3H-13

Agenda Item #:

# PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS AGENDA ITEM SUMMARY

Meeting Date: January 13, 2009

[X] Consent [ ] Workshop [ ] Regular [ ] Public Hearing

Department: Facilities Development and Operations

# I. EXECUTIVE BRIEF

**Motion and Title**: **Staff recommends motion to approve:** Amendment No. 5 to the contract with Moss & Associates, LLC. (R2007-0031) for construction management services for State Road 15 improvements and the asphalt site package for the West County Detention Facility for a Guaranteed Maximum Price (GMP) in the amount of \$2,108,442.

**Summary:** In November, 2007 (R2007-1973), February, 2008 (R2008-0199), and July, 2008 (R2008-1310), the Board approved amendments which authorized the demucking, installation of site utilities and the construction of the outbuildings (New Eagle Academy, Fuel Station, Impound Building and renovations to the existing Eagle Academy) for the first phase of the Jail Expansion Program 2, West County Detention Facility. Amendment No. 5 will provide for the construction of the parking areas, access drive, and road improvements to State Road 15. This work was not awarded as part of previous GMPs in order to take advantage of the more favorable market conditions which now exist. This resulted in saving of approximately \$400,000. Amendment No. 5 is funded from Criminal Justice and Public Improvement Revenue Bonds' Series 2008. The SBE goal for the project is 15%. Moss & Associates will be providing 12.8% SBA participation in this amendment. Moss's overall SBE participation for this project including this work is 18%. The duration of this work is 50 days for State Road 15 improvements and 114 days for onsite paving. (Capital Improvements Division) <u>Countywide (JM)</u>

**Background and Justification**: On April 15, 2006, the Board approved proceeding with Jail Expansion Program II consisting of the expansion of the West County Detention Facility, Stockade and Renovations to the Main Detention Facility. On November 6, 2007, the Board approved Amendment No. 1 to demuck and fill the site, on February 5, 2008, the Board approved Amendment No. 2 to provide site utilities, and on July 22, 2008, the Board approved Amendment No. 4 for the construction of the outbuildings. The demucking and the site utilities are 95% complete while the construction of the outbuildings is underway. This Amendment is the next phase of work required in the development of the West County Detention Facility project and includes a new turn lane on SR 15 required by FDOT.

# Attachments:

- 1. Location Map
- 2. Budget Availability Statement
- 3. Amendment No. 5

Recommended by	the my Work	12/16/08
T	Department Director	Date
Recommended by:	Apren	1/6/09
	County Administrator	Date

# II. FISCAL IMPACT ANALYSIS

### A. Five Year Summary of Fiscal Impact:

Fiscal Years Capital Expenditures Operating Costs External Revenues Program Income (Count In-Kind Match (County) NET FISCAL IMPACT	2009 <u>\$2,108,442</u>  ty) <u>\$2,108,442</u>	2010 0 0 0 0	2011 0 0 0 0 	2012 0 0 0 0 0 0	2013 0 0 0 0 0 
# ADDITIONAL FTE POSITIONS (Cumulative	)				
Is Item Included in Currer Budget Account No: Fun Repo		Dept_411	Unit _B	<u>362</u> Obj	ect <u>6502</u>

B. Recommended Sources of Funds/Summary of Fiscal Impact:

Criminal Justice and Public Improvements Revenue Bonds, Series 2008.

## III. <u>REVIEW COMMENTS</u>:

A. OFMB Fiscal and/or Contract Development and Control Comments:

egal Sufficiency: Áttorney Assistar

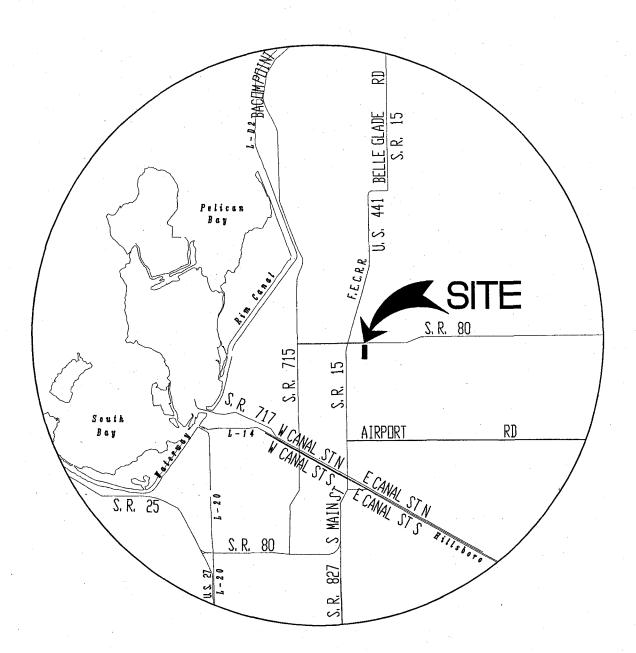
act Administrator

This amendment complies with our review requirements.

C. Other Department Review:

**Department Director** 

This summary is not to be used as a basis for payment.





# ATTACHMENT #!

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# FACILITIES DEVELOPMENT & OPERATIONS BUDGET AVAILABILITY STATEMENT

REQUEST DATE: 12/09/08 REQUESTED BY: Mike McPherson PHONI FAX: 2	E: 233-0278 33-0270
PROJECT TITLE: PBC Jail Expansion Program II PROJE	ECT NO.: 04202
ORIGINAL CONTRACT AMOUNT: BCC R	ESOLUTION#:
<b>REQUESTED AMOUNT:</b> \$2,108,442.00	DATE:
CSA or CHANGE ORDER NUMBER: Amendment No. 5	
CONSULTANT/CONTRACTOR: Moss & Associates	
PROVIDE A BRIEF STATEMENT OF THE SCOPE OF SERVICES TO CONSULTANT/CONTRACTOR:	BE PROVIDED BY THE
To provide construction for parking areas, access drive and road improvements to County Jail Expansion	o State Road 15 at the West
CONSTRUCTION\$2,108,442.00PROFESSIONAL SERVICES	- - -
** By signing this BAS your department agrees to these staff costs and your account with this BAS by FD&O. Unless there is a change in the scope of work, no additional staff ch	
BUDGET ACCOUNT NUMBER (IF KNOWN)	
FUND: 3053 DEPT: 411 UNIT: \$362 OBJ: 6502	,
FUNDING SOURCE (CHECK ALL THAT APPLY):	X OTHER
BAS APPROVED BY: DATE: $DATE: DATE: DATE:$	bacon 10 DY
Revised 03/30/04	

ATTACHMENT # 2

## AMENDMENT # 5 TO CONTRACT FOR CONSTRUCTION MANAGEMENT SERVICES JAIL EXPANSION PROGRAM II WEST COUNTY JAIL PROJECT NO. 06213

WHEREAS, the Owner and Construction Manager, HOK/Moss & Associates, LLC, acknowledge and agree that the Contract between Owner and Construction Manager is in full force and effect and that this Amendment merely supplements said Contract;

WHEREAS, the parties hereto entered into a Contract between Owner and Construction Manager whereby the Construction Manager has rendered or will render construction services as specified therein; and

WHEREAS, the parties have negotiated a Guaranteed Maximum Price, including Construction Managers fees for construction and warranty services and other issues as set forth herein and in the Contract;

NOW THEREFORE, in exchange for the mutual covenants and promises set forth herein and the sums of money agreed to be paid by the Owner to the Construction Manager, the parties agree as follows:

# GUARANTEED MAXIMUM PRICE

Pursuant to Article 2.2 and Article 6 of the Contract between Owner and Construction Manager, the parties have agreed to the establishment of a Guaranteed Maximum Price of \$2,108,442 to provide construction for parking areas, access drive and road improvements to State Road 15 at the West County Jail Expansion.

## SCHEDULE OF TIME FOR COMPLETION

Pursuant to Article 5.3, Construction Manager shall substantially complete road improvements to State Road 15 within <u>50</u> calendar days of receiving the Notice to Proceed. The balance of the work shall be substantial complete in April 2010. Should the Contractor (or in the event of a default, its Surety) fail to achieve certification of Substantial Completion by the Contractual end date, the County will suffer damages, the amount of which is difficult if not impossible to ascertain, and the County shall be entitled to Liquidated Damages as specified for each calendar day beyond the Contractual end date, until certification of Substantial Completion and acceptance has been given by the County. The Liquidated Damages rate is <u>\$770.00</u> per day through the date of certification of Substantial Completion for road improvements to State Road 15 only.

(3) ATTACHMENTS:

Exhibit A - GMP Proposal Public Construction Bond Form of Guarantee Insurance Certificate(s) IN WITNESS WHEREOF, the Board of County Commissioners of Palm Beach County, Florida has made and executed this Amendment on behalf of the COUNTY and CONSTRUCTION MANAGER has hereunto set its hand the day and year above written.

ATTEST: SHARON R. BOCK, CLERK & COMPTROLLER

By:\_

Deputy Clerk

Political Subdivision of the State of Florida BOARD OF COUNTY COMMISSIONERS

PALM BEACH COUNTY BOARD, FLORIDA

By:\_\_

John F. Koons, Chairman

APPROVED AS TO FORM AND LEGAL SUFFICIENCY APPROVED AS TO TERMS AND CONDITIONS

Le Director - FD&

By:\_

County Attorney

WITNESS: FOR CONSTRUCTION MANAGER CONSTRUCTION MANAGER:

By

SIGNATURE ignature r Name (type or print)

MOSS & ASSOCIATES, LLC Signature

EO Ams Name (type or print)

Exer. VICE PRESIDENT

(Corporate Seal)

# MOSS

PALM BEACH COUNTY JAIL EXPANSION West County Facility - Asphalt Paving Package Belle Glade, Florida

December 11, 2008

#### **Assumptions & Qualifications**

1. The Asphalt GMP to Palm Beach County includes placing Asphalt and curbs on State Road 15, Wheeler Way, and the associated drives and parking lot's throughout the West County Jail. Other scope included in this package are as follows; Demolition of the existing State Road 15, Striping, Tactile Warning Strips, Signage, Medians, Sod, Guardrail, Valley Gutter, and erosion control.

2. Construction Phase Fee and Cost of Work General Conditions Cost have been included for the Asphalt Paving Package activities (*December 2008 to April 2010*). No staff costs are included in this GMP. All staff costs will be included in the Main Jail GMP. Staff assigned to this GMP will also be assigned to the Main Jail scope of work. Please note two (2) staff members were added in September 2008 to support the project. The costs associated with these staff members will be included in the Main Jail GMP.

- 3. Cost of the premiums for the Construction Manager's bond shall be at a Estimated rate of .90% of the GMP Amount.
- 4. Costs for the Construction Manager's casualty insurance/C.C.I.P. shall be at a Estimated rate of 1.3% of the GMP Amount.
- 5. The cost of the Subguard Program shall be at a fixed rate of 1.25% of the total of all subcontracts and purchase orders.
- 6. Builder's Risk Insurance has not been included in this GMP. Palm Beach County agrees to furnish the Builder Risk Insurance, and it is understood and agreed that Palm Beach County is bearing all risk of loss to the property for which the Palm Beach County has an insurable or financial interest during construction, and in the event of a loss during construction Palm Beach County agrees to look solely to the proceeds of the Builder's Risk Insurance which Palm Beach County has agreed to furnish, the only exception being losses which occur as a result of Construction Manager's negligence or willful acts, and then, only to the extent not covered by insurance. Construction Manager should be paid by Palm Beach County for such work in place at the time of such loss regardless of whether or not such work was damaged in whole or in part by the peril. In the event of a loss requiring reconstruction of any part of the project, Construction Manager shall be entitled to all fees and costs as described in the contract agreement for overseeing such reconstruction.

#### PAGE 1 OF 3

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# MOSS

#### PALM BEACH COUNTY JAIL EXPANSION West County Facility - Asphalt Paving Package Belle Glade, Florida

December 11, 2008

#### Assumptions & Qualifications

- 7. Testing, handling, removal, transport, or disposal of Hazardous Materials discovered on site has not been included in the GMP. Any Hazardous Material discovered on site shall be considered a concealed condition. In the event these conditions are discovered Moss will cooperate with Palm Beach County and Palm Beach County's separate Abatement Contractor in the identification, abatement, removal, and transportation of the material.
- 8. We have made a reasonable review of the specifications for consistency with our contract agreement. In the event the specifications conflict with our contract agreement the contract agreement shall supersede.
- 9. We have reviewed the civil/site drawings included in this package and it is our understanding that the scope has not changed from the drawings that the demuck and utility GMP's are based on. The site/civil drawings included in this GMP package are for informational purposes only.
- 10. The GMP schedule is based on reasonable and timely inspections, approvals, and cooperation from local jurisdictions. The construction schedule is based upon availability of all permits (including, but not limited to dewatering, subsidiary permits, etc.) necessary to sustain continuous construction operations.
- 11. The breakdown included in this submission represents the anticipated final trade contract amounts and are part of the overall GMP. This breakdown is not to be construed as line item guarantees and shall be managed at the discretion of the Construction Manager within the total Guaranteed Maximum Price.
- 12. The costs of the following items are to be paid for by the Owner. These costs are <u>not</u> <u>included</u> in our GMP Proposal:
  - a. Site impact fees and right-of-way costs.
  - b. Grounds maintenance after substantial completion.
  - c. Survey/monitoring of existing buildings/structures for settlement.
  - d. Building Permit Costs

13. The FDEP (Florida Department of Environmental Protection) Army Corps. Of Engineers, and the FWMD (Florida Water Management District) permits (dewatering, ERP, wells,

#### PAGE 2 OF 3

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# MOSS

#### PALM BEACH COUNTY JAIL EXPANSION West County Facility - Asphalt Paving Package Belle Glade, Florida

December 11, 2008

#### Assumptions & Qualifications

etc.) are to be secured by others. The cost of any permit and design fees is excluded from this GMP.

- 14. Where an NPDES (National Pollutant Discharge Elimination System) permit (EPA and/or FDEP) is required it shall be secured by others. The cost of any permit and design fees is excluded from this GMP.
- 15. The SWPPP (Storm Water Pollution Prevention Plan) associated with the NPDES permits shall be developed by others. The cost of any permit and design fees is excluded from this GMP.
- 16. The cost of inspections performed under an NPDES permit is excluded from this GMP.
- 17. Construction Manager will use its best efforts to include escalation in the procurement of subcontractors. Unanticipated additional costs associated with fuel cost, material and/or labor escalation or increases resulting from market conditions outside the control of the Construction Manager shall be Equitably compensated based on validation of extraordinary costs beyond normal escalation documented by recognized industry data.
- 18. All material testing, threshold inspections, and special inspections are by Palm Beach County. Costs for these inspections are not included in the GMP. If re-inspections are required as a result of defective work, re-inspection costs will be born by Moss.
- 19. Work shown for the Palm Tran Facility is excluded from this GMP.
- **20.** It is our understanding that the existing power lines on site which conflict with the work shown in the drawings will be demolished by FP&L.
- 21. Areas identified as "future" have not been included in this GMP.
- **22.** Any disturbance to previously compacted areas by others not subcontracted by Moss is not the responsibility of Moss to remedy. Costs to re-grade and re-compact to the requirements of the Contract Documents are not included in the GMP.

#### PAGE 3 OF 3

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# Palm Beach County Jail Expansion - Il West County Asphalt Paving Package

December	11,	2008	

Div.	item		Subcontractor		GMP	SBE %
32	Asphalt Paving		American		1,796,955	260,022
			· .\$			
	÷					
	Subtot	tal	•		1,796,955	260,022
	Building Permit / Plan Checking Fee Drawing Allowance Reimbursement Owner Trailer Compound				by Owner 5,000 0	0
	Construction Phase Fee Cost of Work - General Conditions Subbonds / Subguard Builders Risk Insurance			0.92% 2.55% 1.25%	19,300 53,750 22,462	10,250
	Performance Bond General Liability Insurance / C.C.I.P. Construction Conlingency			0.90% 1.30% 3.50%	N/A 18,976 27,410 73,795	
	Sul	btotal			2,017,648	-
	Design Contingency ( N.I.C. )			Í .	N.I.C.	
	Escalation		 		N/A	
	Construction Manager Fee			4.50%	90,794	
	1	OTAL	 	ļ	2,108,442	270,272 12.82%
					vete a tomogenerative and the sec	12,0270
	Current SBE % To Date (Including Asphalt Packa	ige)	 			18%
·	GMP '	Total	 -		2,108,442	

# INCREASE/DECREASE RIDER

Rider to be attached to and form a part of Bond Number <u>104 017 193</u>, dated the <u>24th</u>, day of <u>October</u>, 20 <u>07</u>, executed by <u>Travelers Casualty and Surety Company of America</u> (the "Surety") on behalf of <u>Moss and Associates, LLC</u> (the "Principal") in favor of <u>Palm Beach County Board of County Commissioners</u> (the "Obligee")

It is understood and agreed that the penal sum of the attached bond is hereby increased/decreased from

Thirty Four Thousand Three Hundred Fifty Thousand Five Hundred Twenty Five and 00/100 (\$ 34,350,525.00) Dollars

to

. \*

Thirty Six Thousand Four Hundred Fifty Eight Thousand Nine Hundred Sixty Seven and 00/100 (\$36,458,967.00) Dollars

said <u>increase</u>/decrease being applicable only as to acts or omissions occurring on or after the <u>28th</u> day of <u>October</u>, 20 <u>08</u>.

This change is effective <u>28th</u> day of <u>October</u>, 20 <u>08</u>.

This attached bond shall be subject to all of its terms, conditions and limitations except as herein modified.

Signed, sealed and dated this \_\_\_\_\_28th\_\_\_ day of \_\_\_\_\_Ctober \_\_\_\_\_, 20 \_\_\_08 .

WITNESS or ATTEST:

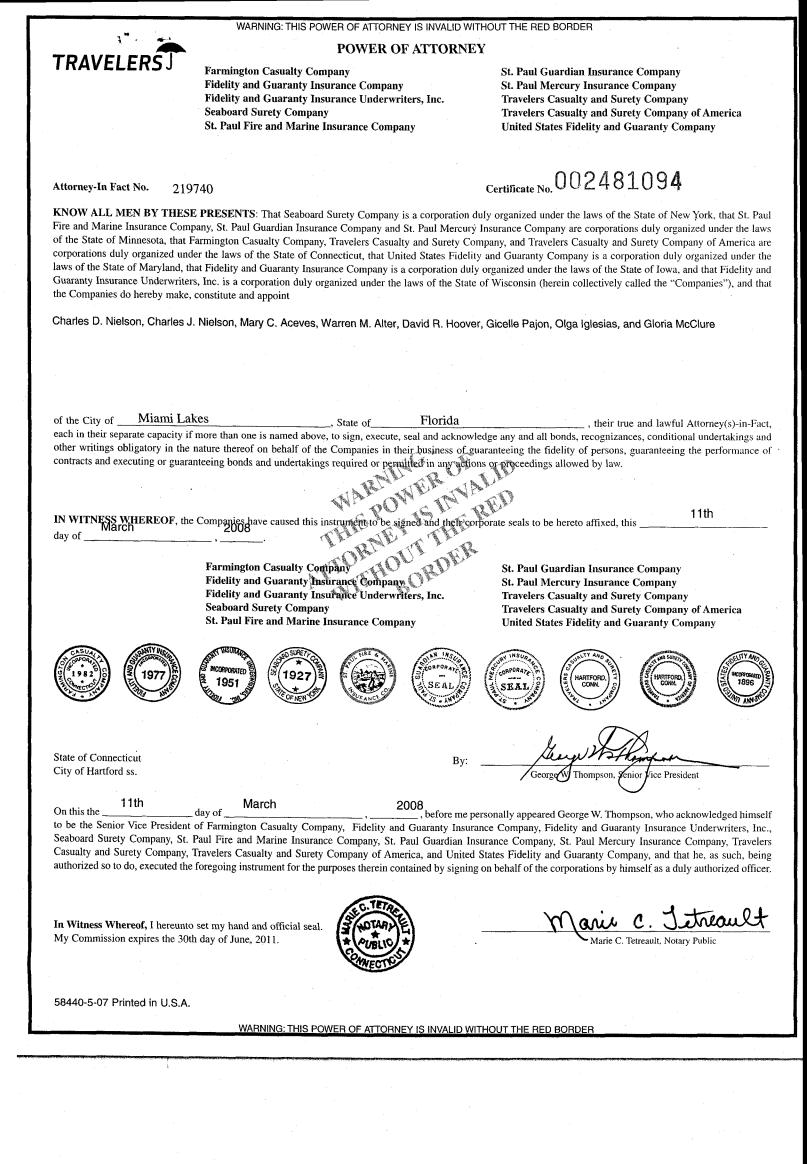
Moss and Associates, LLC (Principal) (Seal)

Title: Casualty and iny of America (Seal)

Charles J. Nielson ,Attorney-In-Fact/Resident Agent

ACCEPTED:

Name:	•	(Obligee)
Title:		
Date:		



### FORM OF GUARANTEE

# GUARANTEE FOR (Contractor and Surety Name) Moss & Associates, LLC as Contractor and Travelers Casualty and Surety Company of America as Surety

Palm Beach County Jail Expansion Phase II West County We the undersigned hereby guarantee that the (PROJECT NAME AND NUMBER) Palm Beach Facility County, Florida, which we have constructed and bonded, has been done in accordance with the plans and specifications; that the work constructed will fulfill the requirements of the guaranties included in the Contract Documents. We agree to repair or replace any or all of our work, together with any work of others which may be damaged in so doing, that may prove to be defective in the workmanship or materials within a period of one year from the date of Substantial Completion of all of the above named work by the County of Palm Beach, State of Florida, without any expense whatsoever to said County of Palm Beach, ordinary wear and tear and unusual abuse or neglect excepted by the County. When correction work is started, it shall be carried through to completion.

In the event of our failure to acknowledge notice, and commence corrections of defective work within five (5) working days after being notified in writing by the Board of County Commissioners, Palm Beach County, Florida, we, collectively or separately, do hereby authorize Palm Beach County to proceed to have said defects repaired and made good at our expense and we will honor and pay the costs and charges therefore upon demand.

DATED August 6, 2009 (Date of substantial completion)

SEAL AND NOTARIAL ACKNOWLEDGMENT OF SURETY

Moss & Associates, LLC (Contractor) (Seal)

By: hu Stort Tichan (Signature)

Travelers Casualty and Surety Company

(Surety) Seal) By:

(Signature) Charles J. Nielson Attorney-in-fact/ Resident Agent July 15, 2008

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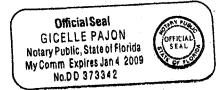
# Surety Acknowledgment

State of Florida County of Dade

)

On the 15th day of July, 2008 before me, a Notary Public in and for said State and County, residing therein, duly commissioned and sworn, personally appeared Charles J. Nielson, known to me to be the Attorney-In-Fact of Travelers Casualty and Surety Company of America, the corporation described in and that executed the within and foregoing instrument and known to me to be the person who executed the said instrument in behalf of the said corporation, and he/she duly acknowledged to me that said corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year hereinabove set forth.



Notary Public

Gicelle Pajon

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Lake Mary, FL 32746 (407) 804-2439 Mr. Chuck Spain				MPANIES AFFORD	NG COVERA GE	
			COMPANY A AIG	Excess Liability Insuran	ce Company, Ltd.	
ISURED Mose & Associates, LLC			COMPANY	erty Insurance Corporatio		
2101 N Andrews Ave., Suite Fort Lauderdale, FL 33311	2 300		COMPANY	erty Mutual Fire Insurance	e Company of Pittsburgh	PA
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#### SCHEDULE 1

#### LIST OF PROPOSED SBE-MWBE SUBCONTRACTORS CHANGE ORDER WORK

PROJECT NAME: Palm Beach County Jail Expansion II - West County Facility (Paving Package) PROJECT NO. 06213

NAME OF GENERAL CONTRACTOR: Moss & Associates, LLC CONTACT PERSON: Ted Adams PHONE NO: 352-291-2940

CCP #: Asphalt Paving GMP

#### PLEASE IDENTIFY ALL APPLICABLE CATEGORIES OF SUBCONTRACTORS

Name, Address and Phone Number     Minority Business     Small Business     Black     Hispanic     Women     Caucasian     Other (Please Specify)       1.Southerm Transport & Equipment Co. 18465 49° St. N Loxahatcher, FL 33470 561-790-0406     X     \$     \$     \$     \$     \$     \$     \$     \$     \$     \$       2. Hendersons Sani-Service 1100 N. Main Street Bele, Glade, FL 561-996-2298     X     \$     <	(Check	one or both Categ	ories) Subcon	tract Amount				
18465 49th St. N       A       \$       \$260.022.00       \$       \$       \$       \$1         Loxahatchee, FL 33470       561-790-0406       X       \$	Name, Address and Phone Number			Black	Hispanic	Women	Caucasian	Other (Please Specify)
1100 N. Main Street       A       \$	18465 49 <sup>th</sup> St. N Loxahatchee, FL 33470		X	\$	\$ <u>260,022.00</u>	\$	\$	\$
3.     \$     \$     \$     \$     \$     \$       4.     \$     \$     \$     \$     \$       5.     \$     \$     \$     \$       5.     (Please use additional sheets if necessary)     \$     \$	1100 N. Main Street Belle, Glade, FL		Χ	\$	\$	\$	\$	\$ <u>10,250</u>
4. 5. (Please use additional sheets if necessary)	3.			\$	\$	\$	\$	\$
5. (Please use additional sheets if necessary)	4.			\$	\$	\$	\$	\$
(Please use additional sheets if necessary) Total \$ \$_260.022 \$ \$ \$_10.250	5.			\$	\$	\$	\$	\$
	(Please use additional sheets if necessary	)	Total	\$	\$ <u>260.022</u>	\$	\$	\$ <u>10,250</u>

Change Order Price \$ \_\_\_\_\_\_\_

Total Value of SBE Participation \$\_270,272 M/

M/WBE Participation \$