minimum limits of \$1,000,000 and annual aggregate of \$2,000,000.

- (vi) Lake County, a Political Subdivision of the State of Florida, and the Board of County Commissioners, shall be named as additional insured as their interest may appear all applicable policies.

- (vii) Certificate(s) of insurance shall provide for a minimum of thirty (30) days prior written notice to the County of any change, cancellation, or nonrenewal of the required insurance.

- (viii) Certificate(s) of insurance shall identify the ITB number in the Description of Operations section of the Certificate.
- (ix) Certificate of insurance shall evidence a waiver of subrogation in favor of the COUNTY, that coverage shall be primary and noncontributory, and that each evidenced policy includes a Cross Liability or Severability of Interests provision, with no requirement of premium by the COUNTY.
- (x) Certificate holder shall be:

LAKE COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF
FLORIDA, AND THE BOARD OF COUNTY COMMISSIONERS.
P.O. BOX 7800
TAVARES, FL 32778-7800

- (xi) All self-insured retentions shall appear on the certificate(s) and shall be subject to approval by the COUNTY. At the option of the COUNTY, the insurer shall reduce or eliminate such self-insured retentions; or the CONTRACTOR shall be required to procure a bond guaranteeing payment of losses and related claims expenses.
- (xii) The COUNTY shall be exempt from, and in no way liable for, any sums of money, which may represent a deductible or self-insured retention in any insurance policy. The payment of such deductible or self-insured retention shall be the sole responsibility of the CONTRACTOR and/or subcontractor providing such insurance.
- (xiii) The CONTRACTOR shall be responsible for subcontractors and their insurance. Subcontractors are to provide Certificates of Insurance to the COUNTY evidencing coverage and terms in accordance with the Contractor's requirements.
- (xiv) Failure to obtain and maintain such insurance as set out above will be considered a breach of contract and may result in termination of the contract for default.
- (xv) Neither approval by the COUNTY of any insurance supplied by the CONTRACTOR, nor a failure to disapprove that insurance, shall relieve the CONTRACTOR of full responsibility of liability, damages, and accidents as set forth herein.

7.4 Indemnity. CONTRACTOR shall indemnify and hold COUNTY and its agents, officers, commissioners or employees harmless for any damages resulting from failure of CONTRACTOR to take out and maintain the above insurance. Additionally, CONTRACTOR agrees for good and valuable consideration in the amount of ten dollars (\$10.00) to indemnify, and hold the Board of County Commissioners, Lake County, Florida, and its officers, commissioners, employees and agents free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses or liabilities resulting from the negligent act, error or omission of CONTRACTOR, its agents, employees or representative, in the performance of CONTRACTOR'S duties set forth in this Agreement.

7.5 Independent Contractor. CONTRACTOR, and all its employees, agree that they shall be acting as an independent contractor and shall not be considered or deemed to be an agent, employee, joint venturer, or partner of COUNTY. CONTRACTOR shall have no authority to contract for or bind COUNTY in any manner and shall not represent itself as an agent of COUNTY or as otherwise authorized to act for or on behalf of COUNTY. Additionally, CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CONTRACTOR to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm other than a bona fide employee working solely for CONTRACTOR any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement.

7.6 Return of Materials. Upon the request of the COUNTY, but in any event upon termination of this Agreement, CONTRACTOR shall surrender to the COUNTY all memoranda, notes, records, drawings, manuals, computer software, and other documents or materials pertaining to the services hereunder, that were furnished to the CONTRACTOR by the COUNTY pursuant to this Agreement.

7.7 Public Entity Crimes. A person or affiliate who has been placed on the convicted vendor list following a conviction of a public entity crime may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for Category Two for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

7.8 Retaining Other Contractors. Nothing herein shall be deemed to preclude the COUNTY from retaining the services of other persons or entities undertaking the same or similar services as those undertaken by the CONTRACTOR or from independently developing or acquiring materials or programs that are similar to, or competitive with, the services provided under this Agreement.

7.9 Accuracy. The CONTRACTOR is responsible for the professional quality, technical accuracy, timely completion and coordination of all the services furnished hereunder. The CONTRACTOR shall, without additional compensation, correct or revise any errors, omissions or other deficiencies in resulting from the services provided herein.

7.10 Traffic Control. If required, CONTRACTOR shall be responsible for putting up and maintaining sufficient lights at night that meet the approval of the COUNTY; take proper precautions to guard against damage or injury to persons or property; keep streets and driveways open to traffic, at all times, during construction except when specific permission is granted by the proper authority for temporary closing.

7.11 Additional Services. Services not specifically identified in this Agreement may be added to the Agreement upon execution of a written amendment. The COUNTY reserves the right to award any additional services to the CONTRACTOR or to acquire the items from another vendor through a separate solicitation.

7.12 Right to Audit. The COUNTY reserves the right to require CONTRACTOR to submit to an audit by any auditor of the COUNTY's choosing. CONTRACTOR shall provide access to all of its records, which relate directly or indirectly to this Agreement at its place of business during regular business hours. CONTRACTOR shall retain all records pertaining to this Agreement and upon request make them available to the COUNTY for three (3) years following expiration of the Agreement. CONTRACTOR agrees to provide such assistance as may be necessary to facilitate the review or audit by the COUNTY to ensure compliance with applicable accounting and financial standards. This provision is hereby considered to be included within, and applicable to, any subcontractor agreement entered into by the CONTRACTOR in performance of any work hereunder.

7.13 Records. All electronic files, audio and/or video recordings, and all papers pertaining to any activity performed by the contractor for or on behalf of the COUNTY shall be the property of the COUNTY and will be turned over to the COUNTY upon request. In accordance with Chapter 119, Florida Statutes, each file and all papers pertaining to any activities performed for or on behalf of the COUNTY are public records available for inspection by any person even if the file or paper resides in the CONTRACTOR'S office or facility. The CONTRACTOR shall maintain the files and papers for not less than three (3) complete calendar years after the project has been completed or terminated, or in accordance with any grant requirements, whichever is longer. Prior to the close out of the contract, the CONTRACTOR shall appoint a records custodian to handle any records request and provide the custodian's name and telephone number(s) to the Contracting Officer.

Any copyright derived from this Agreement shall belong to the author. The author and the CONTRACTOR shall expressly assign to the COUNTY nonexclusive, royalty free rights to use any and all information provided by the CONTRACTOR in any deliverable and/or report for the COUNTY'S use which may include publishing in COUNTY documents and distribution as the COUNTY deems to be in the COUNTY'S best interests. If anything included in any deliverable limits the rights of the COUNTY to use the information, the deliverable shall be considered defective and not acceptable and the CONTRACTOR will not be eligible for any compensation.

7.14 Force Majeure. The parties will exercise every reasonable effort to meet their respective obligations hereunder, but shall not be liable for delays resulting from force majeure or other causes beyond their reasonable control, including, but not limited to, compliance with any Government law or regulation, acts of nature, acts or omissions of the other party, Government acts or omissions, fires, strikes, national disasters, wars, riots, transportation problems and/or any other cause whatsoever beyond the reasonable control of the parties. Any such cause will extend the performance of the delayed obligation to the extent of the delay so incurred.

Article 8. Miscellaneous Provisions

8.1 This Agreement is made under, and in all respects shall be interpreted, construed, and governed by and in accordance with, the laws of the State of Florida. Venue for any legal action resulting from this Agreement shall lie in Lake County, Florida.

8.2 Neither party may assign any rights or obligations under this Agreement to any other party unless specific written permission from the other party is obtained.

8.3 The captions utilized in this Agreement are for the purposes of identification only and do not control or affect the meaning or construction of any of the provisions hereof.

8.4 This Agreement shall be binding upon and shall inure to the benefit of each of the parties and of their respective successors and permitted assigns.

8.5 This Agreement may not be amended, released, discharged, rescinded or abandoned, except by a written instrument duly executed by each of the parties hereto.

8.6 The failure of any party hereto at any time to enforce any of the provisions of this Agreement will in no way constitute or be construed as a waiver of such provision or of any other provision hereof, nor in any way affect the validity of, or the right thereafter to enforce, each and every provision of this Agreement.

8.7 During the term of this Agreement CONTRACTOR assures COUNTY that it is in compliance with Title VII of the 1964 Civil Rights Act, as amended, and the Florida Civil Rights Act of 1992, in that CONTRACTOR does not on the grounds of race, color, national origin, religion, sex, age, disability or marital status, discrimination in any form or manner against CONTRACTOR employees or applicants for employment. CONTRACTOR understands and agrees that this Agreement is conditioned upon the veracity of this statement of assurance.

8.8 CONTRACTOR shall at all times comply with all Federal, State and local laws, rules and regulations.

8.9 The employee(s) of CONTRACTOR shall be considered at all times its employee(s) and not an employee(s) or agent(s) of COUNTY. CONTRACTOR shall provide employee(s) capable of performing the work as required. The COUNTY may require the contractor to remove any employee it deems unacceptable. All employees of the CONSULTANT shall wear proper identification.

8.10 Any individual, corporation, or other entity that attempts to meet its contractual obligations with the COUNTY through fraud, misrepresentation or material misstatement, may be debarred for up to five (5) years. The COUNTY as a further sanction may terminate or cancel any other contracts with such individual, corporation, or entity. Such individual or entity shall be responsible for all direct or indirect costs associated with termination or cancellation, including attorney's fees.

8.11 With the consent of CONTRACTOR, other agencies may make purchases in accordance with the contract. Any such purchases shall be governed by the same terms and conditions as stated herein with the exception of the change in agency name. In addition, although this solicitation is specific to a County Department, it is agreed and understood that any County department may avail itself of this contract and purchase any and all items specified herein at the

contract price(s) established herein. A contract modification shall be issued by the County identifying the requirements of the additional County department(s).

8.12 CONTRACTOR shall act as the prime contractor for all required items and services and shall assume full responsibility for the procurement and maintenance of such items and services. CONTRACTOR shall be considered the sole point of contact with regards to all stipulations, including payment of all charges and meeting all requirements of this Agreement. All subcontractors will be subject to advance review by the COUNTY in terms of competency and security concerns. No change in subcontractors shall be made without consent of the COUNTY. CONTRACTOR shall be responsible for all insurance, permits, licenses and related matters for any and all subcontractors. Even if the subcontractor is self-insured, the COUNTY may require the CONTRACTOR to provide any insurance certificates required by the work to be performed.

8.13 The CONTRACTOR shall either be registered or have applied for registration with the Florida Department of State in accordance with the provisions of Chapter 607, Florida Statutes.

8.14 The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

8.15 Wherever provision is made in this Agreement for the giving, service or delivery of any notice, statement or other instrument, such notice shall be in writing and shall be deemed to have been duly given, served and delivered, if delivered by hand or mailed by United States registered or certified mail or sent by facsimile, addressed as follows:

If to CONTRACTOR:

Mark D. Cook, III
President
511 Canal Street
Leesburg, Florida 34748

If to COUNTY:

County Manager
County Administration Building, Suite 308
315 West Main Street
P.O. Box 7800
Tavares, Florida 32778

cc: Ken Harley

Each party hereto may change its mailing address by giving to the other party hereto, by hand delivery, United States registered or certified mail notice of election to change such address.

Article 9. Scope of Agreement

9.1 This Agreement is intended by the parties hereto to be the final expression of their Agreement, and it constitutes the full and entire understanding between the parties with respect to the subject hereof, notwithstanding any representations, statements, or agreements to the contrary heretofore made. Any items not covered under this contract will need to be added via written addendum, and pricing negotiated based on final specifications.

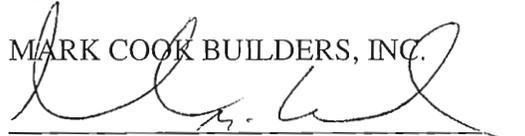
9.2 This Agreement contains the following Exhibits, all of which are incorporated herein:

- Exhibit A: Statement of Work
- Exhibit B: Pricing Section

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: COUNTY through its Board of County Commissioners, signing by and through its Chairman, authorized to execute same by Board Action on the 3rd day of August, 2010, and by CONTRACTOR through its duly authorized representative.

CONTRACTOR

MARK COOK BUILDERS, INC.



Name: MARK D. COOK

Title: President

This 14 day of JULY, 2010.

COUNTY

LAKE COUNTY, through its
BOARD OF COUNTY COMMISSIONERS



Welton G. Cadwell, Chairman

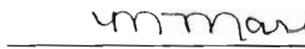
This 5th day of August, 2010.

ATTEST:



Neil Kelly, Clerk of the Board
of County Commissioners of
Lake County, Florida

Approved as to form and legality:



Melanie N. Marsh
Acting County Attorney

EXHIBIT A STATEMENT OF WORK

ITB Number: 10-0208

Statement of Work Regarding Provision and Installation of Transit Shelters and Furniture

1. General Scope: Lake County seeks proposals from vendors for the provision and installation of Transit System bus shelters and associated furniture at various transit (bus) stop locations within the County based upon specific site selection criteria. The County's goal is to provide clean, attractive and safe passenger amenities that promote ridership of LakeXpress services. The current LakeXpress transit operation includes 174 on-street bus stops. There are currently no shelters or associated furniture at any of these stops. LakeXpress intends to establish sheltered bus stops at selected key locations. As of the time this solicitation has been issued, a total of twenty-eight (28) locations have been tentatively identified for shelter placement. A list of these locations follows the narrative portion of this work statement. LakeXpress wishes to provide clean, safe, well-maintained, accessible, and durable transit shelters that include appropriate components and amenities for the maximum convenience, comfort, security, safety and shelter of transit system patrons. "Contractor" is used within the balance of this Statement of Work to denote the awarded vendor under this solicitation.

2. Design Parameters: The design of shelters and street furniture is important to maintaining the brand image developed for LakeXpress services. All shelter designs and associated furniture must be compatible with the brand identification style and features adopted by LakeXpress and should conform to the various design contexts of the communities. Specific design directives are as follows:

- Shelters size shall be (approximately) 4 feet deep x 8 feet wide
- Shelters will be designed to meet Lake County specifications. The minimum specifications for waiting shelter wind load strength must meet the Florida Building Code 2007 and be certified by a Florida Architect or Engineer to meet the 110 mph wind requirement.
- Initial design criteria calls for a Solar Powered small to midsized transit facility.
- Central Florida climate requires maximum shelter from sun and rain
- Shelters shall incorporate powdered coated steel structural components, and a metal roof.
- Shelters shall incorporate ventilated or no side panels for maximum air circulation.
- Shelters shall incorporate an attached trash receptacle sufficiently sized to accommodate a weekly emptying cycle.
- Shelters at certain designated locations must accommodate bicycle racks. In such cases, the site specific quotation (see section 3 below) shall include costs and design elements for such racks based on the specific County requirement.
- Shelters must provide LakeXpress route display information.
- Shelters must meet the current LakeXpress Color Scheme (blue, green, and white)
- Shelters at shopping centers may be required to accommodate shopping cart corrals. In such cases, the site specific quotation (see section 3 below) shall include costs and design elements for such racks based on the specific County requirement.
- Shelters must meet ADA requirements. Accessibility by persons with all abilities to and from the shelter will be required for all sheltered locations.

3. General requirements: The contractor will be responsible for all aspects of shelter installation, including construction, design, permitting, installations and adherence to local, state and federal laws, guidelines and requirements. It is recognized that specific site conditions or requirements must be considered and accommodated. The contractor is to provide a site-specific quotation for each location that includes the base shelter and base price for such shelter (line item 1 in the pricing section of this solicitation), and then addresses any site-specific requirement as an additive to the standard unit price for an installed shelter (eg; provide for shopping cart corrals, bike racks, or additional sidewalk access) or a deductive from the standard unit price for an installed shelter (eg; concrete pad already exists). The contractor shall supply an estimated cost for the full turn-key solution at each designated location. Other general requirements are;

- Each shelter, associated furniture and associated construction of shelter pads and/or pedestrian access ways proposed at each specific designated shelter location shall be approved by the local jurisdiction's right-of-way and building divisions.
- Bus shelter locations, shelter type, associated furniture and shelter contents shall be approved by Lake County.
- All vendors (either the contractor or the contractor's subcontractors) involved in any installation effort must possess appropriate licensing to conduct the work as determined by the jurisdictional authority of the area and will be responsive to all inspections required by permits issued for each project.
- The awarded contractor will review engineering drawings and renderings of the shelters and street furniture proposed for use at specific designated shelter locations with Lake County Staff. Lake County reserves the right to reject any shelter or shelter pad that does not meet ADA guidelines. The contractor shall be given a reasonable opportunity to cure any defect in design or construction or installation.
- Contractor shall submit shop drawings showing layout, profiles and product components, including anchorage, accessories, finish colors, patterns and textures. Contractor shall submit selection and verification samples for finishes, colors and textures.
- Warranty Period: Three years on all labor and materials, commencing on date of completion.
- Contractor is fully responsible for on-site verification of conditions to include verification that site specific conditions are acceptable for product installation in accordance with manufacturer's instructions
- All metal surfaces of the shelter or related components shall be smooth and free of surface blemishes including pitting, rust and scale, seam marks, roller marks, rolled trade names and roughness.

4. Optional Maintenance Requirements: The County retains the option to require the contractor to provide the maintenance function stated in this section based on the pricing values stated by the vendor in the pricing section of this document. If this option is exercised, the contractor shall provide the County a performance schedule for maintaining the shelters. Maintenance of the shelters and amenities shall include but not be limited to repair of the shelter, shelter pad, and amenities; repair, cleaning and replacement of lighting to ensure lighting is in working and compliant condition; and cleaning, as detailed in the following paragraph, of the immediate area of the shelter to keep it safe and functional for all patrons to include full ADA compliance. The contractor will be reimbursed for the cost of any repair caused by circumstances outside of the

control of the contractor. The reimbursement shall be based on the repair component costs initially stated by the contractor, and fair value for any additional effort or item.

The contractor shall keep the bus shelters and adjacent areas, including the sidewalks, in a safe condition and free from litter, graffiti, weeds and debris. Graffiti shall be removed within two (2) business days. The contractor shall inspect and maintain each shelter a minimum of once every week as stated herein, or more frequently if needed at high use areas. Maintenance shall include at a minimum: emptying trash receptacles, wiping the bench, sweeping the ground, mowing the grass and cleaning the shelter glass. The contractor shall high-pressure wash each shelter unit and adjacent sidewalk areas at least once every month during the term of the contract.

The contractor shall repair or replace any items due to minor damage or defaced items (including graffiti) on the shelters within two (2) business days after notification by Lake County. Damage which creates or causes a shelter to present a risk of injury to the patrons or public shall be repaired or the item or unit replaced immediately. In the event a shelter is substantially or totally destroyed, the contractor shall remove the shelter within 24 hours and replace such shelter within (30) thirty days of such destruction. Removal costs shall be reimbursed to the vendor at fair market value. Provision and installation of a new shelter shall be based on current contract pricing. The same repair and replacement requirements shall apply to furniture units associated with the shelters. The contractor shall maintain an adequate supply of spare parts to perform the repairs described above.

The contractor will keep current daily and monthly maintenance logs covering both scheduled and on call service of the bus shelters and associated street furniture. The contractor shall provide the County a copy of all logs on a monthly basis.

5. Transit shelter solar lighting: Unless specifically exempted by the County on a case-by-case basis, all shelters must incorporate a self-contained solar powered commercial lighting system. The system shall include sufficient battery back-up to ensure that shelter lights will be in operation continuously from dusk to dawn, and during any periods of darkness during the course of the day. The battery back-up system is to have sufficient storage capacity to enable five nights of operation with no sun.

The lighting system shall be a regular production unit that has been manufactured and fielded for a sufficient period of time to ensure reliability. All wiring shall meet the National Electrical Code. All connections are to be made with marine grade plugs and all hardware shall be stainless steel. The system shall normally operate at 100% relative humidity and a temperature range of 32 degrees F to 105 degrees F.

The solar panels shall contain solar cells, coated with anti-reflective film, that are appropriately protected on the upper surface, and be secured to the shelter roof with vandal resistant hardware. Panels shall pass JPL Block 5 test and environmental requirements.

The battery shall be technically appropriate for its application with one example being a pressurized, sealed valve regulated gel battery. The battery shall be 100% maintenance free, air shippable, fully recyclable, and capable of a minimum of 1,800 cycles in its application. The battery should be attached with vandal resistant hardware. The battery shall have a low voltage disconnect to prevent excess deep discharging.

The system controller shall be technically appropriate for its intended application with one example being capable of using less than 15 mill amperes power to provide series type regulation in two stages to increase the ability to maximize the charge, preventing overcharging, providing for temperature compensation for battery charging and operate all lights within the shelter. The controller shall have a short circuit protection.

All luminaries within the bus shelter shall produce an average maintained level of illumination of 2 FC at the bench level within the transit shelter footprint and operated from dusk to dawn. The lighting fixture shall have a clear diffuser that is vandal resistant. The unit shall be UL listed wet/dry location to include the storage battery. The unit shall be attached to the shelter with vandal resistant mounting hardware. The solar panels shall mount to the top of the curved roof. Shop drawings shall be submitted detailing wire routing, connections and hardware needed for installation to owner's representative for review and approval.

The solar panels shall have at least five-year performance warranty from the manufacturer. Bulbs shall be warranted for one year. All other parts shall have a two-year warranty from the date of installation. The warranty shall provide for the repairs or replacement of any failed components when returned, prepaid to the factory. All bolts, washers and hardware shall be included.

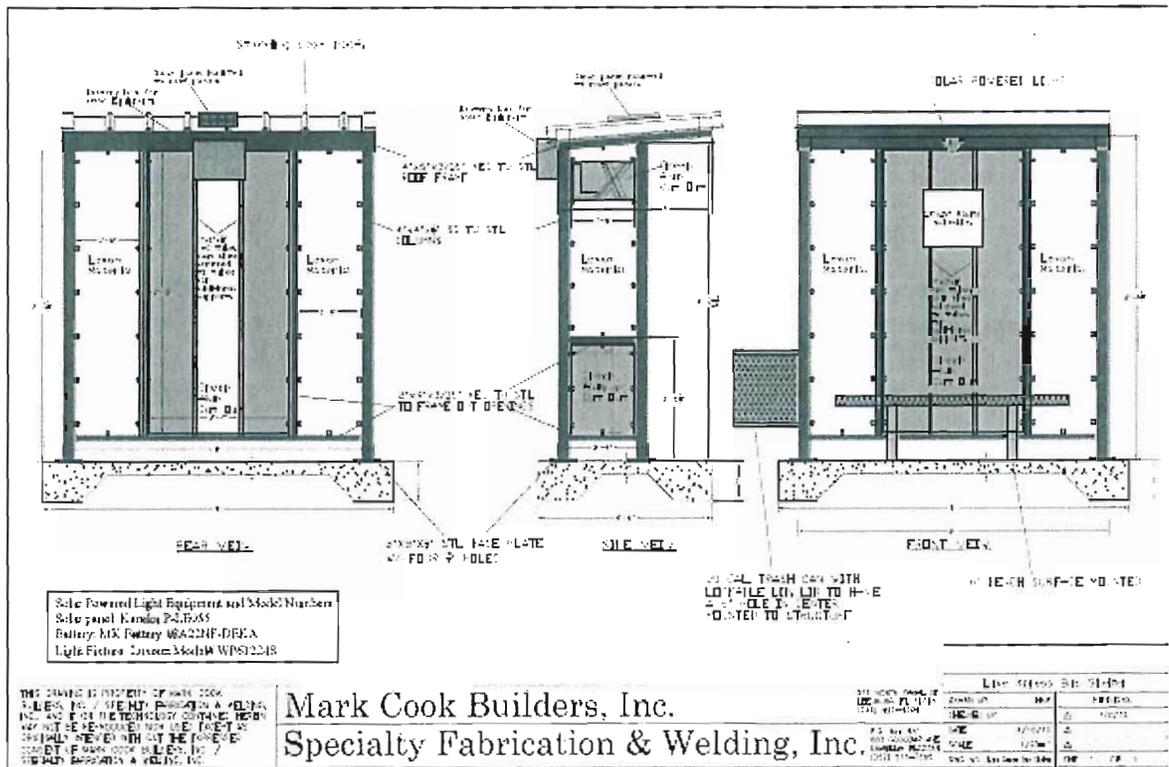
6. Installation Guidelines/Requirements: The shelters will be installed by an appropriately licensed vendor having three (3) or more years of experience installing transit shelters of a similar type and structure. The contractor will be responsible for all aspects of contract performance to include picking up and loading each shelter for transportation to the installation site. The total delivery and installation timeframe for any shelter ordered under the contract shall not exceed forty-five (45) calendar days. County shall be advised of project schedules and given the opportunity to make inspections for work in progress and completed projects. Note: the County reserves the right to have any or all completed shelters evaluated by a third party specialist to determine/evaluate full compliance of the shelter with ADA requirements.

During the course of installation of any shelter, precautions shall be exercised at all times for the protection of persons and property. All services performed under this contract shall conform to all relevant OSHA, State and County regulations during the course of such effort. Any fines levied by any regulatory authorities for failure to comply with these requirements shall be borne solely by the contractor. Barricades shall be provided when work is performed in areas traversed by persons, or when deemed necessary by FDOT or MOT requirements or by the County Project Manager. All unusable materials and debris shall be removed from the premises at the end of each workday, and disposed of in an appropriate manner. Upon final completion, all areas where work has been involved will be cleaned as mutually agreed with the associated user department's project manager. All existing structures, utilities, services, roads, trees, shrubbery, and property in which the County has an interest shall be protected against damage or interrupted services at all times during the term of this contract. The contractor shall be held responsible for repairing or replacing property to the satisfaction of the County which is damaged by reason of the contractor's operation on the property. In the event the contractor fails to comply with these requirements, the County reserves the right to secure the required services and charge the costs of such services back to the contractor.

Shelter Locations Currently Under Consideration

Area	Route	Shelter	Location
Leesburg	1 & 2	1	US 441 & Citizens Blvd. – Leesburg (Transfer Station)
Leesburg	2	1	Downtown Leesburg Main Street
Leesburg	1	1	Lake Square Mall Area (behind Sears) – Leesburg
Leesburg	2	1	Wal-Mart – on MLK Blvd., Leesburg
Leesburg	1 & 2	2	LRMC – Lake Ave. both sides of the road
Leesburg	1	1	Lake-Sumter Community College - Leesburg
Eustis	1, 3 & 4	1	Eustis Square Shopping Center, Ardice Ave. (Transfer Station)
Eustis	1	1	Downtown Eustis
Eustis	1	1	Wall Street – Near Tall Pines apartments, West side of road
Eustis	1	1	Vo-Tech Area – Eustis
Eustis	2	1	Library Eustis
Eustis	1	1	US 441 Publix Shopping Center (internal location)
Eustis	1	1	US 441 Publix Shopping Center (US 441)
Tavares	1	1	Florida Hospital Waterman – Tavares
Tavares	1	1	County Admin Building East Bound
Tavares	1	1	County Admin Building West Bound
Lady Lake	1	1	Lady Lake Home Depot Area
Lady Lake	1	1	Library Lady Lake
Fruitland Park	1	1	Fruitland Park Library area on Dixie Ave.
Mount Dora	3	1	Mt Dora near City Hall
Mount Dora	3	1	Wardell - Near Hampton Villas, East side of Wardell
Mount Dora	3	1	Wal-Mart – Mount Dora (replace employee break area)
Mount Dora	3	1	Library Mt. Dora
Umatilla	4	1	Umatilla, North Lake Community Park
Umatilla	4	1	Umatilla City Hall
Umatilla	4	1	Umatilla Health Clinic CR 450
Umatilla	4	1	Umatilla at traffic light and frontage road (City property)

Note: The County specifically retains the right to amend the above list to either delete sites identified above or include additional sites. Specific pricing for each site will be determined in the manner specified in paragraph 3 (General Requirements) of the Statement of Work



Side Elevation Light Equipment and Model Numbers
 Side Panel Kenda P4.565
 Battery MK Battery W622HF-DECA
 Light Fixture Luxon Model WPS12248

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Mark Cook Builders, Inc.
 Specialty Fabrication & Welding, Inc.

DATE: 07/10/10
 DRAWN BY: J. COOK
 CHECKED BY: J. COOK
 SCALE: 1/8" = 1'-0"
 SHEET NO.: 10-028-01



LAKE COUNTY
FLORIDA

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ADDENDUM NO. 1

Date: March 16, 2010

ITB No. 10-0208

Provide and Install Bus Shelters and Associated Furniture

This addendum is being issued to make the following changes to the bidding document. The information in this addendum modifies and changes the original bidding documents and takes precedence over the original documents. Respondents shall acknowledge receipt of this addendum by completing this form and returning it with the response. Failure to acknowledge this addendum may preclude consideration of the bid proposal award.

Change the following:

Section 1.4: Pre-Bid Conference (Recommended)

A pre-bid conference will be held on March 29, 2010 at 10:00 AM at the address shown in paragraph 1.2 above to discuss the special conditions and specifications included within this solicitation.

Firm Name: Mark Cook Builders, Inc. Date: April 21, 2010
Signature: [Handwritten Signature] Title: President
Typed/Printed Name: Mark D. Cook, III

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DISTRICT ONE
JENNIFER HILL

DISTRICT TWO
ELAINE RENICK

DISTRICT THREE
JIMMY CONNER

DISTRICT FOUR
LINDA STEWART

DISTRICT FIVE
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ADDENDUM NO. 2
Date: April 8, 2010
ITB No. 10-0208

Provide and Install Bus Shelters and Associated Furniture

This addendum is being issued to make the following changes and clarifications to the bidding document. The information in this addendum modifies and changes the original bidding documents and takes precedence over the original documents. **Respondents shall acknowledge receipt of this addendum by completing this form and returning it with the response. Failure to acknowledge this addendum may preclude consideration of the bid proposal award.**

Change bid opening date:
Bid Due Date: from April 14, 2010 to April 21, 2010

Questions/Answers:

1. Question: Can a quote be provided for just furniture for the Bus Shelters or does a quote need to be provided for the whole project including the bus shelter and associated furniture?
Answer: At this point in time we are seeking full turnkey response from prime vendors covering all aspects of the total scope of work.
2. Question: Is there an estimated or set budget for this project?
Answer: Although there is a certain level of funding currently available for the project, there is no firm estimate regarding the cost of each shelter and related furniture for each shelter, or for the installation and maintenance services stated in the solicitation.
3. Question: With respect to the quoted opportunity, is advertising that will provide the county with revenue, allowed on the units?
Answer: No, there will be no advertising on the shelters.

Firm Name: Mark Cook Builders, Inc. Date: April 21, 2010

Signature: [Handwritten Signature] Title: President

Typed/Printed Name: Mark D. Cook, III

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ADDENDUM NO. 3
Date: April 13, 2010
ITB No. 10-0208

Provide and Install Bus Shelters and Associated Furniture

This addendum is being issued to make the following changes and clarifications to the bidding document. The information in this addendum modifies and changes the original bidding documents and takes precedence over the original documents. **Respondents shall acknowledge receipt of this addendum by completing this form and returning it with the response. Failure to acknowledge this addendum may preclude consideration of the bid proposal award.**

Bid due date:

Bid Due Date remains unchanged at April 21, 2010

Questions/Answers:

Vendors are advised that the questions and answers provided below are generally for information only, but that question/answer 4 does amend the specifications to allow for shelters to be constructed of non-rusting aluminum under the conditions stated below.

Question 1: Are all the shelter permits through Lake County or do we have to pull permits with Leesburg, Eustis, Mount Dora, Tavares, Fruitland Park, Lady Lake, and Lake County?

Answer 1: As currently stated in the ITB, the awarded vendor has the responsibility to acquire all required permits. Although a one stop permitting process for this project is being considered, the structure existing at this point in time requires work permits to be pulled in each jurisdiction.

Question 2: Site specific pricing is required for each location. After visiting several of the sites, it was discovered that several of the bus stops are not marked, or in Section 2 of the ITB several of the locations are noted as "Area". If site specific pricing is required, can we get more specific directions?

Question 3: ITB notes that contractor is responsible for ADA/Pedestrian access to the shelters. If a shelter is located in the middle of a city block, with no sidewalks on either side, or in the area, what are we to figure for ADA/Pedestrian access?

Answer to 2 and 3: The scope of work and pricing sections of the ITB currently state a detailed description regarding the pricing structure of the ITB. Vendors are to provide a price for a standard defined structure with a standard defined installation effort with the initial bid response. Award will be based on the standard pricing submitted by vendors. A site-specific proposal will be required for each individual installation at the time all associated requirements for each specific location are defined. Detail in this regard is stated in paragraph 3 of the scope of work included in the ITB.

Question 4: Will Lake County consider non-rusting aluminum bus shelters provided contractor supplies fully stamped, certified and engineered sets of drawings with the shelters, signed by a registered Structural Engineer or Architect currently licensed to practice in the State Of Florida certifying that they will fully meet your specifications including windloads?

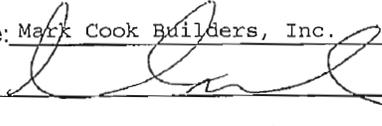
Answer 4: Shelters constructed of non-rusting aluminum may be provided if it is clearly and indisputably confirmed within the vendor's initial response that such shelters meet all functional, structural, and operational specifications and requirements set forth in the solicitation.

Question 5: Could you provide a list of all contractors or interested parties who have either downloaded or obtained in person this bid?

Answer 5: We cannot provide a definitive list of "all contractors or interested parties who have either downloaded or obtained in person this bid". A list of the firms that attended the pre-bid conference is available on line.

Vendors are advised that the time period allowed for further questions has passed.

Firm Name: Mark Cook Builders, Inc. Date: April 21, 2010

Signature:  Title: President

Typed/Printed Name: Mark D. Cook, III

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EXHIBIT B PRICING SECTION

ITB Number: 10-0208

PRICING SECTION

Item Description	EST. QTY	U/M	Unit Price	Total
1. Provide and install a Shelter, 4 ft deep x 8 ft wide, to include installation of standard (per code) concrete pad, and to include all basic design elements and components stated within the scope of work	28	each	\$ \$8,519.00	\$ \$238,532.00
Item at County Option* 2. Annual Price to maintain each installed shelter, to be paid on a monthly pro-rated basis (per year price/12 months paid monthly in arrears)	28	per year price per shelter	\$ \$1,800.00	\$ \$50,400.00

The estimated quantities expressed above reflect the quantities currently estimated to be ordered during the first year of the contract. Actual quantities for the initial and subsequent years of the contract are dependent upon need and available funding. No specific order quantity is guaranteed for any portion of, or the totality of, the duration of the contract.

* Vendors are required to provide pricing for line item 2 above as part of the initial bid response. The County retains the unilateral right to exercise such option at the time of initial award

In addition to the above basic pricing, each bidder shall provide:

- A clear and concise description, to include drawings or photographs, of the structure and associated furniture components that are included within the pricing values expressed for item 1 above. The unit price stated above for the structure shall constitute a turn-key installed structure compliant with all stated specifications and fully suitable for all aspects of the intended function. As examples of that requirement, the structure provided for within the price stated above must include all appropriate seating, an integrated trash receptacle, the specified solar panel system, and all normal installation effort to include provision of a standard concrete pad compliant with all code requirements. See paragraph 3 of the Statement of Work for further clarifying detail in this regard.
- An item priced list (with provide and install pricing listed separately) of all repair and/or spare parts and component items that may be required to support post-installation repair activities for the standard shelter. These items and costs will be evaluated with the bid.
- The support/ maintenance facility information detailed in paragraph 1.20 of this solicitation

The bidder is encouraged, but not required, to provide a priced list (with provide and install pricing listed separately) of additional components intended to provide enhanced features to the patrons of the transit system. One example would be solar-powered infrastructure to support charging stations for electric vehicles. It is stressed that the shelter provided at the stated base pricing is to be a fully functional unit incorporating all requirements stated in the scope of work.