



THE CITY OF BONITA SPRINGS
BONITA SPRINGS, FLORIDA

REQUEST FOR PROPOSALS
FOR

**RECREATION CENTER SOLAR ENERGY/
THERMAL HOT WATER SYSTEM PROJECT**

RFP #10-030

JULY 2010

**NOTE NEW REQUIREMENT: IT IS THE SOLE
RESPONSIBILITY OF THE PROPOSER TO CHECK THE
CITY OF BONITA SPRINGS WEBSITE FOR ANY
PROJECT ADDENDA ISSUED FOR THIS PROJECT. THE
CITY WILL POST ADDENDA TO THIS WEB PAGE, BUT
WILL NOT NOTIFY PROSPECTIVE PROPOSERS**

**CITY OF BONITA SPRINGS
REQUEST FOR PROPOSALS
FOR
RECREATION CENTER SOLAR ENERGY/THERMAL HOT WATER SYSTEM PROJECT - RFP #10-030
DUE: 10:00 A.M, AUGUST 30, 2010**

The City of Bonita Springs, Florida is issuing a Request for Proposals (RFP) from qualified contractors to provide materials and services in connection with the **RECREATION CENTER SOLAR ENERGY/THERMAL HOT WATER SYSTEM PROJECT**, Bonita Springs, Florida.

Interested parties should submit one (1) original and five (5) copies of the required documents and Official Proposal Form, plus one (1) electronic CD ROM in Adobe PDF format, to the City of Bonita Springs, Attention: City Clerk, 9101 Bonita Beach Road, Bonita Springs, Florida 34135, on or before **Monday, August 30, 2010 at 10:00 A.M.**, marked **RFP #10-030**. Proposals delivered after the time and date stated will not be considered. Postmarks will not be considered. Faxed or electronically transmitted (e-mailed) material will not be accepted. There will be a **pre-proposal conference** held at City Hall, 9101 Bonita Beach Road, Suite 118, Bonita Springs, Florida, on **Wednesday, August 4, 2010 at 2:00 P.M.** and prospective proposers are encouraged to attend.

THE PROPOSED PROJECT WILL BE FUNDED IN WHOLE OR IN PART BY U.S. DEPARTMENT OF ENERGY, ENERGY EFFICIENCY CONSERVATION BLOCK GRANT FUNDS. ALL FEDERAL EEO AND WAGE REPORTING REQUIREMENTS WILL BE A PART OF THIS CONTRACT.

BUDGET: The grant amount is \$160,000 inclusive of design, manufacture, installation, and insurance requirements.

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PROJECT: **RECREATION CENTER SOLAR ENERGY/THERMAL HOT WATER SYSTEM PROJECT**, facility located at **26740 Pine Ave, Bonita Springs Florida 34135**.

SCOPE OF WORK: Furnish and install one (1) 20 KW Solar Photovoltaic System which would be affixed to the Recreation Center roof either by laminating or by physical attachment to the raised seam roof without roof penetrations; and one (1) Solar Thermal System, generating approximately 800,000 BTU, which would be attached to the existing Hot Water Tank, and which would generate up to 1,000 gallons per day, thus reducing reliance on FPL usage.

Contractor shall furnish all materials, equipment, labor, and incidentals to complete the project.

QUALIFICATION OF PROPOSERS: Proposers shall be properly qualified and, as applicable, hold contractor's licenses, certifications and registrations as required by State Statutes and City and County ordinances at the time of submission of the proposal, and shall submit pertinent documentation to evidence valid licenses, certifications, and registrations prior to contract award, including a Lee County business license (f/k/a occupational license). This project requires the Contractor to have the following license(s) to perform the specified scope of work: State Certified General Contractor or State Certified Solar Contractor. Contractor must be registered with E-Verify in order to perform services for the City of Bonita Springs. An insurance certificate shall be required from the successful proposer in the amounts specified in the attached Exhibit A, and a Public Construction Bond will be required.

COPIES OF CONTRACT DOCUMENTS: Official proposal documents may be obtained from the Public Works Office, 9101 Bonita Beach Road, Bonita Springs, Florida 34135 by calling (239) 949-6246, at no charge, or **by downloading these documents from our Internet site www.cityofbonitasprings.org**. Questions regarding Contract procedures should be directed to Lori Filler, Public Works Contract Coordinator, at the above number. Questions regarding technical details may be addressed to John Gucciardo, Special Projects Coordinator, at (239) 949-6262.

All Proposers are hereby placed on formal notice that neither the City Council nor any employees of the City of Bonita

Springs, nor any members of the Evaluation Review Committee are to be lobbied either individually or collectively concerning this proposal. Proposers and their agents who intend to, or have submitted proposals for this project are hereby placed on formal notice that they are not to contact members of the City Council nor staff members outside of regular meetings for such purposes as holding meetings of introduction, meetings relating to the evaluation process outside of those specifically scheduled by the City for negotiations, dinners, lunches, or any other actions that may be interpreted as potentially influencing the results of this process. **Failure to comply with this requirement shall result in an immediate disqualification of such firm by the City from further consideration for this proposal.**

This RFP is issued to provide potential contractors with information guidelines and rules to prepare and submit proposals. The submittal must satisfy all criteria established to qualify for evaluation.

The City of Bonita Springs reserves the exclusive rights to: 1) require oral presentation, if necessary; 2) waive any informalities in the evaluation process; 3) accept or reject any or all proposals in part or in whole, with or without cause; 4) request additional information if appropriate; 5) limit and determine the actual contract services to be included in a final proposed contract; and 6) reject all proposals if found by the City of Bonita Springs not to be in the best interest of the City.

LEGAL NOTICE TO PROPOSERS

NOTICE IS HEREBY GIVEN that sealed proposals will be received by THE CITY OF BONITA SPRINGS, at 9101 Bonita Beach Road, Bonita Springs, Florida, until **10:00 AM**, on **Monday, August 30, 2010**.

PROJECT: RECREATION CENTER SOLAR ENERGY/THERMAL HOT WATER SYSTEM PROJECT

SCOPE OF WORK: Furnish and install one (1) 20 KW Solar Photovoltaic System which would be affixed to the Recreation Center roof either by laminating or by physical attachment to the raised seam roof without roof penetrations; and one (1) Solar Thermal System, generating approximately 800,000 BTU, which would be attached to the existing Hot Water Tank, and which would generate up to 1,000 gallons per day, thus reducing reliance on FPL usage. Contractor shall furnish all materials, equipment, labor, and incidentals to complete the project.

This project requires the Contractor to have the following license(s) to perform the specified scope of work: State Certified General Contractor or State Certified Solar Contractor.

1. COPIES OF REQUEST FOR PROPOSALS

- 1.1 A copy of the Request for Proposal may be examined and/or obtained from the Public Works Office, 9101 Bonita Beach Road, Bonita Springs, Florida 34135, by calling (239) 949-6246, at no charge, or **by downloading these documents from our Internet site www.cityofbonitasprings.org**. **Please Note: If the Official Documents are not obtained from the City of Bonita Springs, Proposals will not be accepted by the City from a Proposer.**

2. SUBMITTAL OF PROPOSALS

- 2.1 Proposals submitted shall not be valid unless sealed in an envelope marked "Sealed Proposal"; identified by the name of the firm, project name; Request For Proposal number; and the date and time of proposal receiving. This envelope or box shall contain one (1) additional sealed envelope:
 - Proposal response and priced proposal

Six (6) copies of the Proposal shall be submitted (one original and five (5) copies) plus one (1) electronic CD ROM in Adobe PDF format. Failure to comply with these requirements may be considered non-responsive.

Proposal envelope shall include the following:

- 2.1.1. Complete response to all proposal requirements
- 2.1.2. The completed Official Proposal Form. Proposal must be properly signed and, where applicable, corporate and/or notary seals.
 - 2.2.1.1. Acknowledgement of receipt of Addenda (if any).
- 2.2.2. Complete Cost Proposal Template
- 2.2.3. Signed and notarized Affidavit Certification Immigration Laws
- 2.1.3. All other pertinent documentation required in the Request for Proposal.
- 2.3 Any written proposals, other submissions, correspondence and all records made thereof, as well as invitations to proposals pursuant to this RFP, shall be open and public in compliance with Florida law governing public records and meetings.

3. CITY PERSONNEL

The Project Manager for this proposal is John Gucciardo, Special Projects Coordinator, phone (239) 949-6262. The City contact person for process and procedures is Lori Filler, Public Works Contract Coordinator/Administrator, 9101 Bonita Beach Road, Bonita Springs, Florida 34135, phone (239) 949-6246, fax (239)-949-6245.

INSTRUCTIONS TO PROPOSERS

1. CITY'S RESERVATION OF RIGHTS

The issuance of this RFP constitutes an invitation to present sealed proposals. The City reserves the right to determine, in its sole discretion, whether any aspect of the Proposal satisfactorily meets the criteria established in this RFP, the right to seek clarification from any Proposer, the right to solicit proposals with any Proposer or Proposers submitting a response, and the right to reject any or all responses with or without cause. The City also reserves the right to modify the Scope to be considered for this project. In the event that this RFP is withdrawn by the City, or the City does not proceed for any reasons, including but not limited to the failure to occur of any of those things or events set forth herein, the City shall have no liability to any Proposer for any costs or expenses incurred in connection with the preparation and submittal of this RFP or otherwise.

2. CITY INTERPRETATION/ADDENDA

No interpretation or clarification of the meaning of the proposal documents will be binding if made to any Proposer orally. Every such request must be in writing, addressed to the OWNER'S REPRESENTATIVE: John Gucciardo, Special Projects Coordinator, and received no later than August 13th, 2010

NOTE NEW REQUIREMENT: IT IS THE SOLE RESPONSIBILITY OF THE PROPOSER TO CHECK THE CITY OF BONITA SPRINGS WEBSITE FOR ANY PROJECT ADDENDA ISSUED FOR THIS PROJECT. THE CITY WILL POST ADDENDA TO THIS WEB PAGE, BUT WILL NOT NOTIFY PROSPECTIVE PROPOSERS

All such interpretations, any supplemental instructions, and/or any modifications to the Proposal Documents deemed advisable by the CITY will be issued as a written Addendum and made available to all known PROPOSERS through the City's website, not later than five (5) calendar days (excluding Saturdays, Sundays, and Holidays), prior to the proposal submittal date. Questions will not be accepted during the last seven (7) days prior to proposal submittal date, unless otherwise specified by the City of Bonita Springs. All Proposers should check the City's website or contact the City's Public Works Department at least five (5) calendar days before the proposal submittal date to verify information regarding Addenda. Failure to do so may result in rejection of the proposal as non-responsive. Proposer shall acknowledge receipt of all Addenda by number and date. Addenda information will be posted on the City's website at www.cityofbonitasprings.org. IT IS THE SOLE RESPONSIBILITY OF THE PROPOSER TO ENSURE HE/SHE OBTAINS INFORMATION RELATED TO ADDENDA. All Addenda shall become part of the Contract Documents.

3. SUBMITTAL OF PROPOSALS

Proposals submitted shall not be valid unless sealed in an envelope or box marked "Sealed Proposal"; identified by the name of the firm, project name; Request For Proposal number; and the date and time of proposal receiving. This envelope or box shall contain one (1) additional sealed envelope or box: "Proposal response and priced proposal." Six (6) copies of the Proposal shall be submitted (one original and five (5) copies) plus one (1) electronic CD ROM in Adobe PDF format.

The proper delivery of the proposal to the City of Bonita Springs is solely and strictly the Proposer's responsibility. The City of Bonita Springs shall not be responsible for delays caused by the United States Postal Service or any other occurrence.

Proposals submitted by certified or registered mail, not received by the City of Bonita Springs at the time of Proposal Opening, will not be honored.

The proposal delivery time will be scrupulously observed. Under no circumstances will proposals delivered after the specified delivery time be considered. Late proposals will be returned to the Proposer

unopened with the notation: “This proposal was received after the delivery time designated for the receipt of proposals.”

4. ALTERNATE PROPOSALS

If the proposer elects to submit more than one proposal, then the proposals should be submitted in separate envelopes and marked as indicated above. The second, or alternate, proposal should be marked as “Alternate.”

5. RULES, REGULATIONS, LAWS, ORDINANCES & LICENSES

The proposer shall observe and obey all laws, ordinances, rules, and regulations of the federal, state, and local municipality, which may be applicable to the supply of this service. Also, the proposer shall have or obtain all necessary permits or licenses required for the sale of the property.

6. WITHDRAWAL, TRANSFER OR MODIFICATION OF PROPOSALS

Proposals may be withdrawn on written, faxed or telegraphic requests dispatched by the Proposer in time for delivery in the normal course of business prior to the time fixed for the opening of proposals provided, however, that written confirmation of any telegraphic withdrawal over the signature of the Proposer is placed in the mail and postmarked prior to the time set for proposal opening.

If, within twenty-four (24) hours after proposals are opened (excluding Saturdays, Sundays and Holidays), any proposer providing a signed, written notice to the CITY and demonstrating to the reasonable satisfaction of the CITY that there was a material and substantial mistake in the preparation of its proposal, may withdraw its proposal without penalty. The proposer shall be disqualified from further consideration on the Work to be provided under this Project. Except as specified in this subparagraph, proposer may not withdraw its proposal after the appointed proposal opening time.

Proposers may not modify their proposals after the appointed proposal submittal time for any reason whatsoever.

Proposers may not assign or otherwise transfer their proposals prior to or after the proposal submittal time.

7. PUBLIC ENTITY CRIME AFFIDAVIT

Any person or affiliate as defined by statute who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid or a contract to provide any goods or services to the CITY; may not submit a bid on a contract with the CITY for the construction or repair of a public building or a public work; may not submit bids or leases of real property to the CITY; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with the CITY, may not transact business with the CITY in excess of \$15,000 for a period of 36 months from the date of being placed on the convicted vendor list.

8. PROPOSAL PROTEST PROCEDURE

Any proposer that has submitted a formal proposal to the CITY, and who is adversely affected by an intended decision with respect to the award of the formal proposal, shall file with the City's Public Works Manager a written "Notice of Intent to File a Protest" not later than Seventy-Two (72) hours (excluding Saturdays, Sundays and Legal Holidays) after receipt of a "Notice of Intended Decision" from the City with respect to the proposed award of the formal proposal.

The "Notice of Intent to File a Protest" shall be received ("stamped in") by the Public Works Office not later than Four O'clock (4:00) PM on the third working day following the day of receipt of the City's Notice of Intended Decision.

The affected party shall then file its Formal Written Protest within Ten (10) calendar days after the time for the filing of the Notice of Intent to File a Protest has expired.

Strict adherence to the proposal protest procedures is required for such protest to be considered.

All proposal solicitations shall state the following statement:

"FAILURE TO FOLLOW THE PROPOSAL PROTEST PROCEDURE REQUIREMENTS WITHIN THE TIME FRAMES PRESCRIBED HEREIN AS ESTABLISHED BY THE CITY OF BONITA SPRINGS, FLORIDA, SHALL CONSTITUTE A WAIVER OF YOUR PROTEST AND ANY RESULTING CLAIMS."

9. DESIGNATED CONTACT

The successful provider shall appoint a person or persons to act as a primary contact with the City of Bonita Springs. This person or back-up shall be readily available during normal work hours by phone or in person, and shall be knowledgeable of the terms and procedures involved.

10. IMMIGRATION LAW COMPLIANCE

Consistent with Bonita Springs Ordinance No. 09-04, effective June 1, 2009, contractors providing services to the City, as a condition of each contract, must use E-Verify to verify the employment of: any person hired during the contract term by the contractor and assigned by the contractor to perform work for the City. Before any contract with the City is signed, proof of enrollment with e-verify must be provided. The Contractor acknowledges that he will comply with the Immigration Reform and Control Act of 1986 and is committed to employing only those individuals who are authorized to work in the United States, by hiring employees who properly complete, sign and date the first section of the Immigration and Naturalization Services (INS) Form I-9 and presenting to the Contractor the original necessary document(s) to prove identity and employment eligibility, as verified through e-verify.

The Contractor must also be responsible for entering into an agreement with each and every vendor and subcontractor that states that vendors, and subcontractors (and their vendors) are independently responsible for its own employment decisions, including hiring, disciplinary and termination decisions, and will comply with the Immigration Reform and Control Act of 1986 and use the e-verify system for verification. The agreements shall also state that each business is responsible for its own I-9 and other employment record-keeping requirements, and with compliance with all immigration laws.

11. MISCELLANEOUS

Additional Information Requests – The City reserves the right to request additional information from Firms during any phase of the evaluation process. During the evaluation and selection process, the City may require the presence of Firm's representatives to make presentations and answer specific questions. Notification of any such requirements will be given as necessary.

Conditions of Award – The City may elect not to award a contract solely on the basis of this RFP, and will not pay for the information solicited or obtained. The information obtained will be used in determining the alternative that best meets the needs of the City.

12. PROCUREMENT PROCESS TO BE UTILIZED

The below procedure process and Proposer selection will utilize the following steps for a final selection of a firm:

- Submittal of RFP that contains the proposal responses and the priced proposal
- Committee review of qualifications/experience and price proposals
- Committee final selection

13. CRITERIA FOR EVALUATION AND AWARD

Proposals will be reviewed by the Evaluation Committee. The Proposer's experience, references, etc., and overall understanding of the requested service will be the basis of the evaluation.

The Evaluation Committee shall, in its sole judgment and discretion, determine the capability of each Proposer to perform the requested service. Proposers may be requested to give an oral presentation after submission of responses, should the City find it necessary to determine which is the best received.

Evaluation Criteria: Submitted technical proposals will be evaluated and scored on the following criteria:

Point & Rating Criteria, (1 = Poor, 20 = Excellent) - Total Possible Points = 100

Cost	30 points
Type of System Proposed	35 points
Experience	15 points
Personnel	10 points
References	10 points

14. **PROPOSAL REQUIREMENTS**

All names must be typed or printed below the signature.

Proposal errors shall be handled as follows:

Where proposals have errors with corrections, *each correction must be in ink and initialed in ink by the PROPOSER. Any blank spaces on the Proposal Form, qualifying notes, exceptions, counter offers, lack of required submittal, signatures, or failure to submit a proposal on the City's form may cause PROPOSER to be declared non-responsive.*

15. **REQUIRED INFORMATION**

Experience –

The photovoltaic system shall be furnished by a Contractor who is a Florida State Certified General Contractor or Licensed Solar Contractor with at least some experience in the solar energy industry.

- a. Provide Copy of Florida License(s).
- b. Provide information demonstrating experience.

Proposer shall provide documentation of PV installations in the last two years by providing the following information in a tabulation form for each project:

1. Project name
2. Owner
3. Contact name (ensure information is accurate, verifiable and have knowledge of the project)
4. Costs
5. Start date and finish of each project
6. Summary of work performed

Personnel –

Installation & Supervision – The Proposer shall provide the services of qualified field installation personnel and supply a qualified supervisor during installations. The project manager who will be working on this project must have at least five (5) years of experience in the solar energy industry. List five (5) projects in a tabulation form with the following information:

- a. Project name

- b. Owner
- c. Reference (ensure reference is accurate, verifiable and have knowledge of the project)
- d. Costs
- e. Start and finish date of each project
- f. Summary of work performed

Financial Qualifications –

1. Proposer shall demonstrate proof of ability to obtain and maintain throughout the contract period, the insurance requirements as specified in the proposal documents (Exhibit A). Please provide copy of certificate of insurance.
2. Contractor shall demonstrate proof of the ability to obtain a Public Construction Bond, in the form of a letter from the Surety Agent. In addition, the Contractor shall provide the following information with respect to their bonding company or surety name, contact person, address, telephone number and bonding capability, or a clean Irrevocable Letter of Credit. A Clean Irrevocable Letter of Credit or Cash Bond for 5% of the project amount may be accepted by City in lieu of a Public Construction Bond.

OFFICIAL PROPOSAL FORM

DATE: _____

TIME: _____

City of Bonita Springs
9101 Bonita Beach Road
Bonita Springs, FL 34135

Gentlemen:

1. The Undersigned, hereinafter called PROPOSER, having become familiar with the local conditions, nature and extent of the work and having examined carefully the Request for Proposal (RFP) and having fulfilled their requirements, proposes to furnish all services for the proper execution and completion of the :

Recreation Center Solar Energy/Thermal Hot Water System Project RFP 10-030

in full accordance with the proposal documents, and all other pertinent documents related thereto on file with the City of Bonita Springs, and if awarded, to complete the said scope within the time limits specified.

2. The above proposal shall remain in full force and effect for a period of 120 days after the time of the opening of this proposal and it shall not be revoked, withdrawn or canceled within that time frame. Once the Proposer has been notified that his/her proposal has been awarded by the City of Bonita Springs, within the above time frame, the proposed pricing, as shown in the proposal plan, as submitted shall constitute the contract cost which shall be executed within the time frames established.

3. The undersigned acknowledges receipt of the following addenda, and the cost, if any, of such revisions has been included in the price of the proposal.

Addendum # _____ Date: _____

Addendum # _____ Date: _____

Addendum # _____ Date: _____

4. Neither the undersigned nor any other person, firm or corporation named herein, nor anyone else to the knowledge of the undersigned, have themselves solicited or employed anyone else to solicit favorable action for this proposal by the City of Bonita Springs, also that no head of any department or employee therein, or any officer of the City of Bonita Springs, Florida, is directly interested therein.

This proposal is genuine and not collusive or a sham; the person, firm or corporation named herein has not colluded, conspired, connived or agreed directly or indirectly with any bidder or person, firm or corporation, to put in a sham proposal, or that such other person, firm or corporation, shall refrain from bidding, and has not in any manner, directly or indirectly, sought by agreement or collusion, or communication or conference with any person, firm or corporation, to fix the unit prices of said proposal or proposals of any other bidder, or to secure any advantage against the CITY or any person, firm or corporation interested in the proposed contract; all statements contained in the proposal or proposals described above are true; and further, neither the undersigned, nor the person, firm or corporation named herein, has directly or indirectly submitted said proposal or the contents thereto, to any association or to any member or agent thereof.

In witness whereof, the Proposer has hereunto set his signature and affixed his seal this _____ day of

_____, 2010.

ATTEST: _____ (Seal)

By: Printed _____

By: Signature _____

Title: _____

Company Name

Contact Person

Mailing Address

Phone Number

City, State and Zip

Fax Number

**Recreation Center Solar Energy/Thermal Hot Water System Project
RFP 10-030**

**PROPOSAL FORM
PRICING TEMPLATE**

Date: _____

Proposer Name: _____

Having carefully examined the Proposal Documents, and the Technical Requirements, all of which are contained herein, the Undersigned proposes to furnish the following which meets these specifications:

TOTAL LUMP SUM: \$ _____

Information contained in this proposal has been reviewed and approved.

Name of Firm: _____

Signature: _____

AFFIDAVIT CERTIFICATION IMMIGRATION LAWS

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

AFFIDAVIT CERTIFICATION
IMMIGRATION LAWS

BID NO.: _____ PROJECT NAME: _____

IMMIGRATION LAW COMPLIANCE

Consistent with Bonita Springs Ordinance No. 09-04, effective June 1, 2009, contractors providing services to the City, as a condition of each contract, must use E-Verify to verify the employment of: any person hired during the contract term by the contractor and assigned by the contractor to perform work for the City. Before any contract with the City is signed, proof of enrollment with e-verify must be provided. The Contractor acknowledges that he will comply with the Immigration Reform and Control Act of 1986 and is committed to employing only those individuals who are authorized to work in the United States, by hiring employees who properly complete, sign and date the first section of the Immigration and Naturalization Services (INS) Form I-9 and presenting to the Contractor the original necessary document(s) to prove identity and employment eligibility, as verified through e-verify.

The Contractor must also be responsible for entering into an agreement with each and every vendor and subcontractor that states that vendors, and subcontractors (and their vendors) are independently responsible for its own employment decisions, including hiring, disciplinary and termination decisions, and will comply with the Immigration Reform and Control Act of 1986 and use the e-verify system for verification. The agreements shall also state that each business is responsible for its own I-9 and other employment record-keeping requirements, and with compliance with all immigration laws.

Company Name: _____

Signature Title Date

STATE OF _____

COUNTY OF _____

The foregoing instrument was signed and acknowledged before me this _____ day of _____, 20____, by _____ who is personally known to me,

(Print or Type Name)

or has produced _____ as identification.

(Type of Identification and Number)

Notary Public Signature

Printed Name of Notary Public

SPECIFICATION REQUIREMENTS

GENERAL REQUIREMENTS

SECTION 10000 PHOTOVOLTAIC POWER & SOLAR THERMAL GENERATION SYSTEMS

PART 1 GENERAL

1.1 SCOPE

This section covers furnishing of a photovoltaic power generation system

Application: Roof Mounted Grid Tied System Number of Units: One (1) 20KW and One (1) commercial thermal hot water heating system.

1.2 GENERAL:

Equipment furnish and installed in this section shall be fabricated, assembled, and installed in proper operating condition in full conformity with drawings, Specifications, engineering data, instructions and recommendations of the equipment manufacturer.

The photovoltaic and thermal hot water heating system shall be furnished by a company who has been certified by the manufacturer and has a least ten (10) years experience in the photovoltaic and thermal hot water industry. In lieu of experience the seller shall submit a bond in lieu of five (5) years of the experience.

The Photovoltaic power generation and thermal hot water heating system shall be furnished complete with all control equipment, accessories and appurtenances specified, indicated on the drawings or otherwise required for a complete properly operating installation.

1.21 Photovoltaic System

- A. Electrical Power: Unless otherwise specified the electrical power generated by the inverter shall be 480 volts, 60 Hz, 3 Phase.
- B. Electrical Equipment: All electrical equipment shall conform to applicable standards of the National Electrical manufacturers Association and National Electrical Code. Both power and control equipment shall be insulated for not less than 600 volts DC even through operating voltages may be lower.
 - 1. All wiring, junction boxes, conduit shall be NEC Class1, Division 2 Service.
 - 2. All controls, inverters, disconnect switches shall be NEMA 3 rated All associated equipment and controls shall be completely furnished so that only one (1) single power connection to the buildings power supply be provided after the photovoltaic power generation system is installed.
 - 3. The raised seam roof area where the photovoltaic panels are to be attached shall be cleaned before installation.
 - 4. All equipment must be manufactured in the United States of America.

1.22. Thermal Hot Water Heating System

- 1. Preliminary drawings will be required to depict solar hot water panels, secondary storage, piping connecting to the existing storage tank.
- 2. A Thermal Energy Monitor may be necessary to control and monitor the solar thermal hot water system

1.23 EQUIPMENT IDENTIFICATION

1. Nameplates: Each major component of equipment shall have the manufacturer's name, address and catalog number on a nameplate securely to the equipment for inspection.
2. Product identification shall be the same as indicated on the drawings and in the specifications.

1.30 SUBMITTALS

- A. The shop drawing and engineering submittals covering all equipment and all fabricated components and materials, which will become a permanent part of the Work under this contract shall be submitted to the buyer for review. Submittals shall verify compliance with the contract documents, and shall include drawings and descriptive information in sufficient detail to show the kind, size, arrangement and the operation of the components materials and devices, the external connections, anchorages, supports required, and dimensions needed for installation and correlation with other material and equipment.
- B. Drawings and Submittal Data Complete fabrication and assembly, drawing, together with detailed specifications and data covering materials, parts, devices and accessories forming a part of the equipment furnished, shall be submitted in accordance with the specification section _____. The data and specifications for each component unit shall include the following:

Manufacturer.

Type & Model

Rated Size

Net Weight

Full Load Current

Wiring and Schematic Diagrams

Solar Panel Arrangements Diagrams

Wire Management System Diagrams

Panel Arrangement Diagrams

Inverter Arrangement Diagrams

Panel Components, Bill of Materials, and Data Sheets

Sequence of Operation

Manufacturer's Cut-Sheets on Each Component

B. Operation and Maintenance Manuals:

1. Adequate operation and maintenance information shall be supplied as required in specifications. Operational and maintenance manuals shall be submitted before installation of the equipment for review and comment.

1.4 DELIVERY, STORAGE AND HANDLING

Shipping, handling and storage shall be in accordance with manufacturer's recommendations.

2.0 PRODUCTS

2.1 SERVICE AND INSTALLATION CONDITIONS. The equipment will be installed in the configuration as indicated on the approved drawings.

2.2 ACCEPTABLE PRODUCTS

2.21 PHOTOVOLTAIC SYSTEM

- a. Photovoltaic Panels shall be Solon brand 220W STC nameplate rated or approved equal.
- b. Photovoltaic Panels must be USA made and evidence of such compliance must be furnished.
- c. Power Inverter(s) shall be Enphase M 190 Microinverter or approved equal.
- d. AC disconnect switch shall be manufactured by Square D or approved equal.
- e. Junction Boxes shall be supplied by seller.
- f. Wiring shall be supplied by seller and be manufactured by General Cable or approved equal.
- g. All equipment shall be U L listed for the intended use.

2.22 PERFORMANCE AND DESIGN REQUIREMENTS

The Solar Photovoltaic Power Generation System shall be designed for the following operating conditions:

- a. Solar Panel Array: shall have a rated output of thirty thousand (30,000) watts DC Current.
- b. The seller shall supply a 25 year power warranty for the approved Solar Panels and 15 year for the PV Powered Inverter.
- c. The seller shall supply a 5-year warranty on the installation of the equipment.

2.30 SOLAR THERMAL HOT WATER SYSTEM

- a. The Solar Thermal Water System shall be of sufficient size, design and standards to meet the intended need of the project.
- b. All products must be USA made under the terms of the American Recovery and Reinvestment Act of 2009 (ARRA) and the Buy American Act (BAA) and evidence of such compliance shall be furnished.

2.40 INSTALLATION

- A. Installation & Supervision. The seller shall provide the services of qualified field installation personnel. The seller shall supply a qualified supervisor during installations to observe, instruct, guide, and direct the installation personnel. The seller shall provide written notification 7 days in advance of starting construction.
- B. Installation Check. The seller shall provide the services of an experienced engineer company representative to visit the site during installation to inspect, check, adjust, and approve equipment installation. The seller engineer shall be present when the system is placed in operation and shall revisit the job site as often as necessary to insure the system operational is satisfactory in the opinion of the buyer.
- C. Installation Certification. The seller shall furnish a written report certifying that the system has been properly installed and has been operated under full load conditions and that it has operated satisfactorily.

2.41 TRAINING

- A. After acceptance of the installation by buyer, the seller's engineer shall instruct buyer's operation and maintenance personnel on proper operation and maintenance procedures. At this time the operations and maintenance manuals shall be turned over to the owner's representative.

2.5. MONITORING SYSTEM

BONITA SPRINGS CONSTRUCTION CONTRACT
RECREATION CENTER SOLAR ENERGY/THERMAL HOT WATER SYSTEM PROJECT
AGREEMENT FORM

Contract No.: _____
City Award Date: _____

AGREEMENT

Made as of the ____ day of _____ in year of 2010.

BETWEEN the CITY OF BONITA SPRINGS; Lee County, Florida and the CONTRACTOR:

Check Appropriate Line:

_____	___	Individual
_____	___	Partnership
_____	___	Incorporated in the State of Florida

in consideration of the mutual covenants herein set forth, agree as follows:

CONTRACTOR hereby agrees to provide and perform the services as set forth in this contract.

ARTICLE 1. WORK

The CONTRACTOR shall perform all the Work required by the Contract Documents for the RECREATION CENTER SOLAR ENERGY/THERMAL HOT WATER SYSTEM PROJECT in full accordance with the specifications.

PROJECT NAME: **RECREATION CENTER SOLAR ENERGY/
THERMAL HOT WATER SYSTEM PROJECT**

LOCATION: 26740 Pine Avenue, Bonita Springs, Florida

ARTICLE 2. AMOUNT OF CONTRACT

2.1 The CITY shall pay the CONTRACTOR in current funds for the performance of the Work, subject to additions and deductions by Change Order as provided in the Contract Documents, the not-to-exceed unit price of: (express in words and numerals):
_____and _____Dollars
(\$ _____).

CONSTRUCTION CONTRACT

ARTICLE 3. PROGRESS PAYMENTS

Based upon Applications for payment submitted to the OWNER'S Representative by the CONTRACTOR, and Certificates for Payment issued by the OWNER'S Representative, the CITY shall make progress payments on account of the Contract Price to the CONTRACTOR as provided in the Contract Documents as follows:

- 3.1 Not later than fifteen (15) calendar days following the approval of an Application for payment, ninety percent (90%) of the portion of the Contract Price properly allocated to labor, materials and equipment incorporated in the Work and ninety percent (90%) of the portion of the Contract Price properly allocated to materials and equipment suitably stored at the site or at some other location agreed upon in writing, for the period covered by the application for payment, less the aggregate of previous payments made by the CITY.
 - 3.1.1 At any time the project falls behind schedule, the City retains the exclusive right to revert back to the original contract terms, by withholding the full 10% retainage, until the project is back on schedule or the project is completed.
- 3.2 Pursuant to Florida Statutes Section 218.735 (8), the City may withhold from each progress payment made to the Contractor an amount not exceeding ten percent (10%) of the payment as retainage until 50% completion of all services required on the part of the Contractor pursuant to this contract. After 50% completion of such construction services, the City shall reduce to 5% the amount of retainage withheld from each subsequent progress payment made to the Contractor. For purposes of this subsection, the term "50 percent completion" shall have the meaning set forth in this contract, or, if not defined in this contract, it shall mean the point at which the City shall have expended 50% of the total cost of construction services as identified in this contract, together with all costs associated with existing change orders and other additions or modifications to the construction services as provided for in this contract. After such 50% completion of the construction services pursuant to this contract, the Contractor may present to the City a payment request for up to one half of the retainage being held by the City. The City shall promptly make payment to the Contractor, unless the City shall have grounds, such as a good faith dispute with the Contractor, a claim brought against the Contractor, or otherwise the subject of a claim or demand between the City and the Contractor, for withholding the payment of retainage. If the City shall make payment of retainage to the Contractor under this provision, which is attributable to the labor, services, or materials supplied by one or more subcontractors or suppliers, the Contractor shall timely remit payment of such retainage to those subcontractors and suppliers. The foregoing provisions shall not apply to any construction services purchased by the City which are paid for, in whole or in part, with Federal funds and are subject to Federal grantor laws and regulations or requirements that are contrary to any provision of the Local Government Prompt Payment Act. The foregoing provisions shall not prohibit the City from withholding retainage at a rate less than 10% of each progress payment from incrementally reducing the rate of retainage pursuant to any schedule provided for in this contract, or from releasing at any point all, or a portion of, any retainage being withheld by the City which is attributable to the labor, services, or materials supplied by the Contractor or by one or more subcontractors or suppliers. If the City shall make any payment of retainage to the Contractor which is attributable to labor, services, or materials supplied by one or more subcontractors or suppliers, the Contractor shall timely remit payment of such retainage to those subcontractors and suppliers. The foregoing provisions shall not apply to any construction services purchased by the City if

the total costs of such construction services, as identified in this contract, are \$200,000 or less.

- 3.3 Pursuant to Florida Statutes Section 218.735, (7), within thirty (30) days after reaching Substantial Completion of the construction services purchased as defined in this contract (or, if not defined in this contract, upon reaching beneficial occupancy or use), the parties shall develop a list of items required to render complete, satisfactory, and acceptable the construction services being purchased herein by the City. The process for the development of such list, including responsibilities of the City and the Contractor, shall be as set forth in Article 14, Section 14.5. The failure to include any corrective work or pending items not completed on the list developed by the parties pursuant to this subsection shall not alter the responsibility of the Contractor to complete all of the construction services required on its part pursuant to this contract. Upon completion of all items on the list, the Contractor may submit a payment request for all remaining retainage withheld by the City. If a good faith dispute exists as to whether one or more items identified on the list have been completed pursuant to this contract, the City may continue to withhold an amount not-to-exceed one hundred fifty percent (150%) of the total costs estimated by the City to complete such items. All items that shall require correction are under this contract, and that are identified after the preparation and delivery of the list, shall remain the obligation of the Contractor as defined by this contract. Warranty items may not affect the final payment of retainage as provided in this contract. The City need not pay or process any payment requests for retainage if the Contractor has, in whole or in part, failed to cooperate with the City in the development of the list. Notwithstanding the foregoing, the City shall not be required to pay or release any amounts that are the subject of a good faith dispute, the subject of a claim brought pursuant to any provision of this contract, or shall otherwise be the subject of a claim or demand between the City and the Contractor.
- 3.4 Upon final completion of the work and acceptance of the project, a sum sufficient to increase the total payments to one hundred percent (100%) of the Contract Price, less such amounts as the CITY shall determine for all incomplete Work, unsettled claims or unused units as provided in the Contract Documents.

ARTICLE 4. CONTRACT DOCUMENTS

This Contract entered into this date by the City of Bonita Springs, Florida and the CONTRACTOR. WITNESSETH that the parties hereto do mutually agree as follows:

The CONTRACTOR shall furnish all labor, equipment, and materials and perform the Work above described for the amount stated above in strict accordance with the General Conditions, Supplemental Conditions, Plans and Specifications and other Contract Documents, all of which are made a part hereof and enumerated as follows:

- 4.1 City of Bonita Springs Construction Contract and Sample Documents
 - 4.1.1 Request for Proposals
 - 4.1.2 Notice to Proposers
 - 4.1.3 Instruction to Proposers
 - 4.1.4 Contractor's Proposal

ARTICLE 4. CONTRACT DOCUMENTS (Continued)

CONSTRUCTION CONTRACT

4.2 Project Technical Specifications

4.3 Certificate of Insurance

4.4 The following which may be delivered or issued after the effective date of the Agreement and are not attached hereto: All written amendments and other documents amending, modifying or supplementing the Contract Documents.

ARTICLE 5. TIME OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

5.1 Work to be started on the date specified in the Official Notice to Proceed.

5.2 Substantial Completion: ____ days following Notice to Proceed

5.3 Final Completion: ____ days following Notice to Proceed

Liquidated Damages:

5.4 The CITY and CONTRACTOR recognize that time is of the essence to this agreement and that the CITY will suffer financial loss if the work is not completed within the times specified in 5.2 and 5.3 above, plus any extensions thereof allowed by Change Order. They also recognize the delays, expense, and difficulties involved in proving in a legal proceeding the actual loss suffered by the CITY if the work is not completed on time. Accordingly, instead of requiring any such proof, CITY and CONTRACTOR agree that as Liquidated Damages for delay (but not as a penalty) the sum of \$200.00 per day shall be deducted from monies due the CONTRACTOR or paid by the CONTRACTOR to the CITY for each calendar day that expires after the time specified for Substantial Completion until the project achieves Substantial Completion. The CITY shall have the right to deduct all damages due from the final payment request as well as retainage. However, prior to deducting liquidated damages, the CITY shall give the CONTRACTOR seven (7) calendar days notice prior to submitting the adjusted amount due to the Clerk for payment. The City reserves the right to effect repairs itself as may be required to remedy any deficiency or to achieve Final Completion and to charge the Contractor for such costs.

ARTICLE 6. MISCELLANEOUS PROVISIONS

- 6.1 Final payments, constituting the entire unpaid balance of the Contract Price shall be paid by the CITY to the CONTRACTOR when the work has been completed, the Contract fully performed, and a final Certificate for Payment has been approved by the CITY.
- 6.2 Terms used in the Agreement which are defined in the General Conditions of the Contract shall have the meaning designated in those conditions.
- 6.3 The CITY and CONTRACTOR each binds himself, his partners, successors, assigns and legal representatives to the other party hereto, his partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.
- 6.4 The CONTRACTOR shall not assign or transfer any of its rights, benefits, or obligations, except for transfer that result from transfer or consolidation with a third party, without the prior written approval of the CITY. The CONTRACTOR shall have the right to employ other persons and/or firms to serve as sub-contractors in connection with the requirements of the Contract Documents.
- 6.5 The CONTRACTOR agrees through the signing of this agreement by an authorized party or agent that he shall hold harmless and defend the City of Bonita Springs and its agents and employees from all suits and action, including attorney's fees, and all cost of litigation and judgments of every name and description arising out of and incidental to the performance of this Contract Document or work performed thereunder, whether or not due to or caused by negligence of the CITY, excluding only the sole negligence of the CITY. This provision shall also pertain to any claims brought against the CITY by any employee of the CONTRACTOR, or sub-contractor(s), or anyone directly or indirectly employed by any of them. The CONTRACTOR'S obligation under this provision shall not be limited in any way to the agreed upon Contract Price as shown in this agreement or the CONTRACTOR'S limit of or lack of sufficient insurance protection.
- 6.6 In any action or proceeding arising between the parties relating to the terms of this contract, the prevailing party shall be entitled to recover its reasonable attorney fees, expenses, and all court costs, including fees and costs incurred through any appeal, from the non-prevailing party.

In witness whereof, CITY and CONTRACTOR have signed this agreement in quadruple. One counterpart has been retained by the City Clerk, one part has been delivered to the City Public Works Department and two parts have been delivered to the CONTRACTOR. All portions of the Contract Document have been signed or identified by CITY and CONTRACTOR on their behalf.

By (printed): _____

By (signature): _____

Title: _____

Company Name

(CORPORATE SEAL)

**STATE OF FLORIDA
COUNTY OF LEE**

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by

(Name of person acknowledged)

He/she is personally known to me or who has produced _____ as identification.
(Type of identification)

(Signature of Notary Public) (Name typed, printed or stamped)

CITY OF BONITA SPRINGS

By: _____
Mayor Ben L. Nelson, Jr.

APPROVED AS TO FORM

ATTEST:

By: _____
Dianne J. Lynn, City Clerk

By: _____
Audrey E. Vance, City Attorney

Date: _____

CITY OF BONITA SPRINGS CONSTRUCTION CONTRACT
PUBLIC CONSTRUCTION BOND

1. Know all men by these presents, that (_____), hereinafter referred to as the CONTRACTOR, as Principal, and _____, a corporation, hereinafter called Surety, located at:

_____, are held and firmly bound unto the City of Bonita Springs, 9101 Bonita Beach Road, Bonita Springs, FL 34135 (239) 949-6246, a Florida Municipal Corporation as obligee, in the full and just sum of (_____) (\$ _____) Dollars, lawful money of the United States of America, to the payment of which sum, will and truly to be made, the CONTRACTOR and Surety bind themselves, their representatives, and each of their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

2. WHEREAS, the CONTRACTOR has entered into a certain written Contract with the CITY, also referred to herein as the OWNER, dated the ___ day of _____, 2010, for: **RECREATION CENTER SOLAR ENERGY/THERMAL HOT WATER SYSTEM PROJECT**, Bonita Springs, Florida with conditions and provisions as are further described in the aforementioned Contract, which Contract is by reference made a part hereof for the purpose of explaining this bond.

3. NOW, THEREFORE, the conditions of this obligation are such that if CONTRACTOR shall fully, promptly and faithfully perform said Contract and all obligations thereunder, including all obligations imposed by the Contract Documents (which include the Request for Bids, Notice to Bidders, Instructions to Bidders, Bid Proposal, General and Supplemental Conditions, Detail Specifications, Form(s) of Contract Bond(s), Supplementary General Conditions, Plans and Technical Specifications, Certificate of Insurance, Addenda and Change Orders, and such alterations thereof as may be made as provided for therein), at the times and in the manner prescribed in the contract, and shall promptly make payments to all claimants, as defined in Section 255.05 (1), Florida Statutes, for any and all labor and materials used, directly or indirectly, or reasonably required for use or furnished in connection with the performance of said Contract, and shall perform all other covenants and obligations of this bond, then this obligation shall be void; otherwise it shall remain in full force and effect.

3.1 The undersigned shall indemnify and save harmless said OWNER against and from all costs, expenses and damages, including litigation cost and attorneys fees arising out of, or in connection with the neglect, default or want of care or skill, including the performance of guarantees for all work and materials furnished under the contract for the time specified in the contract, or patent infringement on the part of said CONTRACTOR, his agents, servants or employees in the execution or performance of said Contract.

3.2 The undersigned shall promptly make payment to all persons supplying services, labor, material or supplies used directly or indirectly by said CONTRACTOR, or any Sub-Contractor or Sub-Sub-Contractor, in the prosecution of the work provided for in said Contract.

3.3 The undersigned agree to promptly pay to the OWNER any difference between the sum to which the CONTRACTOR would be entitled on the completion of the contract, and the sum which the OWNER may be or was obligated to pay for the completion of said Work by the CONTRACTOR or otherwise, including any damages, liquidated or delay, direct or indirect, or consequential, which the OWNER may sustain by reason of failure of the CONTRACTOR to properly and promptly perform and abide by all of the provisions of said Contract.

3.4 The undersigned surety covenants and agrees that change orders, extensions of time, alterations or additions to the terms of the Contract or the Work to be performed thereunder, or the specifications accompanying the same shall in no way affect their obligation on this Bond, and the Surety does hereby expressly waive Notice of any such changes, extensions of time, alteration or addition, so long as the fundamental nature of the work on the project is not changed.

3.5 Subject to the OWNER'S priority, claimants covered by Section 713.01 of the Florida Statutes shall have a direct right of action against the Principal and Surety under this obligation, after written notice of the performance of labor or delivery of materials or supplies, and non-payment thereof. Any claimant who seeks to recover against the Principal or Surety under this obligation must also satisfy the notice requirement and time limitations of Section 255.05 of the Florida Statutes.

3.6 The CONTRACTOR and the Surety shall save the CITY harmless from any and all damages, expenses and cost, or lawsuits, which may arise by virtue of any defects in said work or materials within a period of one (1) year from the date of express acceptance of the project by the CITY.

3.7 This public construction bond shall be governed by the laws, rules, and regulations of the State of Florida. Any claims or suits instituted under this bond shall be governed by the law of the State of Florida.

CONSTRUCTION CONTRACT
PUBLIC CONSTRUCTION BOND (CONTINUED)

3.8 The Surety shall pay the City for all losses, damages, expenses, costs, and attorney fees, including appellate proceedings, that the City may sustain because of a default by the Contractor under the contract.

SIGNED and sealed this, the ____ day of _____, 2010

CONTRACTOR, As Principal:

WITNESS

Signature

Type Name and Title

Firm Name

By: _____ (SEAL)
Signature

Type Name and Title

COUNTERSIGNED

Title

STATE OF _____)
COUNTY OF _____) SS
CITY OF _____)

Name

Address

City, State, Zip Code

Power-of-Attorney Signature

BEFORE me, a Notary Public, duly commissioned, qualified and acting personally, appeared:

_____ to me well-known, who being by me first duly sworn upon oath says that he is Attorney-in-Fact for _____, as Surety, and that he has been authorized by said Surety to execute the foregoing Public Construction Bond on behalf of the (CONTRACTOR) Principal named therein in favor of the OWNER.

The foregoing instrument was signed and acknowledged before me this ____ day of _____, 2010, by _____
(Print or Type Name)

who has produced _____ as identification.
(Type of Identification and Number)

Notary Public Signature

Printed Name of Notary Public

Notary Commission Number/Expiration

Approved as to form and correctness:

By: _____
City Attorney

Date: _____

GENERAL CONDITIONS

1. CONTRACT DOCUMENTS

1.1 The following constitute the Contract Documents (Title, Subtitles, Headings, Running Headlines of Contents, and Indexes are used merely for convenience purposes):

Request for Proposals

Notice to Proposers

Instructions to Proposers

Proposal

Construction Contract

General Conditions

Special Construction Provisions & Technical Specifications

Federal Requirements

Public Construction Bond

Certificate of Insurance

All addenda issued by the CITY prior to the receipt of bids.

All Change Orders or Amendments to the Contract that may be issued after effective date of agreement.

2. BRAND NAME, ETC.

2.1 In instances where the Plans and Specifications make this subject applicable, any use therein of brand names, manufacturer's names, trade names, information, and/or catalog numbers are so used for the purpose of providing description and for establishing acceptable quality levels. Such references are not intended for the purpose of placing restrictions upon PROPOSERS other than as to quality.

3. REQUESTED INFORMATION AND DESCRIPTIVE LITERATURE

3.1 Where required pursuant to the provisions of the proposal package PROPOSERS must submit with their proposal cuts, sketches, descriptive literature and/or complete specifications relative to the items proposed and offered.

4. COMPLIANCE WITH OCCUPATIONAL SAFETY AND HEALTH ACT (O.S.H.A.)

4.1 In instances where the act is applicable due to the nature with which this proposal project is concerned, all material, equipment, etc., as proposed and used by the CONTRACTOR must meet and conform to all O.S.H.A. requirements; the CONTRACTOR'S signature upon the proposal form being by this reference considered a certification of such fact.

5. ARTICLE 5. - STARTING THE WORK

5.1 Written Notice to Proceed is contingent upon and will be done subsequent to the CONTRACTOR fully satisfying the CITY'S stated insurance and Public Construction Bond submittal requirements. Until the CONTRACTOR receives the CITY'S written Notice to Proceed, the CONTRACTOR is advised that the CITY will not be liable for any expenses which the CONTRACTOR may incur relative to this Contract before the written Notice to Proceed is issued.

5.2 The Contract time shall commence to run from the date specified in the "Notice to Proceed".

5.3 When required the CONTRACTOR shall, before commencing the Work, deliver to the CITY, the Public Construction Bond issued by a Surety insurer authorized to do business in the State of Florida as Surety. The Bond must state the name and principal business address of both the principal and the Surety and must contain a description of the project sufficient to identify it and post in a conspicuous place at the project site.

5.4 The CITY will issue a Notice to Proceed on the Project within fifteen (15) calendar days of the effective date of the Agreement as shown in the Construction Contract.

5.5 In the event the Notice to Proceed has not been issued by the CITY within the fifteen (15) calendar day period

above, the CONTRACTOR shall have the option, upon written notice, to rescind the Contract or continue with the Contract as originally bid, unless stated otherwise.

5.6 The CITY will forward to the CONTRACTOR a Notice of Commencement along with a copy of the recorded Public Construction Bond with instructions to post in a conspicuous spot on the project site.

6. SALES AND USE TAX

6.1 The contractor is responsible for complying with the Florida Sales and Use Tax Law as it may apply to any and all of the Work to be provided and performed pursuant to this contract. The amount(s) of compensation set forth in the Contract or in any Change Orders or Work Orders authorized pursuant to this Contract shall be understood and agreed to include any and all Florida Sales and Use Tax payment obligations required by Florida Law of the CONTRACTOR and of any and all of the SUB-CONTRACTORS or material suppliers engaged by the CONTRACTORS pursuant thereto.

7. INDEMNIFICATION

7.1 The CONTRACTOR shall indemnify, save harmless and defend the CITY and all of its officers, agents, consultants and employees from and against all losses, claims, demands, payments, suits, actions, recoveries and judgments of every nature and description brought or recoverable against it or them by reason of any act or omission of the CONTRACTOR, his agent, consultants, employees, subcontractors etc., in the execution of the work or in consequence of any negligence or carelessness in guarding the same and agrees to assume any related cost.

7.2 The CONTRACTOR shall assume all risk and bear any loss or injury to property or persons occasioned by neglect or accident during the progress of work until the same shall have been completed and accepted. The CONTRACTOR agrees to repair, restore or rebuild any damages he causes to any property of the CITY. He shall also assume all blame or loss by reason of neglect or violation of any state or federal law or municipal rule, regulation or order. The CONTRACTOR shall give to the proper authorities all required notices relating to the work, obtain all official permits and licenses and pay all proper fees. He shall repair any damage that may have occurred to any adjoining building, structure, utility or private property in the course of this work.

8. CLEANING UP

8.1 The CONTRACTOR will keep the premises free from accumulations of waste materials, rubbish and other debris resulting from the Work; at the completion of the Work he will remove all waste materials, rubbish and debris from and about the premises as well as all tools, construction equipment and machinery, and surplus materials, and will leave the site clean and ready for occupancy by the CITY. The CONTRACTOR will restore to their original condition those portions of the site not designated for alteration by the Contract Documents.

8.1.1 If the CONTRACTOR fails to clean up as provided in the Contract Documents, the CITY may do so and the cost thereof shall be deducted from the final retainage due the CONTRACTOR.

9. CONTINUING THE WORK

9.1 The CONTRACTOR shall carry on the Work and adhere to the progress schedule during all disputes and disagreements with the CITY. No work shall be delayed or postponed pending resolution of any disputes or disagreements, except as the CONTRACTOR and the CITY may otherwise agree in writing.

10. PERMITS

10.1 Unless otherwise specified herein, the CONTRACTOR will secure and pay for all permits, impact fees, and licenses and will pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of his bid. The CONTRACTOR will also pay all public utility charges and connection fees except as provided for in the Contract Documents. Permits and licenses of regulatory agencies which are necessary to be maintained after completion of the guarantee period shall be secured and paid for by the CITY.

10.1.1 Pursuant to the requirements of F.S. 218.80, the following Municipal permits and fees are required to be

obtained and paid for by the CONTRACTOR:

- Electrical Trade Permit - \$1,284.10

10.2 CONTRACTOR shall hold or obtain such contractor's licenses, certifications and registrations as required by State statutes and County ordinances, to perform the work specified in the Scope of Work at the time of bid submittal. A current Lee County Business License must be obtained prior to the City awarding the job to the Contractor.

11. LAWS AND REGULATIONS

11.1 The CONTRACTOR will give all notices and comply with all laws, ordinances, rules and regulations applicable to the Work. If the CONTRACTOR observes that the Specifications or Drawings are at a variance therewith, he will give the OWNER'S REPRESENTATIVE prompt written notice thereof, and any necessary changes shall be adjusted by an appropriate modification. If the CONTRACTOR performs any Work knowing it to be contrary to such laws, ordinances, rules and regulations and without such notice to the OWNER'S REPRESENTATIVE, he will bear all cost arising therefrom; however, it shall not be his primary responsibility to make certain that the Drawings and Specifications are in accordance with such laws, ordinances, rules and regulations.

12. RECORD DRAWINGS

12.1 The CONTRACTOR will keep one record copy of all Specifications, Drawings, Addenda, Modifications and Shop Drawings at the site in good order, and annotated to show all changes made during the construction process or addition and exact horizontal and vertical location of underground or otherwise concealed components such as, but not limited to, storm drain piping, storm structures, foundations, base and sub-base materials, plumbing, air conditioning, electric, and conduit which were not installed exactly as shown on the contract drawings. These shall be available to the OWNER'S REPRESENTATIVE and shall be verified by the OWNER'S REPRESENTATIVE at 30%, 60% and 100% completion of the Project. The CONTRACTOR shall submit to the OWNER'S REPRESENTATIVE one (1) complete set of all recorded changes made during Construction entitled "Record Drawings", and dated, as well as an electronic copy on CD. Submittals shall be made in accordance with the above and shall be submitted at the time of substantial completion.

13. ANTI-DISCRIMINATION

13.1 The CONTRACTOR for itself, its successors in interest, and assignees, as part of the consideration thereof covenant and agree that:

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

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

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

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

13.1.4.1 Where any information required of the CONTRACTOR is in the exclusive possession or another who fails or refuse to furnish this information, the CONTRACTOR shall so certify to the CITY its efforts made toward obtaining said information. The CONTRACTOR shall remain obligated under this paragraph until the expiration of three (3) years after the termination of this CONTRACT.

13.1.5 In the event of breach of any of the above anti-discrimination covenants, the CITY shall have the right to impose sanctions as it may determining to be appropriate, including withholding payment to the CONTRACTOR or canceling, terminating or suspending this CONTRACT, in whole or in part.

13.1.5.1 Additionally, the CONTRACTOR may be declared ineligible for further CITY contracts by rule, regulation or order of the City of Bonita Springs, or as otherwise provided by law.

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

13.1.7 The CONTRACTOR will include the provisions of paragraphs 13.1.1 through 13.1.6 in every sub-contract under this contract to insure its provisions will be binding upon each SUB-CONTRACTOR. The CONTRACTOR will take such action with respect to any SUB-CONTRACTOR, as the contracting agency may direct, as a means of enforcing such provisions, including sanctions for non-compliance.

14. WARRANTY AND GUARANTEE

14.1 The CONTRACTOR warrants and guarantees to the CITY that all materials and equipment will be new unless otherwise specified and that all Work will be of good quality, free from faults or defects in accordance with the requirements, of the Contract Documents and any inspections, test or approvals referred to in this Article. All unsatisfactory Work, all faulty Work, and all Work not conforming to the requirements of the Contract Documents or such inspections, tests or approvals shall be considered defective. Prompt notice of all defects shall be given to the CONTRACTOR. All defective Work, whether or not in place, may be rejected, corrected or accepted as provided in this Article.

15. TEST AND INSPECTIONS

15.1 If the Contract Documents, laws, ordinances, rules, regulations or order of any public authority having jurisdiction require any Work to specifically be inspected, tested or approved by someone other than the CONTRACTOR, the CONTRACTOR will give the OWNER'S REPRESENTATIVE timely notice of readiness therefore. The CONTRACTOR will furnish the OWNER'S REPRESENTATIVE with the required certificates of inspection, testing or approval. All such tests will be in accordance with the methods prescribed by the American Society for Testing and Materials or such other applicable organizations as may be required by law or the contract Documents. If any such Work required to be inspected, tested or approved is covered without written approval of the OWNER'S REPRESENTATIVE, it shall, if requested by the OWNER'S REPRESENTATIVE, be uncovered for observation at the CONTRACTOR'S expense. The cost of all such inspections, tests and approvals shall be borne by the CONTRACTOR unless otherwise provided.

15.2 Neither observations by the OWNER'S REPRESENTATIVE, nor inspections, tests or approvals by persons other than the CONTRACTOR shall relieve the CONTRACTOR from his obligations to perform the Work in accordance with the requirements of the Contract Documents.

16. TERMINATION

16.1 This contract may be terminated by either party by giving thirty (30) calendar days advance written notice. The CITY reserves the right to accept or not accept the termination notice submitted by the CONTRACTOR, and no such termination notice submitted by the CONTRACTOR shall become effective until the CONTRACTOR is notified in writing by the CITY of its acceptance.

However, if the CONTRACTOR is adjudged, bankrupt or insolvent, if it makes a general assignment for the benefit of its creditors, if a trustee or receiver is appointed for the CONTRACTOR or for any of its property, if it files a petition to take

advantage of any debtor's act or to reorganize under the bankruptcy or similar laws, if it disregards the authority of the CITY's designated representatives, if it otherwise violates any provisions of his contract or for any other just cause, the CITY may, without prejudice to any other right or remedy and after giving the CONTRACTOR seven (7) calendar days written notice, terminate this Contract.

16.2 Where the CONTRACTOR services have been terminated by the CITY, said termination should not affect any rights of the CITY against the CONTRACTOR then insisting on which may thereafter accrue. When the CONTRACTOR defaults or is terminated by the CITY, the bonding company for the CONTRACTOR shall be notified of the possibility of damages accruing to the CITY for which it may be held liable in the event the CONTRACTOR is unable to make the CITY whole.

16.3 In the event of termination to this Contract, not the fault of the CONTRACTOR, the CITY should compensate the CONTRACTOR for:

16.3.1 All services completed prior to the effective date of the termination;

16.3.2 Reimbursable expenses then due; and

16.3.3 Reasonable expenses incurred by the Contract and effective in determination of services and work and incurred by the submittal of the CITY of projects drawn, plans, data and other project documents.

17. WAIVER

17.1 Any waiver by the CITY or the breach of any provision of this Contract shall not be construed or deemed to be a modification of the terms of this Contract.

18. MODIFICATIONS

18.1 Modifications to the covenants, terms and provisions of the Contract shall only be valid when issued in writing as amendment or change order agreed to by both parties.

19. IMMIGRATION LAW COMPLIANCE

Consistent with Bonita Springs Ordinance No. 09-04, effective June 1, 2009, contractors providing services to the City, as a condition of each contract, must use E-Verify to verify the employment of: any person hired during the contract term by the contractor and assigned by the contractor to perform work for the City. Before any contract with the City is signed, proof of enrollment with e-verify must be provided. The Contractor acknowledges that he will comply with the Immigration Reform and Control Act of 1986 and is committed to employing only those individuals who are authorized to work in the United States, by hiring employees who properly complete, sign and date the first section of the Immigration and Naturalization Services (INS) Form I-9 and presenting to the Contractor the original necessary document(s) to prove identity and employment eligibility, as verified through e-verify.

The Contractor must also be responsible for entering into an agreement with each and every vendor and subcontractor that states that vendors, and subcontractors (and their vendors) are independently responsible for its own employment decisions, including hiring, disciplinary and termination decisions, and will comply with the Immigration Reform and Control Act of 1986 and use the e-verify system for verification. The agreements shall also state that each business is responsible for its own I-9 and other employment record-keeping requirements, and with compliance with all immigration laws.

20. FEDERAL REQUIREMENTS

In the event this Contract is paid in whole or in part from any Federal Governmental agency or source, the specific terms, regulations and requirements governing the disbursement of these funds are incorporated by reference and made a part of this Contract as if attached hereto and become a part of this clause.

DUNS NUMBER

Federal reporting on projects funded by the American Recovery and Reinvestment Act of 2009 (ARRA), also known as the Economic Stimulus Package, will require contractors to report their DUNS number. The DUNS number is issued by Dun and Bradstreet. If you do not know your DUNS number, visit www.dnb.com and click on “D & B D-U-N-S Number” to obtain a number. It takes a minimum of 30 business days for a new D&B DUNS Number to be processed at no charge. Contractors will only need this number if they are awarded a project with ARRA funds by FDOT, a city or a county. The number will not be needed to bid. There should be sufficient time to obtain a number without paying the charge for an expedited request. Once a contract is awarded, the number will be required on a form (or web site) provided by the agency.

CCR NUMBER

Contractors will be required to register with the Central Contractor Registration (CCR). Registration can be completed at the following web address: www.bpn.gov/ccr click on start new registration, Note: New registrations usually take **3-5** business days to process once completed by the vendor.

MAINTENANCE OF RECORDS

The CONTRACTOR shall keep adequate records and supporting documents applicable to this contractual matter. Said records and documentation will be retained by the CONTRACTOR for a minimum of five (5) years from the date of termination of this Contract. The CITY and its authorized agents shall have the right to audit, inspect and copy records and documentation as often as the CITY deems necessary during the period of this Contract and during the period of five (5) years thereafter; provided, however, such activity shall be conducted only during normal business hours. The CITY, during the period of time expressed by the preceding sentence, shall also have the right to obtain a copy of and otherwise inspect any audit made at the direction of the CONTRACTOR as concerns the aforesaid records and documentation.

FEDERAL REQUIREMENTS

In the event this Contract is paid in whole or in part from any Federal Governmental agency or source, the specific terms, regulations and requirements governing the disbursement of these funds are incorporated by reference and made a part of this Contract as if attached hereto and become a part of this clause.

Audits

Contractors of Federal and State funds are to have audits done annually using the following criteria:

Federal awards are to be identified using the Catalog of Federal Domestic Assistance (CFDA) title and number, award number and year, and name of the awarding federal agency. State awards will be identified using the Catalog of State Financial Assistance (CSFA) title and number, award number and year, and name of the awarding State Agency.

In the event that a Contractor expends \$500,000 or more in federal awards in its fiscal year, the Contractor must have a single or program specific audit conducted in accordance with the United States Office of Management and Budget (OMB) Circular A-I 33.

If a contractor expends less than \$500,000 in federal awards during its fiscal year, an audit conducted in accordance with the **OMB Circular A-133** is not required. If a Contractor expends less than \$500,000 in federal awards during its fiscal year and elects to have an audit conducted in accordance with **OMB Circular A-133**, the cost of the audit must be paid from non-federal funds.

Reporting Packages and management letters generated from audits conducted in accordance with **OMB Circular A-133** shall be submitted to the City of Bonita Springs, by the Contractor, within 21 days of receiving it. The aforementioned items are to be received by the appropriate FDOT office no later than 9 months after the end of the

Contractor's fiscal year.

Compliance with American Recovery and Reinvestment Act of 2009:

This project is subject to the criteria and conditions of the American Recovery and Reinvestment Act (ARRA) of 2009. Satisfy the federal reporting requirements for the project(s), such as the monthly employment report, for both the contractor and subcontractors. Provide the required information on form(s) provided by the City of Bonita Springs in the timeframe indicated in the instructions. Include these reporting requirements in all subcontracts.

Authority of the Comptroller General:

Section 902 of the ARRA of 2009 provides the U.S. Comptroller General and his representatives the authority:

(1) to examine any records of the Contractor or any of its subcontractors, or any State or Local agency administering such contract, that directly pertain to, and involve transactions relating to, the contract or subcontract; and

(2) to interview any officer or employee of the Contractor or any of its subcontractors, or of any State or Local government agency administering the Contract, regarding such transactions.

Accordingly, the Comptroller General and his representatives shall have the authority and rights as provided under Section 902 of the ARRA with respect to this Contract, which is funded with funds made available under the ARRA. Section 902 further states that nothing in this Section shall be interpreted to limit or restrict in any way any existing authority of the Comptroller General.

Authority of the Inspector General:

Section 1515(a) of the ARRA provides authority for any representatives of the Inspector General to examine any records or interview any employee or officers working on this Contract. The Contractor is advised that representatives of the Inspector General have the authority to examine any record and interview any employee or officer of the Contractor, its subcontractors or other firms working on this Contract. Section 1515(b) further provides that nothing in this Section shall be interpreted to limit or restrict in any way any existing authority of an Inspector General.

Buy America and Foreign Contractor and Supplier Restriction

Source of Supply - Steel (Federal-Aid Contracts Only): For Federal-aid Contracts, only use steel and iron produced in the United States, in accordance with the Buy America provisions of 23 CFR 635.410, as amended. Ensure that all manufacturing processes for this material occur in the United States. As used in this specification, a manufacturing process is any process that modifies the chemical content, physical shape or size, or final finish of a product beginning with the initial melding and mixing and continuing through the bending and coating stages. A manufactured steel or iron product is complete only when all grinding, drilling, welding, finishing and coating have been completed. If a domestic product is taken outside the United States for any process, it becomes foreign source material. When using steel and iron as a component of any manufactured product incorporated into the project (e.g., concrete pipe, pres-stressed beams, corrugated steel pipe, etc.), these same provisions apply, except that the manufacturer may use minimal quantities of foreign steel and iron when the cost of such foreign materials does not exceed 0.1% of the total Contract amount or \$2,500, whichever is greater. These requirements are applicable to all steel and iron materials incorporated into the finished work, but are not applicable to steel and iron items that the Contractor uses but does not incorporate into the finished work. Provide a certification from the producer of steel or iron, or any product containing steel or iron as a component, stating that all steel or iron furnished or incorporated into the furnished product was manufactured in the United States in accordance with the requirements of this specification and the Buy America provisions of 23 CFR 635.410, as amended. Such certification shall also include (1) a statement that the product was produced entirely within the United States, or (2) a statement that the product was produced within the United States except for minimal quantities of foreign steel and iron valued at \$(actual value). Furnish each such certification to the City of Bonita Springs prior to incorporating the material into the project. When US DOE allows the use of foreign steel on a project, furnish invoices to document the cost of such material, and obtain the City

of Bonita Springs written approval prior to incorporating the material into the project.

Equal Employment Opportunity

Equal Employment Opportunity Policy: Accept as the operating policy, the following statement which is designed to further the provision of equal employment opportunity to all persons without regard to their age, race, color, religion, national origin, sex, or disability and to promote the full realization of equal employment opportunity through a positive continuing program:

“It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their age, race, religion, color, national origin, sex, or disability. Such action must include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training.”

Equal Employment Opportunity Officer: Designate and make known to the City of Bonita Spring’s Project Manager an equal employment opportunity officer (hereinafter referred to as the EEO Officer) who must be capable of effectively administering and promoting an active Contractor program employment opportunity and who must be assigned adequate authority and responsibility to do so.

Dissemination of Policy: All members of the Contractor’s staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the Contractor’s equal employment opportunity policy and contractual responsibilities.

Recruitment: When advertising for employees, include in all advertisements for employees the notation “An Equal Opportunity Employer”.

Personnel Actions: Establish and administer wages, working conditions, employee benefits, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff and termination without regard to age, race, color, religion, national origin, sex, or disability.

Follow the following procedures:

- (1) Conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.
- (2) Periodically evaluate the spread of wages paid with each classification to determine any evidence of discriminatory wage practices.
- (3) Periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action must include all affected persons.
- (4) Investigate all complaints of alleged discrimination made in connection with obligations under this Contract, attempt to resolve such complaints, and take appropriate corrective action. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action must include such other persons. Upon completion of each investigation inform every complainant of all of the avenues of appeal.

Subcontracting: Use the best efforts to ensure subcontractor compliance with their equal employment opportunity policy.

Records and Reports: keep such records as necessary to determine compliance with the equal employment opportunity obligations. The records kept will be designed to indicate the following:

- (1) The number of minority and non-minority group members employed in each work classification on the project.
- (2) The progress and efforts being made in cooperation with unions to increase minority group employment

opportunities (applicable only to Contractors who rely in whole or in part on unions as a source of their work force).
(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority group employees as deemed appropriate to comply with their Equal Employment Opportunity Policy.
(4) The progress and efforts being made in securing the services of minority group subcontractors or subcontractors with meaningful minority group representation among their employees as deemed appropriate to comply with their Equal Employment Opportunity Policy.

All such records must be retained for a period of three years following completion of the contract work and be available at reasonable times and places for inspection by authorized representatives of the City of Bonita Springs and the US DOE.

Upon request, submit to the City of Bonita Springs a report of the number of minority and non-minority group employees currently engaged in each work classification required by this Contract work.

Prevailing Minimum Wage

For this contract, payment of predetermined minimum wages applies. The U.S. Department of Labor Wage Rates applicable to this Contract are listed in Wage Rate Decision Number(s).

Davis-Bacon Act

(1)(a) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached to the Contract and made a part hereof, or as may be incorporated for a secondary site of the work, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics.

(b) Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the DBA on behalf of laborers or mechanics are considered wages paid to such laborers and mechanics, subject to the provisions of paragraph B(4) below; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such period.

(c) Such laborers and mechanics shall be paid not less than the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill, except as provided in the paragraph entitled Apprentices and Trainees. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed.

(d) The wage determination (including any additional classifications and wage rates conformed under paragraph B(2) of this Clause) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(2)(a) The Contractor shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the Contract shall be classified in conformance with the wage determination. The Contractor shall approve an additional classification and wage rate and fringe benefits therefore only when all the following criteria have been met:

- (i) The work to be performed by the classification requested is not performed by a classification in the wage determination.
- (ii) The classification is utilized in the area by the construction industry.

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives agree on the classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contractor shall notify the City of Bonita Springs. The City of Bonita Springs shall notify the Contracting Officer of this agreement. If the Contracting Officer agrees with the classification and wage rate (including the amount designated for fringe benefits, where appropriate), a report of the action taken shall be sent by the Contracting Officer to the Administrator of the:

Wage and Hour Division
Employment Standards Administration
U.S. Department of Labor
Washington, DC 20210

The Administrator or an authorized representative will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(c) In the event the Contractor, and the laborers or mechanics to be employed in the classification, or their representatives, do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Contractor shall notify the City of Bonita Springs. The City of Bonita Springs shall notify the Contracting Officer of the disagreement. The Contracting Officer shall refer the questions, including the views of all interested parties and the recommendation of the Contracting Officer, to the Administrator of the Wage and Hour Division for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(d) The wage rate (including fringe benefits, where appropriate) determined pursuant to subparagraphs B(2)(b) or B(2)(c) of this Clause shall be paid to all workers performing work in the classification under the Contract from the first day on which work is performed in the classification.

(3) Whenever the minimum wage rate prescribed in the Contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(4) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program; provided, that the Secretary of Labor has found, upon the written request of the Contractor that the applicable standards of the Davis Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

Rates of Wages

(1) The minimum wages to be paid laborers and mechanics under the Contract involved in performance of work at the project site, as determined by the Secretary of Labor to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the pertinent locality, are included as an attachment to the Contract.

(2) If the Contract has been issued without a wage determination, the City of Bonita Springs shall notify the Contracting Officer immediately of the site of the work under the Contract in order for the appropriate wage determination to be obtained by the Contracting Officer from the Secretary of Labor.

Payrolls and Basic Records

(1) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of 3 years thereafter for all laborers and mechanics working at the site of the work. Such records

shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found, under paragraph (4) of the provision entitled Davis-Bacon Act, that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. The Contractor employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(2)(a) The Contractor shall submit weekly for each week in which any Contract work is performed a copy of all payrolls to the City of Bonita Springs. The Contractor shall submit weekly for each week in which any Contract work is performed a copy of all payrolls to the City of Bonita Springs. The City of Bonita Springs shall submit weekly for each week in which any Contract work is performed a copy of all payrolls to the Contracting Officer. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under paragraph D (1) of this Clause, except that the full social security numbers and home addresses shall not be included on weekly transmittals. Instead, the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site.

(b) The City of Bonita Springs is responsible for the ensuring all Contractors submit copies of payrolls and basic records as required by paragraph D, Payrolls and Basic Records, of this Clause. The Contractor is responsible for ensuring all subcontractors submit copies of payrolls and basic records as required by paragraph D, Payrolls and Basic Records, of this clause. Contractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request for transmission to the City of Bonita Springs, for purposes of an investigation or audit of compliance with prevailing wage requirements.

(c) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or his or her agent who pays or supervises the payment of the persons employed under the Contract and shall certify –

(i) That the payroll for the payroll period contains the information required to be maintained under paragraph D(2)(a) of this Clause, the appropriate information is being maintained under paragraph D(I) of this Clause, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the Contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in the Regulations, 29 CFR Part 3; and

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the Contract.

(d) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph D(2)(c) of this Clause.

(e) The falsification of any of the certifications in Paragraph D, Payrolls and Basic Records, of this Clause may subject the Contractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 3729 of Title 31 of the United States Code.

(3) The Contractor shall make the records required under paragraph D (I) of this Clause available for inspection, copying, or transcription by the City of Bonita Springs, authorized representatives of the Contracting Officer, or the Department of Labor. The Contractor shall permit the City of Bonita Springs, authorized representatives of the Contracting Officer or the Department of Labor to interview employees during working hours on the job. If the Contractor fails to submit the required records or to make them available, the Contracting Officer may, after written notice to the Contractor take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

Withholding of Funds

The City of Bonita Springs shall, upon his or her or its own action or upon written request of the DOE Contracting Officer or an authorized representative of the Department of Labor, withhold or cause to be withheld from any Contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor the full amount of wages required by the Contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the Contract, the City of Bonita Springs may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased or the Government may cause the suspension of any further payment under any other contract or Federal award with the same Contractor, on any other federally assisted Award subject to Davis-Bacon prevailing wage requirements, which is held by the same Contractor

Apprentices and Trainees

(l) Apprentices.

(a) An apprentice will be permitted to work at less than the predetermined rate for the work they performed when they are employed-

(i) Pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship and Training, Employer, and Labor Services (OATELS) or with a State Apprenticeship Agency recognized by the OATELS; or

(ii) In the first 90 days of probationary employment as an apprentice in such an apprenticeship program, even though not individually registered in the program, if certified by the OATELS or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

(b) The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program.

(c) Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph F(l) of this Clause, shall be paid not less than the applicable wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(d) Where a Contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination.

(e) Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

(f) In the event OATELS, or a State Apprenticeship Agency recognized by OATELS, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(2) Trainees.

(a) Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by (OATELS). The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by OATELS.

(b) Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed in the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship/training program associated with the corresponding journeyman wage rate in the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the OATELS shall be paid not less than the applicable wage rate in the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate in the wage determination for the work actually performed.

(c) In the event OATELS withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(3) Equal employment opportunity. The utilization of apprentices, trainees, and journeymen under this Clause shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR Part 30.

Compliance with Copeland Act Requirements

The Contractor shall comply with the requirements of 29 CFR Part 3.

Certification of Eligibility

(1) By entering into this Contract (as applicable), the Contractor, respectively certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm, is a person, entity, or firm ineligible to be awarded Government contracts or Government awards by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(I).

(2) No part of this Contract shall be subcontracted to any person or firm ineligible for award of a Government contract or Government award by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(I).

(3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.c. 1001.

Contract Work Hours and Safety Standards Act

This Clause entitled "Contract Work Hours and Safety Standards Act (CWHSSA)" shall apply to any Contract in an amount in excess of \$100,000. As used in this CWHSSA Clause, the terms laborers and mechanics include watchmen and guards.

A. Overtime requirements. No Contractor contracting for any part of the work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

B. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph B herein, the Contractor responsible therefore shall be liable for the unpaid wages. In addition, such Contractor shall be liable to the United States (in the case of work done under a Contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the provision set forth in CWSSHA paragraph A, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (A) of this section.

C. Withholding for unpaid wages and liquidated damages. The DOE Contracting Officer shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor under any Contract on this or any other Federal Award or Federal contract with the same Contractor on any other federally-assisted Award or contract subject to the CWHSSA, which is held by the same Contractor such sums as may be determined to be necessary to satisfy any liabilities of such Contractor for unpaid wages and liquidated damages as provided in the clause set forth in CWHSSA, paragraph B of this Clause.

D. The Contractor shall maintain payrolls and basic payrolls in accordance with Clause 25, Davis- Bacon Act Requirements, for all laborers and mechanics, including guards and watchmen working on the Contracts. These records are subject to the requirements set forth in Clause 25 Davis Bacon Requirements.

Protecting State and Local Government and Contractor Whistleblowers.

The requirements of Section 1553 of the Act are summarized below. They include, but are not limited to: Prohibition on Reprisals: An employee of any non-Federal employer (Contractor) receiving covered funds under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to the Accountability and Transparency Board, an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or other person working for the employer who has the authority to investigate, discover or terminate misconduct), a court or grand jury, the head of a Federal agency, or their representatives information that the employee believes is evidence of:

- Gross management of an agency contract or grant relating to covered funds;
- A gross waste of covered funds;
- A substantial and specific danger to public health or safety related to the implementation or use of covered funds;
- An abuse of authority related to the implementation or use of covered funds; or
- as violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to covered funds.

Agency Action: Not later than 30 days after receiving an inspector general report of an alleged reprisal, the head of the agency shall determine whether there is sufficient basis to conclude that the non-Federal employer has subjected the employee to a prohibited reprisal. The agency shall either issue an order denying relief in whole or in part or shall take one or more of the following actions:

- Order the employer to take affirmative action to abate the reprisal.
- Order the employer to reinstate the person to the position that the person held before the reprisal, together with compensation including back pay, compensatory damages, employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.

- Order the employer to pay the employee an amount equal to the aggregate amount of all costs and expenses (including attorneys' fees and expert witnesses' fees) that were reasonably incurred by the employee for or in connection with, bringing the complaint regarding the reprisal, as determined by the head of a court of competent jurisdiction.

Non-enforceability of Certain Provisions Waiving Rights and remedies or Requiring Arbitration:

Except as provided in a collective bargaining agreement, the rights and remedies provided to aggrieved employees by this section may not be waived by any agreement, policy, form, or condition of employment, including any pre-dispute arbitration agreement. No pre-dispute arbitration agreement shall be valid or enforceable if it requires arbitration of a dispute arising out of this section.

Requirement to Post Notice of Rights and Remedies: Any employer receiving covered funds under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, shall post notice of the rights and remedies as required therein. (Refer to section 1553 of the American Recovery and Reinvestment Act of 2009, Pub. Law 111-5, www.Recovery.gov, for specific requirements of this section and prescribed language for the notices).

False Claims Act:

The contractor shall promptly refer to the DOE or other appropriate Inspector General any credible evidence that a principal, employee, agent, contractor, subcontractor or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity or similar misconduct involving ARRA funds.

SITE VISITS:

DOE's authorized representatives have the right to make site visits at reasonable times to review project accomplishments and management control systems and to provide technical assistance, if required. Contractors are required to provide, reasonable access to facilities, office space, resources, and assistance for the safety and convenience of the government representatives in the performance of their duties. All site visits and evaluations must be performed in a manner that does not unduly interfere with or delay the work.

FEDERAL, STATE, AND MUNICIPAL REQUIREMENTS

You must obtain any required permits and comply with applicable federal, state, and municipal laws, codes, and regulations for work performed under this award.

PARTIAL PAYMENTS-WITHHOLDING PAYMENT.

Withholding Payment for Failure to Comply with American Recovery and Reinvestment Act of 2009: The City of Bonita Springs will withhold progress payments from the Contractor for failure to comply with the requirements of the Compliance with American Recovery and Reinvestment Act of 2009.

ACCEPTANCE AND FINAL PAYMENT - ACCEPTANCE AND FINAL PAYMENT DOCUMENTS Is

Expanded by the following:

The Contractor has met the requirements of the Compliance with American Recovery and Reinvestment Act of 2009.

EXHIBIT A
INSURANCE REQUIREMENTS

- 1) Worker's Compensation: For all of employee's engaged in work on the project under this contract. In case any employee engaged in hazardous work on the project is not protected under the Workman's Compensation statute, you shall provide Employer's Liability insurance for the protection of such employees not otherwise protected under such provisions.

Coverage A – Worker's Compensation - Statutory

Coverage B – Employer's Liability - \$500,000.00

- 2) Liability: Commercial General Liability insurance including, but not limited to:
 - a) Independent Contractor's Liability
 - b) Contractual Liability
 - c) Personal Injury Liability

The minimum primary limits shall be no less than \$1,000,000/\$1,000,000 Bodily Injury Liability, and no less than \$500,000 Property Damage Liability, or \$1,000,000 Combined Single Limit Liability, or higher limits if required by the Excess Liability Insurer. The City of Bonita Springs shall be named as additional insured.

- 3) Automobile Liability: Automobile Liability insurance including all owned, hired, and non-owned automobiles. The minimum primary limits shall be no less than \$1,000,000 Bodily Injury Liability, and no less than \$1,000,000 Property Damage Liability, or no less than \$1,000,000 Combined Single Limit Liability, or higher limits if required by the Excess Liability Insurer. The City of Bonita Springs shall be named as additional insured.
- 4) Certificates of Insurance: The Contractor shall furnish to the City certificates of insurance allowing thirty-(30) days written notice of any change, cancellation, or non-renewal. Such certificates shall contain the following wording: “ SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL MAIL THIRTY (30) DAYS NOTICE TO THE CERTIFICATE HOLDER NAMED HEREIN.” If the insurance policies expire during the term of the contract, a renewal certificate shall be filed with the City thirty-(30) days prior to the renewal date.