

# OKEECHOBEE COUNTY



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## CONTRACT DOCUMENTS AND SPECIFICATIONS FOR THE

## SPORTS COMPLEX BASEBALL FIELD SAFETY NETTING REPLACEMENT

**PROJECT No. 2018-25**

**OKEECHOBEE COUNTY  
PARKS & RECREATION**

ALBIE SCOGGINS, DIRECTOR  
1718 NW 9<sup>TH</sup> AVENUE  
OKEECHOBEE, FL 34972  
863-763-6950 (PHONE)  
863-763-0662 (FAX)  
[tgould@co.okeechobee.fl.us](mailto:tgould@co.okeechobee.fl.us)

**OKEECHOBEE COUNTY**  
**CONTRACT DOCUMENTS AND SPECIFICATIONS**  
**FOR**  
**OKEECHOBEE COUNTY**  
**SPORTS COMPLEX BASEBALL FIELD**  
**SAFETY NETTING REPLACEMENT**  
**BID NO. 2018-25**  
**EXHIBIT B**  
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**OKEECHOBEE COUNTY  
PROJECT NO. 2018-25**

**Sports Complex Baseball Field  
Safety Netting Replacement**

**INVITATION TO BID**

**Sealed BIDS will be received by Okeechobee County Board of County Commissioners at the Okeechobee County Historic Courthouse, 304 NW 2<sup>nd</sup> Street, Room 123, Okeechobee, FL 34972 until 3:00 p.m. September 20<sup>th</sup>, 2018. Bids will be opened by the Clerk in Room 222 and will be publicly opened and read aloud. Any BIDS received after the time specified will not be accepted.**

The bids shall be based on the following:

**Okeechobee County is seeking qualified contractors for furnishing all materials, equipment, labor and appurtenances necessary for the removal and replacement of the overhead and foul line safety netting at the Okeechobee County Darrell Enfinger Sports Complex located at 640 NW 27<sup>th</sup> Lane, Okeechobee, FL 34972. Additionally, Okeechobee County is also seeking to provide shade for designated portions of the spectator areas. All materials furnished and all work shall be in accordance with the specifications and bid documents pertaining thereto, which may be obtained from:**

Okeechobee County, Albie Scoggins, Director, Community Services  
1718 NW 9<sup>th</sup> Avenue, Okeechobee, FL 34972  
863-763-6950 (phone), 863-763-0662 (fax)  
[tgould@co.okeechobee.fl.us](mailto:tgould@co.okeechobee.fl.us)

Site visits for the job site, located at 640 NW 27<sup>th</sup> Lane, Okeechobee, FL 34972, will be scheduled by appointment only, August 30<sup>th</sup> – September 6<sup>th</sup> from 9:00am - 12:00pm. Any questions pertaining to the project specifications or scope of work will be addressed to Albie Scoggins, **in writing** to the physical or e-mail address noted above, no later than **September 12<sup>th</sup>, 2017 at 12:00 pm**. The purpose of the pre-bid site visit is to provide site conditions and to receive questions from respondents on any issues considered relevant to the requirements of the project.

Each Contractor who has made a written request, to the physical or e-mail address noted above, will be furnished with an electronic version of the Specifications and Bid Documents via email at no cost. No partial sets of Specifications and Bid Documents will be issued. Only Specifications and Bid Documents obtained from Okeechobee County, Owner are acceptable for bidding.

If the Contract Sum is more than \$100,000, the Contractor shall furnish a Performance Bond on Standard Form 25 in an amount equal to one hundred percent (100%) of the Contract Sum as security for the faithful performance of this Contract. If the Contract amount is increased, the Owner may require a corresponding increase in the amount of the bond. The Owner may also secure additional protection by directing the Contractor to add a penal amount to the existing bond or to obtain an additional bond. The Contractor shall furnish a Payment Bond on Standard Form 25-A in amount equal to one hundred percent (100%) of the Contract sum.

Okeechobee County accepts no responsibility for any expense related to preparation or delivery of proposals. The Owner reserves the right to reject any or all Bids, accept Bids in any order or combination, accept or reject portions of Bids, make modifications to the work after bidding, and waive any formality in the Bids if they deem it in their best interest to do so.

Sports Complex Baseball Field  
Safety Netting Replacement

The Bidder will provide additional information including, but not limited to, a list of similar projects constructed within the past five (5) years, client references, or other financial references deemed appropriate to Contract Award.

**Unless specifically prohibited by law or regulation, said bid includes an assignability clause that allows for the assignment of all or part of the specified deliverable items.**

Okeechobee County has a local vendor preference which is contained within the County's current procurement policy. Definitions, allowances and exemptions can be found in this policy. You are encouraged to review the latest version to ensure compliance with and exceptions to the local vendor preference policy. The County's vendor preference policy can be found on the County's web site at <http://www.co.okeechobee.fl.us/government/county-procurement-policy>.

Bidders will confine their bids to the project in its entirety. Partial bids will not be accepted.

Each bidder will submit with this bid, evidence that the bidder complies with all state and local requirements, to perform the work described in said Bid.

If in the opinion of the bidder, inconsistencies appear to exist in the specifications, it is the bidder's responsibility to seek clarification from the Owner, Albie Scoggins, Director, as shown above. Additionally, it is incumbent upon all bidders to conduct a personal investigation as to requirements of the County.

The Board of County Commissioners has the right to accept or reject any or all bids. Bids must be sealed and the outside of the envelope MUST be marked: "**BID – Sports Complex Baseball Field Safety Netting Replacement PROJECT NO. 2018-25**".

**BIDDER MUST SUBMIT (1) ORIGINAL AND (2) COPIES OF THE BID.**

Terry Burroughs, Chair  
Board of County Commissioners  
Okeechobee County, FL

Sharon Robertson, Clerk of Court  
Okeechobee County, FL

Publish:  
Okeechobee News  
Okeechobee County Website

**BIDDER ACKNOWLEDGEMENT**

SUBMIT BIDS/PROPOSALS TO:

Okeechobee County  
304 NW 2<sup>nd</sup> Street  
Okeechobee, FL 34972

(AN EQUAL OPPORTUNITY EMPLOYER)

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**PROPOSAL FOR OKEECHOBEE COUNTY SPORTS COMPLEX BASEBALL FIELD  
SAFETY NETTING REPLACEMENT, PROJECT No. 2018-25.**

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MAILING ADDRESS:

Federal Employer ID or SS#:

Telephone:

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I certify that this bid is made without prior understanding, agreement or connection with any corporation, firm or person submitting a bid for the same materials, supplies or equipment and is in all respects fair and without collusion or fraud. I agree to abide by all conditions of this bid and certify that I am authorized to sign this bid for the bidder. In submitting a bid to the Okeechobee County, the bidder offers and agrees that if the bid is accepted, the bidder will convey, sell, assign or transfer to the County all rights, title and interest in and to all causes of action it may now or hereafter acquire under the Anti-trust Laws of the United States and the State of Florida for price fixing relating to the particular commodities or services purchased or acquired by the County. At the County's discretion, such assignment shall be made and become effective at the time the County renders final payment to the bidder.

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Signature:

Type Name:

Title:

Date:

**OKEECHOBEE COUNTY**  
**SPORTS COMPLEX BASEBALL FIELD**  
**SAFETY NETTING REPLACEMENT**  
**PROJECT No. 2018-25**

**INSURANCE REQUIREMENTS**

**WORKERS COMPENSATION:**

Coverage is to apply for all employees for statutory limits in compliance with the applicable state and federal laws. The policy must include Employers' Liability with a limit of \$500,000 each accident, \$500,000 each employee, \$500,000 policy limit for disease.

**COMMERCIAL GENERAL LIABILITY – OCCURRENCE FORM REQUIRED:**

(Contractor/Vendor) shall maintain commercial general liability (CGL) insurance with a limit of not less than \$500,000 each occurrence. If such CGL insurance contains a general aggregate limit, it shall apply separately to this location/project in the amount of \$1,000,000. Products and completed operations aggregate shall be \$1,000,000. CGL insurance shall be written on an occurrence form and shall include bodily injury and property damage liability for premises, operations, independent contractors, products and completed operations, contractual liability, broad form property damage and property damage resulting from explosion, collapse or underground (x, c, u) exposures, personal injury and advertising injury. Fire damage liability shall be included at \$100,000.

**COMMERCIAL AUTOMOTIVE LIABILITY INSURANCE:**

(Contractor/Vendor) shall maintain automobile liability insurance with a limit of not less than \$1,000,000 each accident for bodily injury and property damage liability. Such insurance shall cover liability arising out of any auto (including owned, hired and non-owned autos.) the policy shall be endorsed to provide contractually liability coverage.

**EVIDENCE OF INSURANCE:**

The (Contractor/Vendor) shall furnish the County with Certificates of Insurance. The Certificates are to be signed by a person authorized by that insurer to bind coverage on its behalf. The County is to be specifically included as an additional insured on all policies except Workers Compensation. In the event the insurance coverage expires prior to the completion of the project, a renewal certificate shall be issued 30 days prior to said expiration date. The policy shall provide a 30 day notification clause in the event of cancellation or modification to the policy. All certificates of insurance must be on file with and approved by the County before commencement of any work activities.

**BID FORM**

**OKEECHOBEE COUNTY  
Sports Complex Baseball Field  
Safety Netting Replacement  
BID NO. 2018-25**

THIS BID IS SUBMITTED TO:

OKEECHOBEE COUNTY

1. The undersigned BIDDER proposes and agrees, if this Bid is accepted, to enter into an agreement with OWNER in the form included in the Contract Documents to perform and furnish all Work as specified or indicated in the Contract Documents for the Contract Price and within the Contract Time indicated in this Bid and in accordance with the other terms and conditions of the Contract Documents.
2. BIDDER accepts all of the terms and conditions of the Advertisement or Invitation to Bid and Instructions to Bidders, including without limitation those dealing with the disposition of Bid Security. This Bid will remain subject to acceptance for ninety (90) calendar days after the day of Bid opening. BIDDER will sign and submit the Agreement with the Bonds, Insurance and other documents required by the Bidding Requirements within ten (10) calendar days after the date of OWNER'S Notice of Award.
3. In submitting this Bid, BIDDER represents, as more fully set forth in the Agreement, that:
  - (a) BIDDER has examined copies of all the Bidding Documents and of the following Addenda (receipt of all which is hereby acknowledged):

Addendum No: \_\_\_\_\_ Dated:

Addendum No: \_\_\_\_\_ Dated:

Addendum No: \_\_\_\_\_ Dated:

Addendum No: \_\_\_\_\_ Dated:

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Bidder's Name

- (b) BIDDER has familiarized themselves with the nature and extent of the Contract Documents, Work, Site, locality and all local conditions and Law and Regulations that in any manner may affect cost, progress, performance or furnishing of the work.
- (c) BIDDER has studied carefully all reports and drawings of subsurface conditions and drawings of physical conditions.
- (d) BIDDER has obtained and carefully studied (or assumes responsibility for obtaining and carefully studying) all such examinations, investigation, explorations, tests and studies (in addition to or to supplement those referred to in (c) above) which pertain to the subsurface or physical conditions at the site or otherwise may affect the cost, progress performance or furnishing of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, and no additional examinations, investigations, explorations, tests, reports or similar information or data are or will be required by BIDDER for such purposes.
- (e) BIDDER has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing Underground Facilities at or contiguous to the site and assumes responsibility for the accurate location of said Underground Facilities. No additional examinations, investigations, explorations, tests, reports or similar information or data in respect of said Underground Facilities are or will be required by BIDDER in order to perform and furnish the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents.
- (f) BIDDER has correlated the results of all such observations, examinations, investigations, explorations, test, reports and studies with the terms and conditions of the Contract Documents.
- (g) BIDDER has given OWNER written notice of all conflicts, errors, discrepancies that it has discovered in the Contract Documents and the written resolution thereof by OWNER is acceptable to BIDDER.
- (h) This Bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization, or corporation; BIDDER has not directly or indirectly induces or solicited any other Bidder to submit a false or sham Bid: BIDDER has not solicited or induced any person, firm or corporation to refrain from bidding, and BIDDER has not sought by collusion to obtain for themselves any advantage over any other Bidder or over OWNER.
- (i) Bidder agrees that the work will be substantially complete within (30) thirty calendar days after the date stipulated in the Notice to Proceed.



- (j) Liquidated damages relating to the failure to achieve substantial completion on time shall be assessed in the amount of \$250.00 per day for each calendar day the project is not substantially complete after the substantial completion date.
- (k) The Bidder has attached to this Bid Proposal the Bidders proposed Schedule of Values allocating the bid amount to the various portion of the Work. This schedule, subject to approval by the Owner, shall be used as a basis for reviewing the Contractor's application for payment.
- (l) The Bidder further proposes and agrees to commence work under his Contract within ten (10) calendar days following receipt of official Notice to Proceed on the date stipulated in such Notice.
- (m) After the date of Substantial Completion of the Work, an additional ten (10) calendar days will be allowed for the following:
  - 1. Completion of all punch list items.
  - 2. Re-cleaning required by work on Item 1.
  - 3. Minor site work which does not in any way hinder access or occupancy of the building.
  - 4. Removal of equipment, excess materials and debris from the site.
- (n) The Bidder further proposes and agrees that, in case of failure on his part to execute the said Contract and the Bonds within ten (10) consecutive calendar days after written notice being given of the award of the Contract, the cashier's check or Bid Bond accompanying this Bid, and the monies payable thereon, shall be paid into the funds of the Board of County Commissioners of Okeechobee County, Florida, as liquidated damages for such failure; otherwise the cashier's check or Bid Bond accompanying this Bid shall be returned to the undersigned.
- (o) Attached hereto is a cashier's check or Bid Bond in the amount of \_\_\_\_\_ Dollars, which is five percent (5%) of the Base Bid, made payable to the Board of County Commissioners of Okeechobee County, Florida; the List of Subcontractors/Material Suppliers; and Contractor's Qualification Statement as required by the Instructions to Bidders.
- (p) Unless specifically prohibited by law or regulation, said bid includes an assignability clause that allows for the assignment of all or part of the specified deliverable items.

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Bidder's Name

## BID SCHEDULE

**TO: BOARD OF COUNTY COMMISSIONERS OKEECHOBEE COUNTY**

**(Please fill in all blanks and return with your proposal.)**

**The undersigned, hereafter called the bidder, hereby declares that he has carefully examined the site of the proposed work, also the plans and specifications noted thereon, and does hereby agree to furnish all labor, materials, tools equipment and incidentals and to sustain all the expenses incurred in doing the work in strict accordance with the said plans which are referred to and made a part thereof at the following prices to-wit.**

Bidder proposes and agrees, if the Bid is accepted, to contract with the Board of County Commissioners of Okeechobee County, Florida, in the form of Contract specified, to furnish all necessary materials, equipment, machinery, tools, apparatus, means of transportation and labor necessary to complete the work in full and complete in accordance with the shown, noted, described and intended requirements of the Contract Documents to the full and entire satisfaction of the Board of County Commissioners of Okeechobee County, Florida, with a definite understanding that no money will be allowed for extra work except as set forth in the Contract Documents, for the following lump sum which is designated as the Base Bid:

### **SCOPE OF WORK**

Contractor shall be responsible for furnishing all materials, equipment, labor and appurtenances necessary for the removal and replacement of the overhead and foul line safety netting at the Okeechobee County Darrell Enfinger Sports Complex located at 640 NW 27<sup>th</sup> Lane, Okeechobee, FL 34972. Okeechobee County is also seeking to provide shade for designated portions of the spectator areas. These areas are noted in the bid alternates.

### **Specifications**

Furnish all materials, equipment, labor and appurtenances necessary to remove and replace all of the existing safety netting overhead the main observation areas near the Sports Complex score tower and along the foul lines on four (4) baseball fields. The tower netting will be fastened at the backstop and attached to the upper level of the score tower using eye bolts around the perimeter. All new netting and cable shall be laced together as required. All netting shall follow the existing coverage areas, and shall not be reduced other than what is specified in the alternates.

Cables, clamps, netting, eyebolts, lacing and other required hardware shall be as follows:

- ~ **Netting & Lacing** - #30 knotted nylon net & #30 tarred twine
- ~ **Cable & Clamps** – 3/16” – 7x19 galvanized cable & 3/16” galvanized cable clamps
- ~ **Eye Bolts** – 3/8” x 2 1/2” galvanized
- ~ **Turnbuckles** – jaw & eye 3/8” x 6”

Contractor shall be responsible to straighten and re-secure 5-7 poles to a vertical and upright position. Additional concrete footers may be added if necessary, and will be the responsibility of the contractor to ensure the integrity of each pole and bring in additional concrete. The cost of any additional footer material must be reflected in the bid.

Furnish all materials, equipment, labor and appurtenances necessary to maintain a safe jobsite environment at all times and secure the facility at the end of each work day. Storage of materials and equipment will be the sole responsibility of the contractor.

The Contractor will be responsible for all workmanship, inspections, utility and line locates, permits and warranties.

### **BID ALTERNATE**

Furnish all materials, equipment and labor necessary to install shade cloth or windscreen material in lieu of full overhead netting at specified locations behind the back stops in the main spectator areas. (See Bid Alternates 1 & 2)

The shade material should have 60% - 70% UV blockage and be navy blue in color (or an approved alternate) and shall have taped & seamed edges with grommets every 12-18" for added strength to secure the material to its supports & cables. Vents are required in for the overhead shade material for foul ball retrieval. Quantity and location of these vents shall be approved by the county. Each box vent must be seamed and taped to prevent fraying and should be no larger than 12"x12".

The shade material shall not be tied into, in any, way the overhead netting cable system. Additional cables shall be run adjacent to the netting apparatus, so as, in the event of strong winds shall not compromise the integrity of the netting or score tower structure. Cable for the shade material may be the same as listed as above, or if a heavier gauge is recommended, the contractor must provide a proven equivalent, and the price must be reflected in the bid documents.

The contractor shall be responsible for providing any and all engineering specifications to the County for the above referenced for additional support apparatus. All costs for labor, materials, permitting, engineering & shipping must be reflected in the bid documents.

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Base Bid Amount	\$ _____
Bid Alternate 1 Amount	\$ _____
Bid Alternate 2 Amount	\$ _____
Contingency For Permit Fees	\$ 500.00
<b>Total Bid Amount</b>	<b>\$ _____</b>

**Total Written Amount:**

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**Bidder acknowledges that estimated quantities are not guaranteed and are solely for the purpose of comparison of Bids, and final payment for all Unit Price Bid items will be based on actual quantities, determined as provided in the contract Documents.**

\_\_\_\_\_  
Bidder's Name

Communications concerning this Bid shall be addressed to:

Okeechobee County  
Albie Scoggins - Director  
Community Services  
1718 NW 9<sup>th</sup> Avenue  
Okeechobee, FL 34972  
Phone: (863)763-6950  
Fax: (863) 763-0662  
Email: tgould@co.okeechobee.fl.us

The terms used in this Bid which are defined in the County Contract and Supplementary General Conditions of the Construction Documents and included as part of the Contract Documents including all construction plans have the meanings assigned to them in the General Conditions.

SUBMITTED on \_\_\_\_\_, 20 .

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Bidder's Name

If BIDDER is:

An Individual

By:

\_\_\_\_\_ (Individual's Name) (SEAL)

Doing business as:

\_\_\_\_\_

Business Address:

\_\_\_\_\_

\_\_\_\_\_

Phone No:

\_\_\_\_\_

A Partnership:

By:

\_\_\_\_\_ (Firm's Name) (SEAL)

\_\_\_\_\_

(General Partner)

Business Address:

\_\_\_\_\_

\_\_\_\_\_

Phone No:

\_\_\_\_\_

Bidder's Name

A Corporation:

By:

\_\_\_\_\_  
(Corporation Name)

\_\_\_\_\_  
(State of Incorporation)

By:

\_\_\_\_\_  
(Name of Person Authorized to Sign)

\_\_\_\_\_  
(Title)

(Corporate Seal)

Attest:

\_\_\_\_\_  
(Secretary)

Business Address:

Phone No:

A Joint Venture:

By:

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address)

By:

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address)

(Each joint venture must sign. The manner of signing for each individual, partnership and corporation that is a part to the joint venture should be in the manner indicated above.)

\_\_\_\_\_  
Bidder's Name

**CERTIFICATE AS TO CORPORATE PRINCIPAL**

I, \_\_\_\_\_, certify that I am the \_\_\_\_\_  
\_\_\_\_\_, Secretary of the Corporation named as  
Principal in the within bond; that \_\_\_\_\_, who  
signed the said bond on behalf of the Principal was then \_\_\_\_\_ of  
said corporation; that I know their signature thereto is genuine; and that said bond was duly  
signed, sealed and attested to for and on behalf of said corporation by authority of this  
governing body.

\_\_\_\_\_  
(Corporate)  
(Seal)  
Title: \_\_\_\_\_

\_\_\_\_\_  
Bidder's Name



**OKEECHOBEE COUNTY  
SPORTS COMPLEX SCORE TOWER  
AND DUGOUT RE-ROOF BID  
COUNTY BID NO. 2018-25**

**BID SCHEDULE**

**TOTAL BID \$** \_\_\_\_\_

\_\_\_\_\_  
**(Written Total Dollar Amount)**

(NOTE: Any discrepancy between the written and numerical, the written prevails.)

**SUBSTANTIAL COMPLETION TIME: 30 (thirty) CALENDAR DAYS**

Bidder: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Attest: \_\_\_\_\_

(CORPORATE SEAL)

END OF SECTION

\_\_\_\_\_  
Bidder's Name

**“TO ALL BIDDERS”  
CERTIFICATION & ELECTION REGARDING  
LOCAL VENDOR PREFERENCE**

**TO BE EXECUTED BY ALL BIDDER’S AND SUBMITTED WITH YOUR BID** “The Bidder is requested to select the appropriate boxes and execute the document in full as required”.

I. Please select as appropriate:

- The undersigned hereby certifies that undersigned **qualifies** as a “Local Vendor” according to the Okeechobee County Procurement Policy,
- The undersigned **does not qualify** as a “Local Vendor” according to the Okeechobee County Procurement Policy
- The undersigned chooses **not to match** the lowest qualified non-local bid even if undersigned is qualified as a “Local Vendor” according to the Okeechobee County Procurement Policy.

II. Please Complete, if a Local Vendor wishing to participate:

**Applied to purchases less than \$100,000:**

- Bidder agrees that in the event undersigned’s bid is within 2% of the lowest non-local qualified bid, the undersigned’s proposal/bid shall be awarded to the local vendor as referenced in the current Procurement Policy.

**Applied to purchases between \$100,000.01 and \$1,000,000.00:**

- Bidder agrees that In the event undersigned’s bid is within 2% of the lowest non-local qualified bid, the undersigned will match said bid.

Failure to execute and submit this document with your bid shall be considered a waiver of the right to participate in the Local Vendor Preference process. Availability of the Local Vendor Preference process is at the sole discretion of the Owner.

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Bidder’s Signature: \_\_\_\_\_

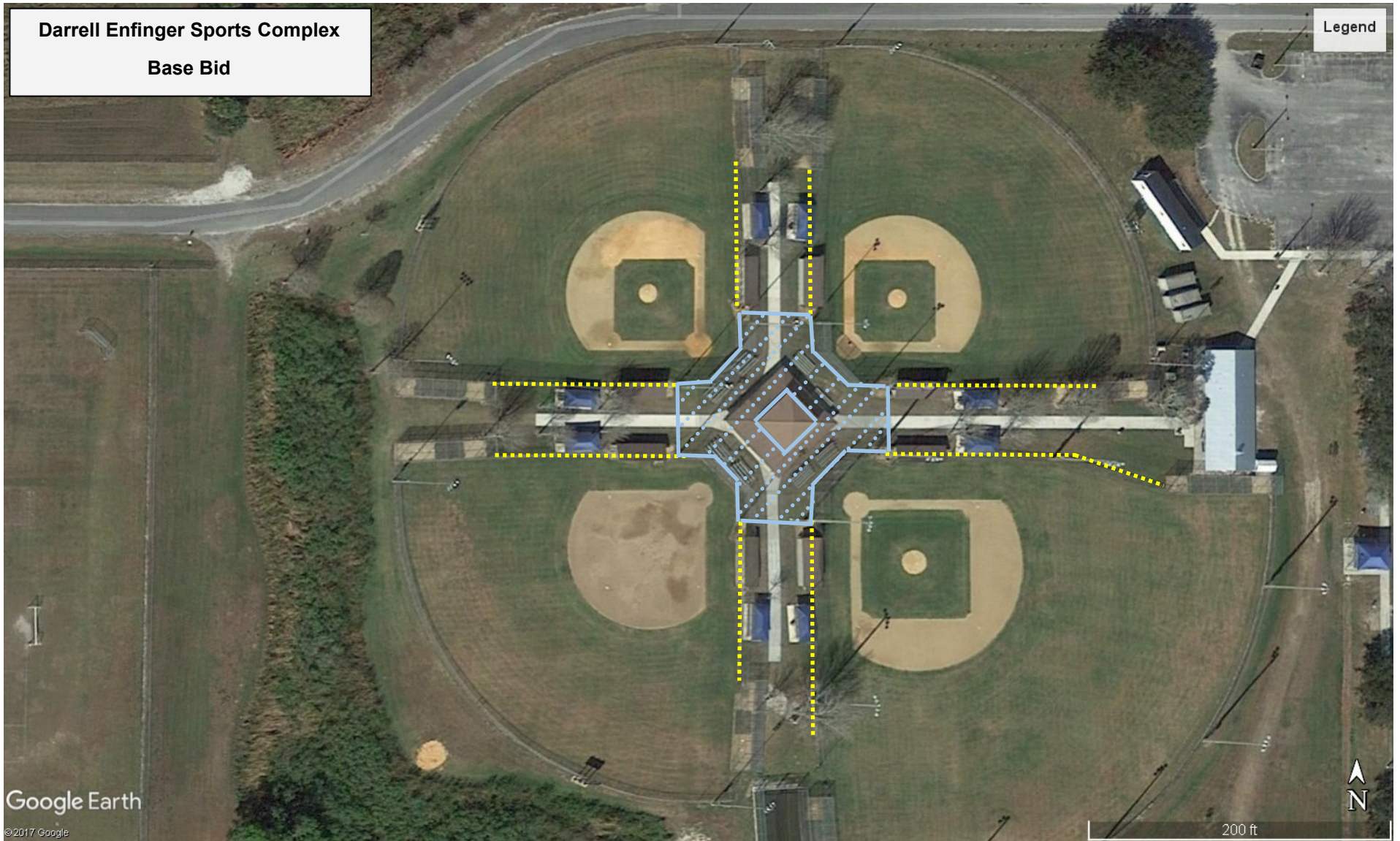
Bidders Name: \_\_\_\_\_


Company Name: \_\_\_\_\_

Company Address: \_\_\_\_\_

Date: \_\_\_\_\_

Okeechobee County Darrell Enfinger Sports Complex Ballfield  
Safety Netting Removal & Replacement  
Project No.:

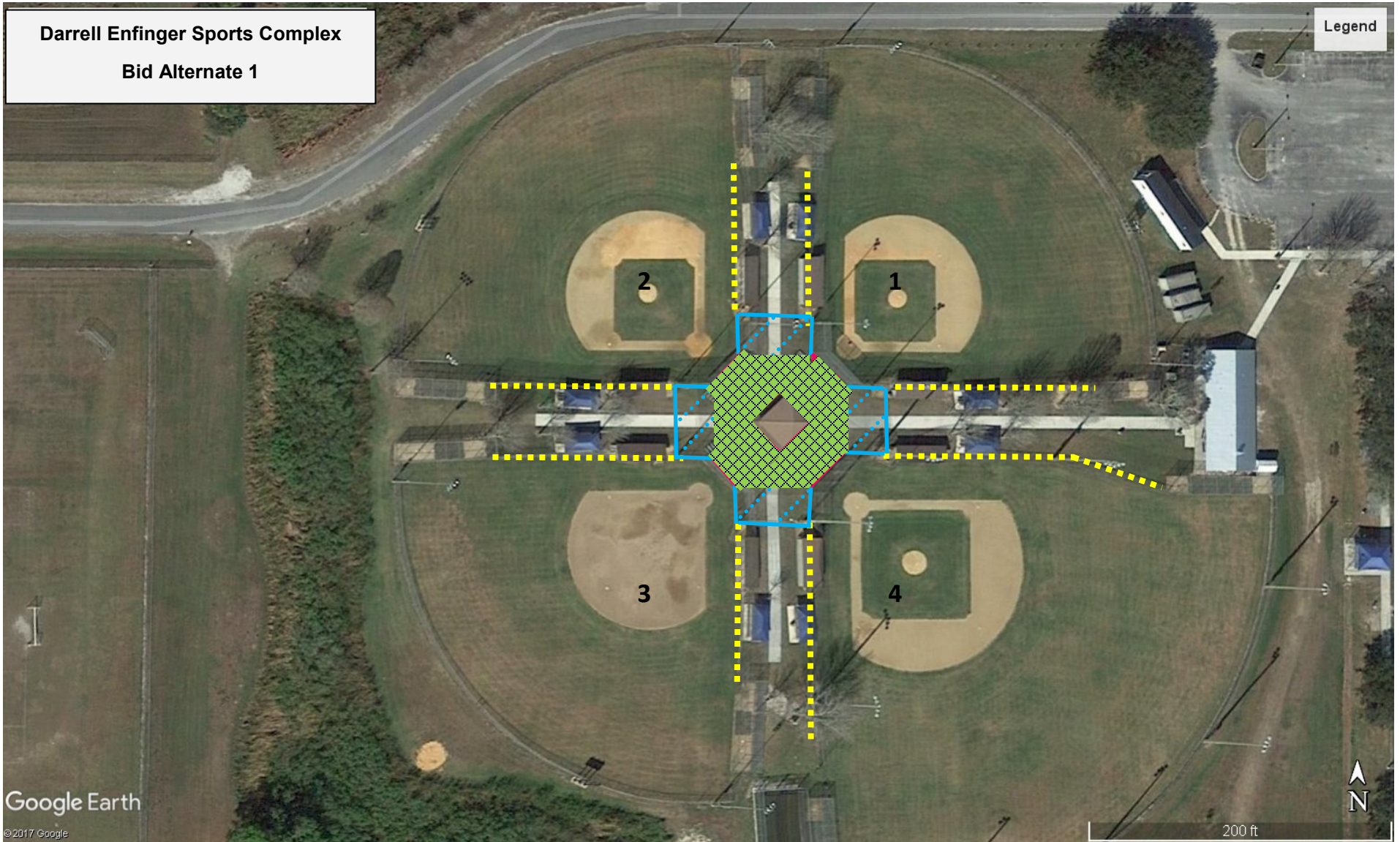


- Foul Line Netting
-  Overhead Netting

Okeechobee County Darrell Enfinger Sports Complex Ballfield  
Safety Netting Replacement

Project : \_\_\_\_\_

**BID ALTERNATE 1**



----- Foul Line Netting



Shade Material

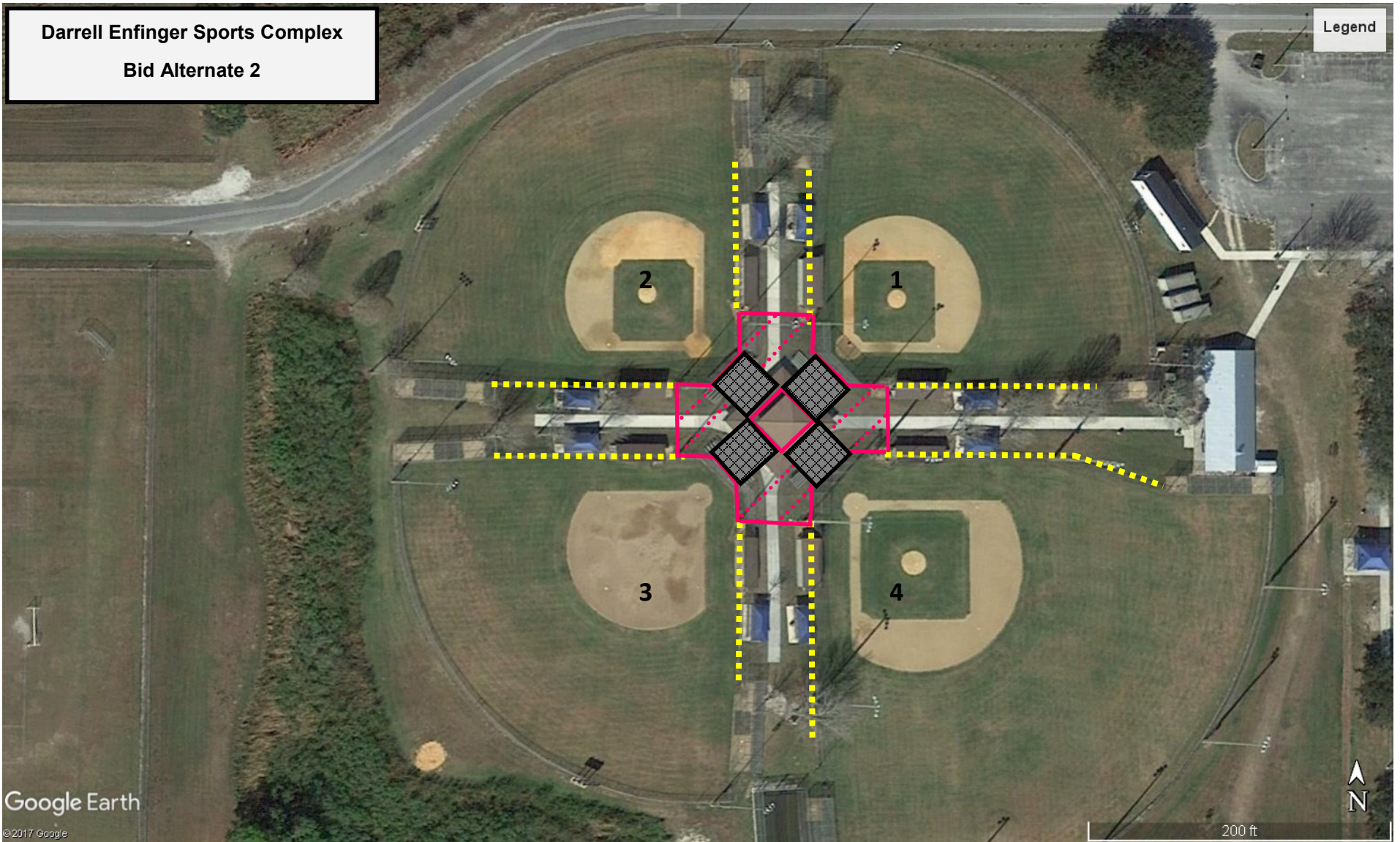


Overhead Netting

Okeechobee County Darrell Enfinger Sports Complex Ballfield  
Safety Netting Replacement

Project : \_\_\_\_\_

**BID ALTERNATE 2**



----- Foul Line Netting



*Shade Material*



**Overhead Netting**

**SWORN STATEMENT  
ON PUBLIC ENTITY CRIMES  
UNDER FLORIDA STATUTES CHAPTER 287.133(3)(a).**

THIS FORM MUST BE SIGNED IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICER AUTHORIZED TO ADMINISTER OATHS.

1. This sworn statement is submitted with Bid, Proposal or Contract No. **for Okeechobee County Sports Complex Baseball Field Safety Netting Replacement; Project No. 2018-25 .**

2. This sworn statement is submitted by \_\_\_\_\_ (name of entity submitting sworn statement) whose business address is \_\_\_\_\_ and

(if applicable) its Federal Employer Identification Number (FEIN) is \_\_\_\_\_.  
(If the entity has no FEIN, include the Social Security Number of the individual signing this sworn statement: \_\_\_\_\_.)

3. My name is \_\_\_\_\_ and my  
(Please print name of individual signing)  
relationship to the entity named above is \_\_\_\_\_.

4. I understand that a "public entity crime" as defined in Paragraph 287.133(1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

5. I understand that a "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.

6. I understand that an "affiliate" as defined in Paragraph 287.133(1)(a), Florida Statutes, means:

1. A predecessor or successor of a person convicted of a public entity crime:  
or

2. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding thirty-six (36) months shall be considered an affiliate.
  
7. I understand that a "person" as defined in Paragraph 287.133(1)(e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.
  
8. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. (Please indicate which statement applies.)

Neither the entity submitting this sworn statement, nor any officers, directors, executives, partners, shareholders, employees, members, or agents who are active in management of the entity, nor any affiliate of the entity have been charged with and convicted of a public entity crime subsequent to July 1, 1989.

The entity submitting this sworn statement, or one or more of the officers, directors, executives, partners, shareholders, employees, members, or agents who are active in management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989, AND (Please indicate which additional statement applies.)

There has been a proceeding concerning the conviction before a hearing officer of the State of Florida, Division of Administrative Hearings. The final order entered by the hearing officer did not place the person or affiliate on the convicted vendor list. (Please attach a copy of the final order.)

The person or affiliate was placed on the convicted vendor list. There has been a subsequent proceeding before a hearing officer of the State of Florida, Division of Administrative Hearings. The final order entered by the hearing officer determined that it was in the public interest to remove the person or affiliate from the convicted vendor list. (Please attach a copy of the final order.)

\_\_\_ The person or affiliate has not been placed on the convicted vendor list.  
(Please describe any action taken by or pending with the Department of General Services.)

\_\_\_\_\_  
(Signature)

DATE: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_, who is personally known to me or who has produced \_\_\_\_\_, as identification and who did (did not) take an oath.

\_\_\_\_\_  
(Signature of person taking acknowledgment)

\_\_\_\_\_  
(Name of officer taking acknowledgment)

\_\_\_\_\_  
(Title or Rank)

END OF SECTION



**ACKNOWLEDGMENT OF CONFORMANCE  
WITH O.S.H.A. STANDARDS**

TO OKEECHOBEE COUNTY:

We, \_\_\_\_\_, hereby acknowledge and  
(Prime Contractor)

agree that as CONTRACTORS for **Okeechobee County Sports Complex Baseball Field Safety Netting Replacement, Okeechobee County Project No. 2018-25**, as specified have the sole responsibility for compliance with all the requirements of the Federal Occupational Safety and Health Act of 1970, and all State and local safety and health regulations, and agree to indemnify and hold harmless **Okeechobee County** against any and all liability, claims, damages, losses and expenses they may incur due to the failure of

\_\_\_\_\_  
(Subcontractor's Names)

\_\_\_\_\_

to comply with such act or regulation.

\_\_\_\_\_  
CONTRACTOR

BY: \_\_\_\_\_

\_\_\_\_\_  
ATTEST

\_\_\_\_\_  
ATTEST

\_\_\_\_\_  
DATE

**DRUG-FREE WORKPLACE FORM**

The undersigned vendor in accordance with Florida Statute 287.087 hereby certifies that \_\_\_\_\_ does:

(Name of Business)

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
4. In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of or plea of guilty or nolo contendere to, any violation of Chapter 1893 or of any controlled substance law of the United State or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As a person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

\_\_\_\_\_  
Bidder's Signature

\_\_\_\_\_  
Date

## QUESTIONNAIRE

Questionnaire sheet to be filled in by bidder.

The undersigned guarantees the truth and accuracy of all statements and answers herein contained:

1. How many years has organization been in business as a contractor?

---

2. List any public works contracts you have performed with any governmental agency having a value in excess of \$25,000 within the last ten (10) years:

---

---

---

3. Were all contracts listed in No. 2 above completed within the time period without extensions?

---

4. Were liquidated damages incurred by the contractor for non-timely completion and, the extent to which additional time extensions were granted on all contracts that were not so timely completed?

---

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5. Was the Surety on the Public Works Section 255.05 Bond ever notified that the bidder was in default in the performance of such contracts; and if such default notice was so given, please indicate in detail how much claim default was resolved?

---

---

6. Indicated the number of times in which arbitration or litigation ensued from any said Public Works Contract within the last ten (10) years as well as the result of such arbitration of litigation (i.e. whether the same was settled or resolved by trial and who prevailed between the bidder and the governmental agency involved):

---

---

---

7. Please provide a history of similar projects you have completed, other than those listed in No. 2 above, including project name, owner (phone number), value of work performed, percentage completed:

---

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---

8. What is the last project of this nature that you have completed? Provide owner's name and phone.

---

9. Have you ever failed to complete work awarded to you? If so, where and why?

---

---

---

10. The following are named as three (3) corporations or individuals for which you have performed work and to which you refer:

---

---

---

11. Have you personally inspected the proposed work and have you a complete plan for its performance?

---

---

12. Will you sublet any part of this work? If so, give details:

---

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---

State the true, exact, correct and complete name of the partnership, corporation or trade name under which you do business, and the address of the place of business. (If a corporation, state the name of the president and secretary. If a partnership, state the names of all partners. If a trade name, state the names of the individuals who do business under the trade name). It is absolutely necessary that this information be furnished.

---

(Correct name of Bidder)

(a) The business is a \_\_\_\_\_

(b) The address of principal place of business is:

---

(c) The names of the corporate officers, or partners, or individuals doing business under a trade name are as follows:

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---

---

(Bidder)

**SECTION 0009**

**AGREEMENT**

**Attached is a sample of the proposed Agreement that will be used with the Proposal.**

**INDEPENDENT CONTRACTOR'S AGREEMENT**

**OKEECHOBEE COUNTY**

**SPORTS COMPLEX BASEBALL FIELDS  
SAFETY NETTING REPLACEMENT**

**COUNTY PROJECT NO. 2018-25**

[insert header here (name of Contractor)]

**INDEPENDENT CONTRACTOR'S AGREEMENT**  
(Services - successful bidder/SAMPLE FORMAT FOR BID PACKAGE)

**THIS AGREEMENT** made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, by and between OKEECHOBEE COUNTY, a political subdivision of the State of Florida, hereinafter referred to as "COUNTY" and \_\_\_\_\_, a Florida corporation **[\*\*OR\*\*]** a Florida Limited Liability Company, hereinafter referred to as "CONTRACTOR".

**WITNESSETH**

**WHEREAS**, the COUNTY is a political subdivision of the State of Florida, having a responsibility to provide certain services to benefit the citizens of Okeechobee County; and

**WHEREAS**, CONTRACTOR is in the business of [...] in Okeechobee County and elsewhere in the State of Florida; and

**WHEREAS**, CONTRACTOR was the successful bidder of a project competitively bid and identified as \_\_\_\_\_ which satisfies the COUNTY's purchasing policy. As such, CONTRACTOR hereby agrees to provide such goods and services as more particularly hereinafter described and under the terms and conditions set forth in this Agreement as well as that certain *bid package issued [date] or the bid package issued in connection with this project.*

**NOW THEREFORE** in consideration of the premises, and in consideration of the mutual conditions, covenants, and obligations hereafter expressed, it is agreed as follows:

1. **Recitals.** THAT the foregoing recitals are true and correct and constitute a material inducement to the parties to enter into this Agreement. Said recitals are hereby ratified and made a part of this Agreement.
2. **Specific Provisions.** THAT the parties hereby agree to the following specific provisions:
  - a. **Description of Work.** CONTRACTOR shall provide and be responsible for providing the services described in the Scope of Services, which is attached hereto as Exhibit "A" and incorporated herein by reference. Unless specifically excluded, CONTRACTOR shall provide all permits, labor, materials, equipment and supervision necessary for the completion of the work described herein. Any conflict between the terms and conditions in the body of this Agreement and the terms and conditions set forth in Exhibit "A" shall be resolved in favor of the body of this Agreement.
  - b. **Payment.** In consideration of the performance of this Agreement, the COUNTY agrees to pay CONTRACTOR for all work actually performed, at the rate or basis described in Exhibit "\_\_\_\_\_", which is attached hereto and incorporated herein by reference. Progress payments, if any, will be made as set forth in said exhibit. The COUNTY reserves the right to ratably withhold amounts in the event of the nonperformance of all or part of CONTRACTOR's obligations. CONTRACTOR shall, without additional compensation, correct and revise any

errors, omissions, or other deficiencies in its work product, services, or materials arising from the error or omission or negligent act of CONTRACTOR.

- c. **Commencement and completion.** CONTRACTOR will be required to commence work under this Agreement immediately upon receipt by CONTRACTOR of the Notice to Proceed, and to complete the work not later than [...]. CONTRACTOR shall be assessed liquidated damages in the amount of [\$.....] per day, for each day after [...] that the work contemplated by this Agreement is incomplete.

[AND/OR] **Term.** The Term of this Agreement shall be [...] year, beginning [...] and ending [...].

d. **Termination.**

- i. Termination at Will: This Agreement may be terminated by the COUNTY in whole or in part at any time without cause by the COUNTY giving written notice to CONTRACTOR not less than 30 days prior to the date of termination; provided, that this provision shall not be construed to relieve either party from its rights or obligations of this Agreement through the date of the actual termination. Said notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery.
- ii. Termination for Cause: This Agreement may be terminated by either party for cause by the COUNTY or CONTRACTOR giving written notice to the other party not less than 10 days prior to the date of termination; provided, that this provision shall not be construed to relieve either party from its rights or obligations of this Agreement through the date of the actual termination. Said notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery.

- e. **Project management.** The Project Manager for CONTRACTOR shall be: [...]. The Project Manager for the COUNTY shall be: [...]

- f. **Notices.** All notices to the parties under this Agreement shall be in writing and sent certified mail to :

- i. To COUNTY: Okeechobee County Board of County Commissioners, Attention: County Administrator, 312 NW 3rd Street, Okeechobee, Florida 34972;
- ii. To CONTRACTOR: [...], Attention: [...], President, [insert street address], [insert city, state, zip]

g. **Insurance.**

- i. CONTRACTOR agrees to maintain such insurance as will fully protect both CONTRACTOR and the COUNTY from any and all claims under any Workers Compensation Act or Employers Liability Laws, and from any and all other claims of whatsoever kind or nature to the damage or property, or for personal injury, including death, made by anyone whomsoever, that may arise from operations carried on under



- this Agreement, either by CONTRACTOR, any subcontractor, or by anyone directly or indirectly engaged or employed by either of them.
- ii. In no event shall the insurance coverage required by the terms of this Agreement be less than the amounts described in the Bid Documents. Should either an insurance requirement or the amount of insurance not be stated in the Bid Documents, the amount of insurance required by the terms of this Agreement shall in no event be less than: (a) Workers' Compensation (unless exempt) with Employers' Liability with a limit of \$100,000.00 each accident, \$100,000.00 each employee, \$500,000.00 policy limit for disease; (b) Commercial General Liability (CGL) insurance with a limit of not less than \$300,000.00 each occurrence; if such CGL insurance contains a general aggregate limit, it shall apply separately to this project in the amount of \$600,000.00; CGL insurance shall be written on an occurrence form and shall include bodily injury and property damage liability for premises, operations, independent contractors, products and completed operations, contractual liability, broad form property damage and property damage resulting from explosion, collapse or underground (x,c, u) exposures, personal injury and advertising injury; fire damage liability shall be included at \$100,000.00. [OR may be increased depending upon the contract.]
  - iii. CONTRACTOR shall furnish the COUNTY with Certificates of Insurance, which are to be signed by a person authorized by that insurer to bind coverage on its behalf. The COUNTY is to be specifically included as an additional insured or loss payee on all policies except Workers' Compensation. In the event the insurance coverage expires prior to the completion of the project, a renewal certificate shall be issued 30 days prior to said expiration date. The policy shall provide a 30 day notification clause in the event of cancellation or modification to the policy. All certificates of insurance must be on file with and approved by the COUNTY before commencement of any work activities.
  - iv. Said insurance coverages procured by CONTRACTOR as required herein shall be considered, and CONTRACTOR agrees that said insurance coverages it procures as required herein shall be considered, as primary insurance over and above any other insurance, or self-insurance, available to CONTRACTOR, and that any other insurance, or self-insurance available to CONTRACTOR shall be considered secondary to, or in excess of, the insurance coverage(s) procured by CONTRACTOR as required herein.
  - v. Nothing herein shall be construed to extend COUNTY's liability beyond that provided in section 768.28, Florida Statutes.
3. **Bond.** If a surety bond has been required by the bid documents for CONTRACTOR's faithful performance and payment, and if at any time the surety is no longer acceptable to the COUNTY, the CONTRACTOR shall, at its expense, within five (5) days after the receipt of notice from the COUNTY to do so, furnish an additional bond or bonds in such form and with such Surety or Sureties as shall be satisfactory to the COUNTY. In such event, no further payment to CONTRACTOR shall be deemed to be due under this Agreement until such new or additional security for the faithful performance of the work shall be furnished in manner and form satisfactory to the COUNTY.

3. **General Provisions.** THAT the parties hereby agree to the following general provisions:
- a. **Representations of the Contractor.** CONTRACTOR represents that it has sufficient manpower and technical expertise to perform the services contemplated by this Agreement in a timely and professional manner consistent with the standards of the industry in which CONTRACTOR operates.
  - b. **Representations of The County.** The COUNTY represents that it is duly organized and existing as a political subdivision of the State of Florida. Further, the COUNTY has the full power and authority to enter into the transactions contemplated by this Agreement and has the ownership and/or control over the property which is the subject of this Agreement or which shall be serviced thereby.
  - c. **Personal nature of Agreement.** CONTRACTOR hereby warrants that it has the necessary technical expertise and training to perform its duties as outlined in this Agreement. The parties acknowledge that the COUNTY places great reliance and emphasis upon the knowledge, expertise and personal abilities of CONTRACTOR. Accordingly, this Agreement is personal and CONTRACTOR shall not assign or delegate any rights or duties hereunder without the specific written consent of the COUNTY. In the event CONTRACTOR requires the services of any subcontractor or professional associate in connection with the work to be performed under this Agreement, CONTRACTOR shall obtain the written approval of the COUNTY Project Manager prior to engaging such subcontractor or professional associate.
  - d. **Independent contractor.**
    - i. It is specifically agreed that CONTRACTOR is deemed to be an independent contractor and not a servant, employee, joint adventurer or partner of the COUNTY. It is further agreed that no agent, employee, or servant of CONTRACTOR shall be deemed to be the agent, employee, or servant of the COUNTY. None of the benefits, if any, provided by the COUNTY to its employees, including but not limited to, compensation insurance and unemployment insurance, are available from the COUNTY to the employees, agents, or servants of CONTRACTOR. CONTRACTOR will be solely and entirely responsible for its acts and for the acts of its agents, employees, servants, and subcontractors during the performance of this Agreement. Although CONTRACTOR is an independent contractor, the work contemplated herein must meet the approval of the COUNTY and shall be subject to the COUNTY's general right of inspection to secure the satisfactory completion thereof. CONTRACTOR agrees to comply with all Federal, State and municipal laws, rules and regulations that are now or may in the future become applicable to the CONTRACTOR, the CONTRACTOR's business, equipment, or personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations. The COUNTY will not be held responsible for the collection of or the payment of taxes or contributions of any nature on behalf of CONTRACTOR.
    - ii. CONTRACTOR shall bear all losses resulting to it on account of the amount or character of the work, or because of bad weather, or because of errors or omissions in its contract price.

- iii. CONTRACTOR agrees that it shall bear the responsibility for verifying the employment status, under the Immigration Reform and Control Act of 1986, of all persons it employs in the performance of this Agreement.

e. **Indemnification.**

- i. CONTRACTOR shall indemnify and hold the COUNTY harmless against and from any and all claims, losses, penalties, interest, demands, judgments, costs, damages, or expenses, including attorney's fees and court costs, incurred by the COUNTY, or its agents, officers, or employees, arising directly or indirectly from CONTRACTOR's performance under this Agreement or by any person on CONTRACTOR's behalf, including but not limited to those claims, losses, penalties, interest, demands, judgments, costs, damages, or expenses arising out of any accident, casualty, or other occurrence causing injury to any person or property. This shall include persons employed or utilized by CONTRACTOR (including CONTRACTOR's agents, employees, and subcontractors). CONTRACTOR shall further indemnify the COUNTY against any claim that any product purchased or licensed by the COUNTY from CONTRACTOR under this Agreement infringes a United States patent, trademark, or copyright. The parties agree that CONTRACTOR has received consideration for this indemnification, and any other indemnification of the COUNTY by CONTRACTOR provided for within the Bid Documents, the sufficiency of such consideration being acknowledged by CONTRACTOR, by CONTRACTOR's execution of this Agreement. CONTRACTOR's obligation shall not be limited by, or in any way to, any insurance coverage or by any provision in or exclusion or omission from any policy of insurance, whether such insurance is in connection with this Agreement or otherwise. Such indemnification shall be in addition to any and all other legal remedies available to the COUNTY and shall not be considered to be the COUNTY's exclusive remedy.
- ii. That in the event that any claim in writing is asserted by a third party which may entitle the COUNTY to indemnification, the COUNTY shall give notice thereof to CONTRACTOR which notice shall be accompanied by a copy of statement of the claim. Following the notice, CONTRACTOR shall have the right, but not the obligation, to participate at its sole expense, in the defense, compromise or settlement of such claim with counsel of its choice. If CONTRACTOR shall fail timely to defend, contest or otherwise protect against any suit, action or other proceeding arising from such claim, or in the event the COUNTY decides to participate in the proceeding or defense, the COUNTY shall have the right to defend, contest, or otherwise protect itself against same and be reimbursed for expenses and reasonable attorney's fees and, upon not less than ten (10) days notice to CONTRACTOR, to make any reasonable compromise or settlement thereof. In connection with any claim as aforesaid, the parties hereto shall cooperate fully with each other and make available all pertinent information necessary or advisable for the defense, compromise or settlement of such claim.
- iii. That the indemnification provisions of this paragraph shall survive the termination of this Agreement.

- iv. Nothing herein shall be construed to extend the COUNTY's liability beyond that provided in section 768.28, Florida Statutes.
- f. **Bid documents.** Any request for proposals (RFP), request for qualifications (RFQ), bid specifications, engineering plans, shop drawings, material lists, or other similar documents issued for this project by the COUNTY, together with any addenda, are considered the "Bid Documents" and are hereby incorporated into this contract by reference. CONTRACTOR agrees to abide by all of the terms, conditions and requirements of the bid documents which are declared to be material part of this Agreement.
- g. **Acceptance of work product, payment, and warranty.** Upon receipt of a periodic work product, or notice that work has progressed to a point of payment in accordance with Exhibit A attached or the Bid documents, if any, together with an invoice sufficiently itemized to permit audit, the COUNTY will diligently review same. When it finds the work acceptable under this Agreement the installment payment, found to be due to CONTRACTOR, will be paid to the CONTRACTOR within thirty (30) days after the date of receipt of the invoice, unless another payment schedule is provided in Exhibit A. CONTRACTOR warrants that the data utilized by the CONTRACTOR (other than as provided by the COUNTY) is from a source, and collected using methodologies, which are generally recognized in the CONTRACTOR's industry or profession to be a reliable basis and foundation for the CONTRACTOR's work product. The CONTRACTOR shall notify the COUNTY in writing should it appear, in the CONTRACTOR's professional judgement that the data or information provided by the COUNTY for use in the CONTRACTOR's work product is incomplete, defective or unreliable. The CONTRACTOR guarantees to amend, revise or correct to the satisfaction of the COUNTY any error appearing in the work as a result of the CONTRACTOR's failure to comply with the warranties and representations contained herein. Neither inspection nor payment, including final payment, by the COUNTY shall relieve the CONTRACTOR from its obligations to do and complete the work product in accordance with this Agreement.

**[\*\*OR\*\*]**

**Acceptance, final payment, and performance guarantee.** Upon receipt of written notice that the work is ready for final inspection and acceptance, the COUNTY will promptly make such inspection. When it finds the work acceptable under this Agreement and the contract fully performed, it will promptly issue a final certificate stating that the work provided for in this Agreement has been completed, and acceptance by the COUNTY under the terms and the conditions thereof, is recommended and the entire balance, found to be due the CONTRACTOR, will be paid to the CONTRACTOR within thirty (30) days after the date of said final certificate. Before issuance of final certificate, the CONTRACTOR shall submit an affidavit satisfactory to the COUNTY that all payrolls, subcontractors, materialmen, and other similar bills and indebtedness connected with the work have been paid. The CONTRACTOR guarantees to repair, replace or otherwise make good to the satisfaction of the COUNTY any defect in workmanship or material appearing in the work; and further guarantees the successful performance of the work for the service intended. Neither inspection nor payment, including final payment, by the COUNTY shall relieve the CONTRACTOR from its obligations to do

and complete the work in accordance with this Agreement. If the COUNTY deems it inexpedient to require the CONTRACTOR to correct deficient or defective work, an equitable deduction from the contract price shall be made therefore or in the alternative, the COUNTY may seek damages.

**\*\*OR\*\***

**Payment and performance guarantee.** When the COUNTY finds the work acceptable under this Agreement, the monthly installment will be paid to CONTRACTOR. CONTRACTOR guarantees the successful performance of the work for the service intended. If the COUNTY deems it inexpedient to require CONTRACTOR to correct deficient or defective work, an equitable deduction from the contract price shall be made therefore or in the alternative, the COUNTY may seek damages.

- h. **Public records.**
- i. The CONTRACTOR is a "Contractor" as defined by Section 119.0701(1)(a), Florida Statutes, and shall comply with the public records provisions of Section 119.0701(2), Florida Statutes.
  - ii. "Public records" is defined in Section 119.011(12), Florida Statutes, and includes all documents, papers, letters, photographs, data processing software, or other material, regardless of the physical form, made or received in connection with this Agreement.
  - iii. Should CONTRACTOR assert any exemptions to the requirements of Chapter 119 and related law, the burden of establishing such exemption, by way of injunctive or other relief as provided by law, shall be upon CONTRACTOR.
  - iv. CONTRACTOR consents to the COUNTY's enforcement of CONTRACTOR's Chapter 119 requirements, by all legal means, including, but not limited to, a mandatory injunction, whereupon CONTRACTOR shall pay all court costs and reasonable attorney's fees incurred by COUNTY.
  - v. Failure by CONTRACTOR to grant such public access shall be grounds for immediate unilateral cancellation of this Agreement by the COUNTY.

4. **Miscellaneous Provisions.** THAT the parties hereby agree to the following miscellaneous provisions:

- a. **Discrimination.** That CONTRACTOR shall assure that no person shall be excluded, on the grounds of race, color, creed, national origin, handicap, age or sex, from participation in, denied the benefits of, or be otherwise subjected to discrimination in any activity under, this Agreement. CONTRACTOR shall take all measures necessary to effectuate these assurances.
- b. **Severability.** That, should any term or provision of this Agreement be held, to any extent, invalid or unenforceable, as against any person, entity or circumstance during the term hereof, by force of any statute, law, or ruling of any forum of competent jurisdiction, such invalidity shall not affect any other term or provision of this Agreement, to the extent that the Agreement shall remain operable, enforceable and in full force and effect to the extent permitted by law.

- c. **Entire Agreement.** That this Agreement states the entire understanding between the parties and supersedes any written or oral representations, statements, negotiations, or agreements to the contrary. CONTRACTOR recognizes that any representations, statements or negotiations made by the County staff do not suffice to legally bind the COUNTY in a contractual relationship unless they have been reduced to writing, authorized, and signed by the authorized County representatives.
- d. **Construction.** Should any provision of this Agreement be subject to judicial interpretation, it is agreed that the court interpreting or considering such provision will not apply the presumption or rule of construction that the terms of this Agreement be more strictly construed against the party which itself or through its counsel or other agent prepared the same, as all parties hereto have participated in the preparation of the final form of this Agreement through review by their respective counsel, if any, and/or the negotiation of specific language, and, therefore, the application of such presumption or rule of construction would be inappropriate and contrary to the intent of the parties.
- e. **Attorney's Fees.** In the event of any litigation to enforce the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and costs which are directly attributed to such litigation both at the trial and appellate level.
- f. **Waiver.** The indulgence of either party with regard to any breach or failure to perform any provision of this Agreement shall not be deemed to constitute a waiver of the provision or any portion of this Agreement, either at the time the breach or failure occurs or at any time throughout the term of this Agreement. The review of, approval of, or payment for any of CONTRACTOR's work product, services, or materials shall not be construed to operate as a waiver of any of the COUNTY's rights under this Agreement, or of any cause of action the COUNTY may have arising out of the performance of this Agreement.
- g. **Force Majeure.** Notwithstanding any provisions of this Agreement to the contrary, the parties shall not be held liable if failure or delay in the performance of this Agreement arises from fires, floods, strikes, embargos, acts of the public enemy, unusually severe weather, out break of war, restraint of government, riots, civil commotion, force majeure, act of God, or for any other cause of the same character which is unavoidable through the exercise of due care and beyond the control of the parties. This provision shall not apply if the "Scope of Work" of this Agreement specifies that performance by CONTRACTOR is specifically required during the occurrence of any of the events herein mentioned.
- h. **Headings.** All headings are for clarification only and are not to be used in any judicial construction of this Agreement or any paragraph.
- i. **Binding Nature of Agreement.** This Agreement shall be binding upon the successors and assigns of the parties hereto.
- j. **Law; Venue.** This Agreement is being executed in Okeechobee County, Florida and shall be governed in accordance with the laws of the State of Florida. Okeechobee County, Florida,

shall be the venue of any action thereon.

5. **Special Provisions.**

a. **None.**

**\*\*OR\*\***

a. This Agreement shall be construed to be a non-exclusive requirements contract and shall not be deemed to prohibit the COUNTY from bidding similar services either as an independent job or a component of a larger project.

**IN WITNESS WHEREOF**, the parties hereto have signed and sealed this agreement on the day and date first written above.

SAMPLE

OKEECHOBEE COUNTY, a political  
subdivision of the State of Florida

By:

\_\_\_\_\_  
[...], Chair  
BOARD OF COUNTY COMMISSIONERS

ATTEST:

\_\_\_\_\_  
Sharon Robertson, Clerk  
BOARD OF COUNTY COMMISSIONERS

[...]

by

\_\_\_\_\_  
[...], as its President and authorized agent

**(CORPORATE SEAL)**

**ATTEST:**

\_\_\_\_\_  
[...], Secretary

[insert header here (name of Contractor)]

STATE OF FLORIDA  
COUNTY OF OKEECHOBEE

The foregoing instrument was sworn to and subscribed before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by [...], as President and authorized agent of [...], Inc. and by [...] as Secretary of [...], Inc., 9 who are personally known to me or 9 who have produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Signature of Notary Public - State of Florida

\_\_\_\_\_  
Printed/Typed/Stamped Name of Notary  
My commission expires:

SAMPLE