

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: December 4, 2012 Consent [X] Regular []
Public Hearing []

Department: Water Utilities Department

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: an Interlocal Agreement with the Village of Royal Palm Beach (Village) to provide a berm and landscape improvements on the Village's cell tower site, under the Palm Beach County Northern Region Operations Center (NROC) project.

Summary: On October 16, 2012, the Palm Beach County Board of County Commissioners (Board) approved a Contract with Rio-Bak Corporation for the NROC Site Civil and Landscape Improvements (R2012-1552). A berm with landscaping will be installed to visually shield the NROC site from the adjacent residential properties. This Interlocal Agreement directs the County to install the berm and landscaping on the Village's cell tower site as provided in the alternate bid Item. The Interlocal Agreement obliges the Village to pay the cost of the bid alternate in the amount not to exceed \$62,000. (WUD Project No. 11-012) District 6 (MJ)

Background and Justification: The site civil and landscape improvements for NROC consist of improved drainage collection and construction of the perimeter berm to comply with the Site Specific Conditions specified in Resolution No. 12-06 with the Village. On August 8, 2012, four (4) bids were received for the NROC Site Civil and Landscape Improvements with Rio-Bak Corporation being the lowest responsible, responsive bidder in the amount of \$1,598,226.70. On October 16, 2012, the Board approved a Contract with Rio-Bak Corporation for the NROC Site Civil and Landscape Improvements (R2012-1552). The bid alternate for the cell tower site is in the amount of \$54,034.10 and will be processed as a change order through the Contract Review Committee. Upon execution of the Agreement the Village will pay one-half the cost, which is \$27,017.05. After completion of the project the Village will pay the remaining one-half of the cost with the total amount not to exceed \$62,000.

Attachments:

- 1. Location Map
- 2. Two (2) Original Interlocal Agreements

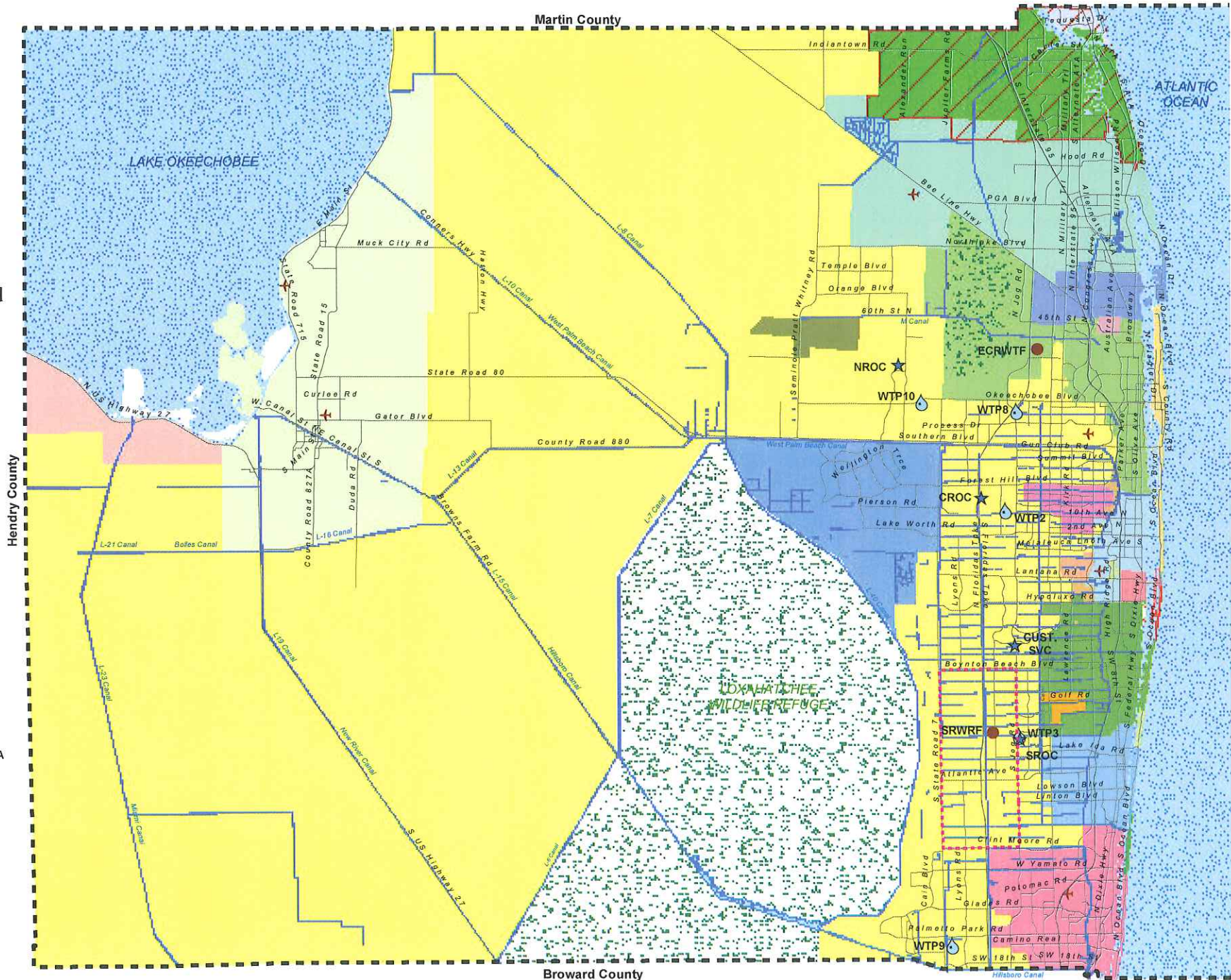
Recommended By: Benjamin Beardslee 10/29/12
Department Director Date

Approved By: Sharon Q. Lopez 11-27-12
Assistant County Administrator Date



**Palm Beach County
Water Utilities
Department
Service Area (SA) and
Major Facilities**

Attachment 1



- Legend**
- MANDATORY RECLAIMED SA
 - Water Treatment Facility
 - ★ Administration
 - Water Reclamation Facility
 - - - COUNTY LIMITS
 - P.B.C.W.U.D. SA



**INTERLOCAL AGREEMENT BETWEEN
PALM BEACH COUNTY
AND THE
VILLAGE OF ROYAL PALM BEACH**

THIS INTERLOCAL AGREEMENT, which is made and entered into on the _____ day of _____, 2012, by and between PALM BEACH COUNTY, (“COUNTY”) a political subdivision of the State of Florida, and the VILLAGE OF ROYAL PALM BEACH, a municipal corporation in the State of Florida, (“VILLAGE”) each one constituting a public agency as defined in Part I of Chapter 163, Florida Statutes and both being hereinafter referred to collectively as the “parties.”

WITNESSETH:

WHEREAS, Chapter 163.01, Florida Statutes, known as the “Florida Interlocal Cooperation Act of 1969” authorizes local governments to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities that will harmonize geographic, economic, population and other factors influencing the needs and development of local communities; and

WHEREAS, Part I of Chapter, 163 Florida Statutes, permits public agencies as defined therein to enter into interlocal agreements with each other to jointly exercise any power, privilege, or authority that such agencies share in common and that each might exercise separately; and

WHEREAS, the VILLAGE and the COUNTY’s water utility customers benefit from the COUNTY’S ability to operate the COUNTY’S Northern Region Operations Center and the VILLAGE directly benefits from the installation of a landscape berm to visually shield the plant facilities and cell tower site facilities from adjacent residential property; and

WHEREAS, the parties wish to enter into this Agreement to set forth the VILLAGE’s desire to cost share with the COUNTY in order to ensure that the required berm and landscaping will be installed at the site of the former VILLAGE wastewater treatment site adjacent to the VILLAGE’s cell tower site and the Northern Region Operations Center.

NOW, THEREFORE, in consideration of the mutual covenants, promises, and representations herein contained, and for other good and valuable consideration, the receipt and sufficiency of which the parties expressly acknowledge, the parties hereto agree as follows:

1. The foregoing Recitals are true and correct and are hereby incorporated herein by reference as if fully set forth herein.

2. Purpose of the Agreement. The purpose of this Agreement is to set forth the terms, conditions, and obligations of each of the respective parties hereto to cost share in the COUNTY's installation of a berm and landscaping in the area adjacent to the VILLAGE's cell tower site and the Northern Region Operations Center.
3. The Term. The term of this Agreement shall commence upon execution by both parties and shall expire upon completion of the scope of work identified herein, but in no event shall the term exceed two (2) years from the date of execution, unless earlier terminated as provided herein.
4. Obligations of the COUNTY. COUNTY agrees to utilize its contractor for Project No. WUD 11-012 to install the landscaping and berm scope of work identified on that certain "Schedule of Alternate Bid Prices Project No.: 11-012, Alternate Bid Item- Cell Tower Site" and as also referenced on the three page depiction for civil and landscape improvements for the VILLAGE project entitled "Crestwood Property Development EN1002, both of which are attached hereto and incorporated herein as composite Exhibit "A" (the "Project"). The estimated cost of the Project, as set forth in Exhibit "A", is \$54,034.10.
5. Obligations of the VILLAGE/Payment to COUNTY. VILLAGE shall reimburse the COUNTY for the costs of the Project in accordance with the following procedure. Within fifteen (15) days of the execution of this Agreement by both parties, the VILLAGE shall pay the COUNTY \$27,017.05, which is one half (1/2) of the estimated cost of the Project. Following completion of the Project, County shall provide VILLAGE with an invoice for the remainder of the actual Project costs, and VILLAGE shall pay the COUNTY the remaining costs within fifteen (15) days of receipt of said invoice. In no event whatsoever shall the VILLAGE's share of the costs for this Project exceed the sum of \$62,000.00 without a written addendum to this Agreement executed by the parties.
6. Independent Contractor. The parties shall be considered independent contractors. No person employed by any party to this Agreement shall, in connection with the performance of this Agreement or any services or functions contemplated hereunder, at any time, be considered the employee of the other party, nor shall an employee claim any right in or entitlement to any pension, worker's compensation benefit, unemployment compensation, civil service, or other employee rights or privileges granted by operation of law, except through and against the entity by whom they are employed.
7. Party Representatives. The COUNTY's representative during the term of this Agreement shall be Director of Water Utilities Department whose telephone number is (561) 493-6000. The VILLAGE's representative

during the term of this Agreement shall be Chris Marsh, the VILLAGE Engineer, or designee, whose telephone number is (561)790-5161.

8. Notices. All notices required or permitted to be given or delivered by or to any party hereunder, shall be in writing and shall be hand delivered by messenger, courier service or prepaid overnight delivery service, by electronic transmission producing a written confirmation of delivery, or alternatively shall be sent by United States Certified Mail, with Return Receipt Requested. The effective date of any notice shall be the date of delivery of the Notice if by personal delivery, courier services or prepaid overnight delivery service; if mailed, upon the date which the return receipt is signed, delivery is refused or the notice is designated by the postal authorities as non-deliverable, as the case may be; or if by electronic transmission, upon the date of the written delivery confirmation unless such date is a weekend, legal holiday or transmission occurs after 5:00 pm, in which case the effective date shall be the next business day. The parties hereby designate the following addresses as the address to which notices may be delivered, and delivery to such address shall constitute binding notice given to such party:

As to VILLAGE:

Village Manager
Village of Royal Palm Beach
Ray Liggins, P.E.,
1050 Royal Palm Beach Blvd
Royal Palm Beach,
FL 33411
Fax:790-5174

with a copy to:

VILLAGE Attorney
Corbett and White, P.A.
1111 Hypoluxo Rd., Ste 207
Lantana, FL 33462
Fax: 586-9611

As to COUNTY:

Palm Beach County Water Utilities
8100 Forest Hill Blvd.
West Palm Beach, FL 33413
Attn: Department Director
Fax: 493-6008

with a copy to:

Palm Beach County Attorney's Office
Attention: Attorney for Water Utilities Dept.
301 North Olive Avenue, Sixth Floor
West Palm Beach, FL 33401
Fax: 355-6461

9. Indemnification. Each party shall be liable for its own actions and negligence and, to the extent permitted by law, the COUNTY shall indemnify, defend and hold harmless the VILLAGE against any actions, claims or damages arising out of the COUNTY'S negligence in connection with this Agreement, and the VILLAGE shall indemnify, defend and hold harmless the COUNTY against any actions, claims, or damages arising out of the VILLAGE's negligence in connection with this Agreement. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Section 768.28, Florida Statutes, nor shall the same be construed to constitute agreement by either party to indemnify the other party for such other party's negligent, willful or intentional acts or omissions.
10. Severability. In the event that any section, paragraph, sentence, clause, or provision hereof is held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.
11. Waiver of Breach. It is hereby agreed to by the parties that no waiver of a breach of any of the covenants or provisions of this Agreement shall be construed to be a waiver of any succeeding breach of the same or any other covenant.
12. Default, Termination, Opportunity to Cure.
 - a. In the event that the VILLAGE breaches this Agreement, the COUNTY shall provide the VILLAGE with written notice specifying the nature of the breach ("Default Notice"). Following receipt of the Default Notice, the VILLAGE shall cure such breach within thirty (30) days. If the VILLAGE fails to cure the breach within said period, the COUNTY may terminate this Agreement upon written notice of termination to the VILLAGE, which will be effective immediately. In such event, the COUNTY shall not refund the VILLAGE any portion of the funds provided to the COUNTY for the VILLAGE's Cost Sharing Responsibility for that fiscal year.
 - b. In the event that the COUNTY breaches this Agreement, the VILLAGE shall provide the COUNTY with written notice specifying the nature of the breach ("Default Notice"). Following receipt of the Default Notice, the COUNTY shall cure such breach

within one hundred and twenty (120) days. If the COUNTY fails to cure the breach within said period, the VILLAGE may terminate this Agreement upon written notice of termination to the COUNTY, which will be effective immediately. In such event, the COUNTY shall refund the VILLAGE a prorata share of the funds provided to the COUNTY for the VILLAGE's Cost Sharing Responsibility for that fiscal year.

- c. Either party may terminate this Agreement for convenience for the upcoming fiscal year (i.e. October 1) by giving written notice of termination to the other party on or before July 1 of the current fiscal year. If the VILLAGE seeks to terminate this Agreement for convenience for the upcoming fiscal year after July 1, such termination shall not be effective until the following fiscal year, and the COUNTY shall not refund the VILLAGE any of the funds provided to the COUNTY for the VILLAGE's Cost Sharing Responsibility for that fiscal year. If the COUNTY terminates this Agreement for convenience after the commencement of the fiscal year, it shall refund the VILLAGE a prorata share of the funds provided to the COUNTY for the VILLAGE's Cost Sharing Responsibility for that fiscal year.

13. Enforcement Costs. Except as otherwise provided herein, any costs or expenses (including reasonable attorney's fees) associated with the enforcement of the terms and/or conditions of this Agreement shall be borne by the respective parties. This provision pertains only to the parties to the Agreement.
14. Remedies. This Agreement shall be construed by and governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.
15. Amendment. None of the provisions, terms, or obligations in this Agreement may be added to, modified, superseded, or otherwise altered, except by written instrument executed by the parties hereto.
16. Public Records. The parties shall comply with Florida's Public Records Law with regard to any documents or other records relating to this Agreement.

17. Discrimination. The parties agree that no person shall on the grounds of race, color, sex, age, national origin, disability, religion, ancestry, marital status, familial status, sexual orientation, or gender identity or expression be excluded from the benefits of or be subjected to any form of discrimination under any activity carried out by the performance of this Agreement.
18. Delegation. Nothing contained herein shall be deemed to authorize the delegation of the constitutional or statutory duties of state, county, or municipal officers.
19. Beneficiaries of Agreement. It is the intent and understanding of the parties that this Agreement is solely for the benefit of the parties. No person or entity other than the parties shall have any rights or privileges under this Agreement in any capacity whatsoever, either as third-party beneficiary or otherwise.
20. Construction of Agreement.
 - a. The titles, captions and paragraph headings are inserted for convenience only and are in no way intended to interpret, define, limit or expand the scope or content of this Agreement or any provision hereto.
 - b. This Agreement shall be construed without regard to any presumption or other rule requiring construction against the party causing this Agreement to be drafted.
 - c. In the event any provision of this Agreement conflicts, or appears to conflict with any other provision of this Agreement, the Agreement, including all exhibits, attachments and all documents specifically incorporated by reference, shall be interpreted as a whole to resolve any such conflict or inconsistency.
21. Entirety of Agreement. The COUNTY and the VILLAGE concur that this Agreement, together with any exhibits attached hereto, sets forth the entire Agreement between the parties, and that there are no promises or understandings other than those stated herein.
22. Office of Inspector General. Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421-2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the VILLAGE, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed through their duly authorized signatories on the day and year last written below.

ATTEST:
SHARON R. BOCK,
CLERK & COMPTROLLER

PALM BEACH COUNTY, FLORIDA, BY
ITS BOARD OF COUNTY COMMISSIONERS


By: _____
Deputy Clerk

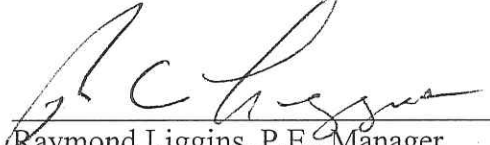
By: _____
, Chair

(SEAL)

ATTEST:

VILLAGE OF ROYAL PALM BEACH

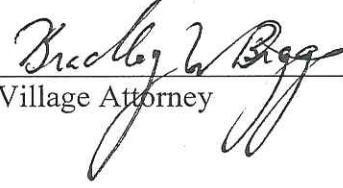
By: 
Diane DiSanto, Village Clerk

By: 
Raymond Liggins, P.E., Manager


(SEAL)

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

By: _____
Assistant County Attorney

By: 
Village Attorney

APPROVED AS TO TERMS AND CONDITIONS:

By: 
Bevin A. Beaudet, Director
Water Utilities Department

SCHEDULE OF ALTERNATE BID PRICES
Project No.: 11-012

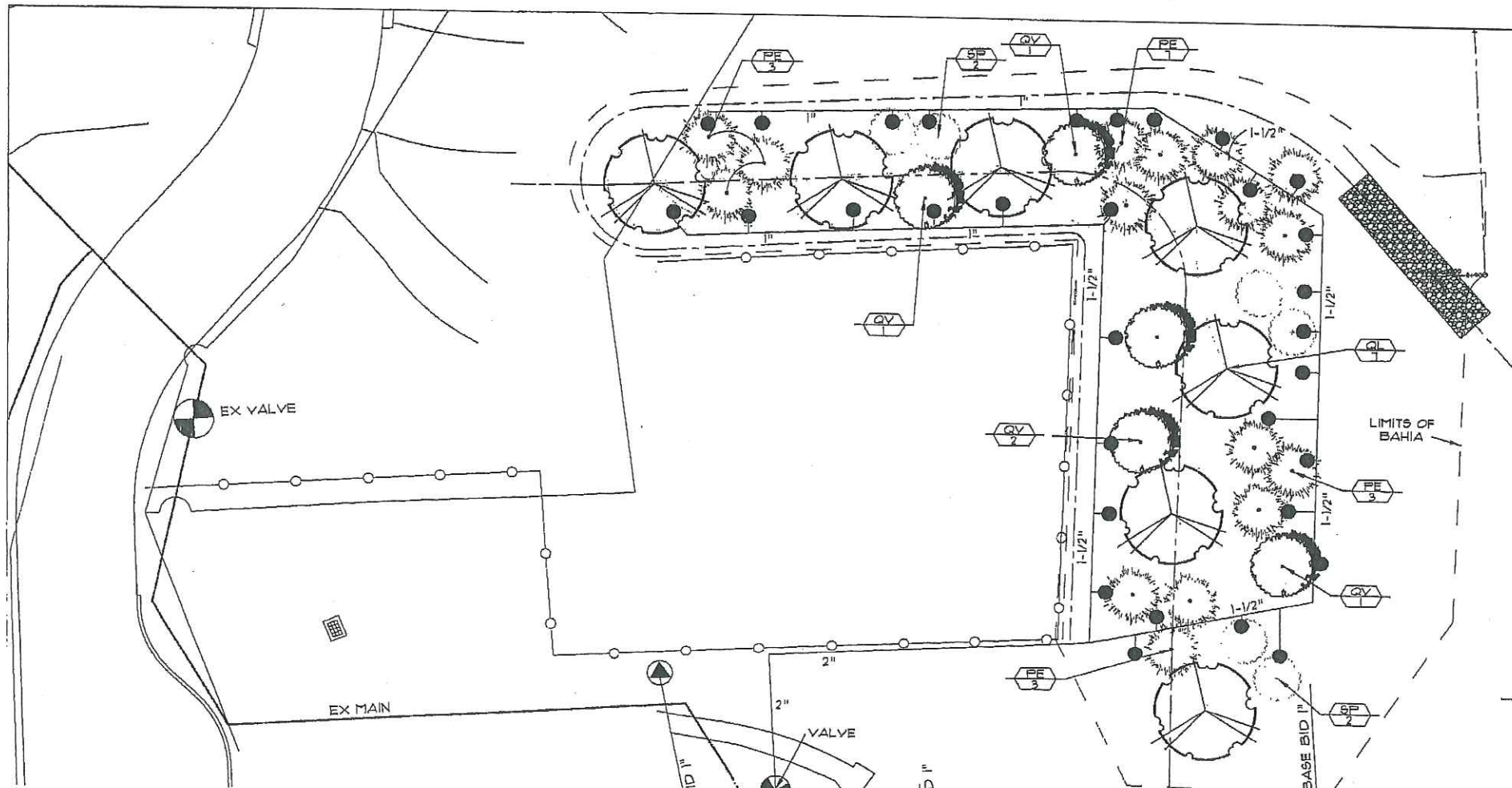
ALTERNATE BID ITEM - CELL TOWER SITE

Bid Item	Description	Unit	Estimated Quantity	Unit Price	Extended Cost
AA1	Clear & Grub	AC	0.3	5,000. ⁰⁰	1,500. ⁰⁰
AA2	Regular Excavation	CY	27	10. ¹⁵	274. ⁰⁵
AA3	Berm Embankment	CY	2,261	5. ³⁵	12,096. ³⁵
AA4	Sand Cement Riprap (FDOT #530-1)	CY	17	1,100. ⁰⁰	18,700. ⁰⁰
AA5	S. Fla. Slash Pine (Densa)	EA	16	302. ⁵⁰	4,840. ⁰⁰
AA6	Laurel Oak	EA	7	495. ⁰⁰	3,465. ⁰⁰
AA7	Live Oak	EA	5	660. ⁰⁰	3,300. ⁰⁰
AA8	Sabal Palm	EA	6	203. ⁵⁰	1,221. ⁰⁰
AA9	Bahia Sod	SF	15,009	0. ³⁰	4,502. ⁷⁰
AA10	Irrigation	LS	1	4,135. ⁰⁰	4,135. ⁰⁰
TOTAL ALTERNATE BID ITEMS AA1 THROUGH AA10 INCLUSIVE					54,034.¹⁰
TOTAL ALTERNATE BID PRICE FOR ITEMS AA1 THROUGH AA10 INCLUSIVE, IN WORDS:					
<i>FIFTY FOUR THOUSAND</i>					
<i>THIRTY FOUR</i> DOLLARS, AND <i>TEN</i> CENTS					

COMPOSITE EXHIBIT "A"

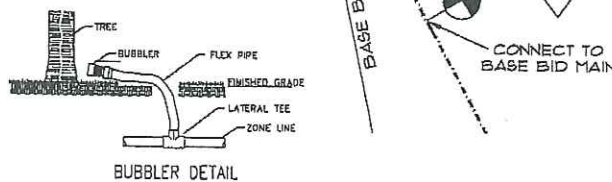
This bid will be Lump Sum. The Bidder agrees to furnish and pay for all materials necessary to complete all the work in accordance with all requirements of the Contract Documents and in accordance with all applicable codes and governing regulations, within the time limit specified. Bidder assumes all costs, delays and risks associated with all conditions or occurrences which cause or might cause an increase in Bidder's cost to complete the Work or which cause or might cause delays in Bidder's prosecution of the Work.

NOTE: Since the Engineer has no control over the cost of labor, materials, equipment or services furnished by others, or over the Contractor's methods of determining prices, or over competitive bidding or market conditions, Engineer's opinions of probably Construction Cost provided herein are to be made on the basis of Engineer's experience and qualifications and represent Engineer's best judgement as an experienced and qualified Engineer familiar with the construction industry; but Engineer cannot and does not guarantee that proposals, bids or actual Total Project of Construction Costs will not vary from opinions of probably construction cost prepared by Engineer.



IRRIGATION QUANTITIES

KEY	QTY.	UNITS	DESCRIPTION
TREES & PALMS			
1"	173	LF	1" IRRIGATION LATERAL PIPE
1-1/2"	513	LF	1-1/2" IRRIGATION LATERAL PIPE
2"	93	LF	2" IRRIGATION LATERAL PIPE
●	34	EA	BUBBLER
⊕	1	EA	CONNECTION, VALVE & BOX



PLANT LIST

KEY	QTY.	BOTANICAL NAME	COMMON NAME	SIZE	CONDITION / COMMENTS	NATIVE	DROUGHT TOLERANT
TREES & PALMS							
PE 1E		Pinus Elliptii (Dense)	South Fla. Slash Pine	18'-18" o.g.h., 4" -5" cal. dbh	B&B, Certified Dense, 1/2 @ 16" 1/2 @ 16"	Yes	Very
OL 7		Quercus laurifolia	Laurel Oak	18" o.g.h., 10" spr., 5" cal. dbh	B&B, Plant as shown	Yes	Very
QV 5		Quercus virginiana	Live Oak	20' o.g.h., 12" sad., 6" cal. dbh	B&B, Plant as shown	Yes	Very
SP 8		Sabal Palmella	Cabbage Palm	14', 16' & 18' c.l., banded	Staggered, Hurricane Cut, Leave fern on basin	Yes	Very

REFER TO NORTHERN REGION WATER
TREATMENT PLANT
PLANS SHEET L-4 TO MATCH
LANDSCAPING WITHIN THIS AREA

FOR PLANTING DETAILS, NOTES, SPECIFICATIONS
REFER TO BASE BID:
WATER UTILITIES DEPARTMENT
NORTHERN REGION OPERATIONS CENTER
SITE CIVIL & LANDSCAPE IMPROVEMENTS

DESIGNER: [Logo]
 DATE: MAY 12
 SHEET: A43 OF 3

CRESTWOOD PROPERTY DEVELOPMENT
 EN1002
 LANDSCAPING & IRRIGATION PLAN

By: [Signature] Date: [Date]
 Revision Description: [Blank]

WILSON & BENTLEY ARCHITECTS
 Planning & Engineering
 1000 N. W. 10th Ave., Suite 100
 Fort Lauderdale, FL 33304
 Phone: (954) 561-1111
 Fax: (954) 561-1112
 Email: info@wilsonandbentley.com