

RESOLUTION No. 13-2193

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AUTHORIZING THE TOWN TO ENTER INTO AN AGREEMENT WITH MUSCO SPORTS LIGHTING, LLC AND THE TOWN OF SURFSIDE PIGGYBACKING OFF THE COMPETITELY BID CONTRACT AWARDED BY CLAY COUNTY; AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY TO DO ALL THINGS NECESSARY TO IMPLEMENT THE TERMS OF THE CONTRACT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town recently adopted a Five Year Capital Plan for the Parks and Recreation Department in Resolution No. 13-2187 and pursuant to that Plan the renovation and lighting of the Surfside Tennis Center was listed as the number two priority and the facility is in need of major renovation; and

WHEREAS, the existing lighting is outdated and provides improper illumination for a tennis facility; and

WHEREAS, the Town Commission of the Town of Surfside, Florida wishes to enter into an agreement with Musco Sports Lighting, LLC (“Musco”), by piggybacking off a competitively bid contract awarded by Clay County, Florida to supply and install lighting equipment for the Surfside Tennis Center; and

WHEREAS, Musco was selected by Clay County pursuant to RFP/Contract No. 08/09-3 and in accordance with the Surfside procurement process and pursuant to Section 3-13(3) of the Code of Ordinances the Town may enter into contracts entered into by another governmental agency through a competitive bid process; and

WHEREAS, Town Commission of the Town of Surfside, Florida feels it is in the best interest of the Town to enter into the Agreement with Musco for the installation and supply of lighting equipment for the Surfside Tennis Center.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AS FOLLOWS:

Section 1. Recitals. That the above and foregoing recitals are true and correct and are incorporated herein by reference.

Section 2. Authorization to enter into an agreement. The Town Commission hereby authorizes the Town Manager to enter into the Agreement by and between Musco and the Town of Surfside attached as Exhibit “A.”

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Section 3. Implementation. The Town Manager and the Town Attorney are hereby authorized to take any and all action necessary to implement this Resolution and Agreement in accordance with the terms, conditions and purposes of this Resolution and Agreement.


Section 4. Effective Date. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this 8 day of October, 2013.

Motion by Vice Mayor Karukin, second by Commissioner Olchyk.

FINAL VOTE ON ADOPTION

Commissioner Joseph Graubart	<u>yes</u>
Commissioner Michelle Kligman	<u>yes</u>
Commissioner Marta Olchyk	<u>yes</u>
Vice Mayor Michael Karukin	<u>yes</u>
Mayor Daniel Dietch	<u>yes</u>



Daniel Dietch, Mayor

ATTEST



Sandra Novoa, CMC
Town Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR
THE TOWN OF SURFSIDE ONLY:**



Linda Miller, Town Attorney

Resolution No. 13-2193

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Commissioner of Public

State of New York

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**AGREEMENT
BETWEEN
TOWN OF SURFSIDE, FLORIDA
AND
MUSCO SPORTS LIGHTING, LLC**

THIS AGREEMENT (this "Agreement") is made by and between the **TOWN OF SURFSIDE, FLORIDA**, a Florida municipal corporation (hereinafter referred to as the "TOWN"), and **MUSCO SPORTS LIGHTING, LLC**, an Iowa Limited Liability Company (hereinafter referred to as the "CONTRACTOR"), whose principal place of business is 100 1st Avenue West, Oskaloosa, IA 52577.

RECITALS:

WHEREAS, the TOWN desires to engage the CONTRACTOR to supply lighting equipment and perform turnkey installation thereof for the TOWN's Tennis Center, including the furnishing of all materials, equipment, labor and installation for such work. As more specifically described in the CONTRACTOR'S Proposal (the "Proposal") attached to this Agreement as Exhibit "A" (hereinafter, the "Work" or "Project");

WHEREAS, the CONTRACTOR was previously selected by Clay County, Florida, pursuant to RFP/Contract No. 08/09-3 (attached hereto as Exhibit "B") through a competitively bid process and the Town desires to piggyback off of that agreement for sports lighting projects; and

WHEREAS, the CONTRACTOR is willing and able to perform the Work for the TOWN in accordance with the terms and conditions set forth in the Proposal and this Agreement; and

NOW THEREFORE, in consideration of the mutual terms, conditions, promises and covenants set forth below, the TOWN and CONTRACTOR agree as follows:

SECTION 1. SCOPE OF WORK

1.1 Agreement Documents. The Agreement Documents, which comprise the entire agreement between the TOWN and the CONTRACTOR concerning the Work, consist of this Agreement (including any changes or amendments thereto), the Proposal of the CONTRACTOR, the Insurance Certificates, and the Notice to Proceed, all of which are deemed incorporated into and made a part of this Agreement by this reference and govern the Project. In the event of a conflict among the foregoing Agreement Documents, this Agreement shall govern and control. The Work as defined in Section 1.2 hereof and to be provided and performed with respect to the Project shall be at all times subject to the requirements of the Agreement Documents.

1.2 Scope of Work. Pursuant to the Agreement Documents, the CONTRACTOR shall provide and perform the Project. The Project shall include the furnishing of all labor, materials, tools, equipment, machinery, superintendence and work necessary for the Project to provide a turnkey installation and fully functional and operational lighting system and facilities. The CONTRACTOR'S Work shall be subject to inspection and approval by the TOWN, which shall indicate any portion of the Work that needs to be addressed or corrected and the CONTRACTOR shall address and complete same in a timely manner.

1.3 The CONTRACTOR shall expend all necessary efforts to competently, skillfully and timely implement and complete the Project.

SECTION 2. CONTRACT PRICE; PAYMENTS TO THE CONTRACTOR

2.1 Fees; Payment. As full compensation for the satisfactory performance and installation of the Work, the TOWN shall pay the CONTRACTOR the total sum of One Hundred Twenty-two Thousand Dollars (\$122,000.00) (the "Contract Price"), which amount is more fully set forth in the Proposal attached hereto as Exhibit "A." The Contract Price shall be full compensation to the CONTRACTOR for all services, labor, materials, equipment and costs for the completion of the Project in full conformity with the Agreement Documents. The Contract Price shall be payable in the following manner: 25% Deposit shall be due from the TOWN to the CONTRACTOR within five (5) days of the Notice to Proceed, and the remaining balance shall be due upon completion of the Work, activation and testing and acceptance by the TOWN.

2.2 Suspension of Payment. In the event that the TOWN becomes informed that any representations of the CONTRACTOR provided pursuant to this Agreement, are wholly or partially inaccurate, or in the event that the CONTRACTOR is not in compliance with any terms or conditions of this Agreement, the TOWN may withhold payment of sums then or in the future otherwise due to the CONTRACTOR until the inaccuracy, or other breach of this Agreement, and the cause thereof, is corrected to the TOWN'S reasonable satisfaction.

SECTION 3. TERM/TIME OF PERFORMANCE

3.1 Term. The CONTRACTOR shall be instructed to commence the Work by written instruction from the TOWN in the form of a Notice to Proceed providing the commencement date of this Agreement. This Agreement shall commence on the commencement date indicated on the Notice to Proceed and shall continue in full force and effect for a term of sixty (60) days or until final completion and acceptance by the TOWN, unless otherwise sooner terminated pursuant to the terms of this Agreement (the "Term"). All Work shall be fully completed by the CONTRACTOR, with final acceptance and approval by the TOWN, within the Term.

3.2 Commencement. The CONTRACTOR'S Work under this Agreement and the time frames and schedule applicable to this Agreement shall commence upon the commencement date indicated on the Notice to Proceed. The CONTRACTOR shall not incur any expenses or obligations or incur payment to third parties prior to the issuance of a Notice to Proceed for the Project, and the CONTRACTOR must receive the Notice to Proceed from the TOWN prior to beginning the performance of the Work.

3.3 Contract Time. From and after the receipt of the Notice to Proceed, the CONTRACTOR shall continuously perform the Work to the satisfaction of the TOWN, with faithfulness and diligence and without interruption, for the duration of the Term (the "Contract Time"). Time is of the essence in the performance of the Work and all limitations of time set forth in this Agreement are of the essence.

SECTION 4. TERMINATION OF AGREEMENT

4.1 Termination. The TOWN has the right to terminate this Agreement for convenience and for any reason or no reason, in whole or in part, upon fifteen (15) days' written notice to CONTRACTOR. Upon termination of this Agreement, and final payment of any undisputed outstanding amounts due for the Work rendered by the CONTRACTOR prior to and through the date of the notice of termination, copies of all records, charts, sketches, studies, plans, drawings, and other documents related to the Work performed under this Agreement, whether finished or not, shall be turned over to the TOWN within ten (10) days.

4.2 Termination for Default. If CONTRACTOR fails to timely begin the Work, or fails to perform the Work with sufficient workers and equipment or with sufficient materials to insure the prompt completion of the Work according to the Contract Time and this Agreement, or shall perform the Work unsuitably, or cause it to be rejected as defective and unsuitable, or shall discontinue the prosecution of the Work pursuant to the accepted schedule, or if the CONTRACTOR shall fail to perform any material term set forth in the Agreement Documents, or if the CONTRACTOR shall become insolvent or be declared bankrupt, or commit any act of bankruptcy or insolvency, or shall make an assignment for the benefit of creditors, or from any other cause whatsoever shall not carry on the Work in an acceptable manner, the TOWN may, upon seven (7) days written notice of termination, terminate the Work of the CONTRACTOR, exclude the CONTRACTOR from the Project sites, provide for alternate prosecution of the Work, appropriate or use any or all materials and equipment on the Project site as may be suitable and acceptable, and may perform the Work by whatever methods it may deem expedient. In such case, the CONTRACTOR shall not be entitled to receive any further payment. All damages, costs and charges incurred by the TOWN, together with the costs of completing the Work, shall be deducted from any monies due or which may become due to the CONTRACTOR. In case the damages and expenses so incurred by the TOWN shall exceed monies due to the CONTRACTOR from the TOWN, CONTRACTOR shall be liable and shall pay to the TOWN the amount of said excess promptly upon demand therefore by the TOWN. In the event it is adjudicated that the TOWN was not entitled to terminate the Agreement as described hereunder for default, the Contract shall automatically be deemed terminated by the TOWN for convenience as described below.

4.3 Payment after Termination. Provided that the CONTRACTOR has performed in accordance with the terms of this Agreement as of the date of termination pursuant to Sections 4.1 and 4.2 above, CONTRACTOR shall receive all payments due to the CONTRACTOR for Work rendered and accepted prior to and up to the date of termination.

SECTION 5. ADDITIONAL WORK AND CHANGES IN SCOPE OF WORK

5.1 Changes Permitted. Changes in the Work or the Project consisting of additions, deletions, revisions, or any combination thereof, may be ordered by the TOWN by Change Order (as defined below) without invalidating the terms of this Agreement.

5.2 Change Order Defined. "Change Order" shall mean a written order to the CONTRACTOR executed by the TOWN, issued after execution of this Agreement, authorizing and directing a change in the Work, the Project, the Contract Price, the Contract Time, or any combination thereof.

5.3 Effect of Executed Change Order. The execution of a Change Order by the TOWN and the CONTRACTOR shall constitute conclusive evidence of the CONTRACTOR'S agreement to the ordered changes in the Work or the Project, or an adjustment in the Contract Price or the Contract Time, or any combination thereof. The CONTRACTOR, by executing the Change Order, waives and forever releases any claim against the TOWN for additional time or compensation for matters relating to or arising out of or resulting from the Work included within or affected by the executed Change Order.

SECTION 6. SURVIVAL OF PROVISIONS

Any terms or conditions of this Agreement that require acts beyond the date of the Term, shall survive termination of this Agreement, and shall remain in full force and effect unless and until the terms or conditions are completed and shall be fully enforceable by either party.

SECTION 7. TOWN'S RESPONSIBILITIES

7.1 The TOWN will assist the CONTRACTOR by placing at its disposal all available information as may be requested in writing by the CONTRACTOR relating to the Project and allow reasonable access to all pertinent information relating to the Work to be performed by the CONTRACTOR.

7.2 The TOWN shall furnish to the CONTRACTOR, at the CONTRACTOR'S written request, all available maps, plans, existing studies, reports and other data, pertinent to the Work to be provided by the CONTRACTOR, that are in possession of the TOWN.

7.3 The TOWN shall arrange for access to and make all provisions for the CONTRACTOR to enter upon public property under the control of the TOWN as required for the CONTRACTOR to perform the Work.

SECTION 8. CONFLICT OF INTEREST/CODE OF ETHICS.

The CONTRACTOR agrees to adhere to and be governed by the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance Section 2-11.1, as amended; and by Town of Surfside Ordinance No.07-1474, which are incorporated by reference herein as if fully set forth herein, in connection with the Agreement conditions hereunder. The CONTRACTOR covenants that it presently has no interest and shall not acquire any interest, direct or indirectly that should conflict in any manner or degree with the performance of the services.

SECTION 9. COMPLIANCE WITH LAWS; LICENSES; POLICY OF NON-DISCRIMINATION/WAGES

9.1 The CONTRACTOR and any and all of its agents, employees and subcontractors shall comply with all applicable federal, state, county and local laws, ordinances, rules, regulations and procedural requirements applicable to the performance of the Work and operations pursuant to this Agreement. The CONTRACTOR is required to enter upon the TOWN'S property to perform the Work pursuant to this Agreement and shall obtain all necessary licenses and insurance in connection with such Work and access and right of entry. The CONTRACTOR shall comply with all requirements and the TOWN'S agreements with any other entity or agency which concern the areas upon which the Work is to be provided, including all agreements or requirements of the Surfside Tennis Center in connection with access to and work on this Project site.

9.2 The CONTRACTOR shall be licensed and certified by all appropriate federal, state, county and local agencies. Prior to the commencement of the Work and at all times during the Term of this Agreement, the CONTRACTOR shall procure and maintain, at its sole cost and expense, and provide copies to the TOWN, all required licenses and certifications for the performance of the Work and the operations set forth in this Agreement.

9.3 The CONTRACTOR shall not discriminate on the grounds of race, color, religion, sex, sexual orientation, age, marital status, national origin, physical or mental disability in the performance of the Work under this Agreement. The CONTRACTOR shall comply with all equal employment opportunity requirements and any and all applicable requirements established by state and federal law.

SECTION 10. OWNERSHIP OF DOCUMENTS

10.1 Any and all records, drawings and specifications, as instruments of the Work be performed (the "Drawings and Specifications"), are and shall become the property of the TOWN whether the Project for which they are made is executed or not. The CONTRACTOR shall be permitted to retain copies, including reproducible copies, of the Drawings and Specifications for information and reference in connection with the TOWN'S use and occupancy of the Project.

10.2 The CONTRACTOR agrees not to divulge, furnish or make available to any third person, firm or organization, without the TOWN'S prior written consent, or unless incident to the proper performance of the CONTRACTOR'S obligations hereunder, or in the course of judicial or legislative proceedings where such information has been properly subpoenaed, any non-public information concerning the Work to be rendered by the CONTRACTOR hereunder, and the CONTRACTOR shall require all of its employees, agents and subcontractors to comply with the provisions of this paragraph.

SECTION 11. RECORDS/AUDITS

11.1 The CONTRACTOR shall maintain and require all subcontractors to maintain, complete and correct records, books, documents, papers and accounts pertaining to the Work. Such records, books, documents, papers and accounts shall be available at all reasonable

times for examination and audit by the TOWN Manager or any authorized TOWN representative with reasonable notice and shall be kept for a period of three (3) years after the completion of the Work. Incomplete or incorrect entries in such records, books, documents, papers or accounts will be grounds for disallowance by or reimbursement to the TOWN of any fees or expenses based upon such entries. Disallowed fees will be paid when incomplete or incorrect entries are remedied to the satisfaction of the TOWN.

11.2 The CONTRACTOR shall comply with Chapter 119, Florida Statutes, as applicable.

11.3 Refusal of the CONTRACTOR to comply with the provisions of Sections 11.1 or 11.2 shall be grounds for immediate termination for cause by the TOWN of this Agreement.

SECTION 12. NO CONTINGENT FEE

The CONTRACTOR warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR to solicit or secure this Agreement and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONTRACTOR any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, the TOWN shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the Contract Price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

SECTION 13. INDEPENDENT CONTRACTOR

The CONTRACTOR is an Independent Contractor under this Agreement. Personnel provided by the CONTRACTOR shall be employees of the CONTRACTOR and subject to supervision by the CONTRACTOR, and not as officers, employees, or agents of the TOWN. Personnel policies, tax responsibilities, social security, health insurance, worker's compensation insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to the Work rendered under this Agreement shall be those of the CONTRACTOR.

SECTION 14. ASSIGNMENT; AMENDMENTS

14.1 This Agreement or the Work shall not be assigned, sold, transferred or otherwise encumbered, under any circumstances, in whole or in part, by the CONTRACTOR, without the prior written consent of the TOWN, in its sole and absolute discretion.

14.2 No modification, amendment or alteration in the terms or conditions of this Agreement shall be effective unless contained in a written document executed with the same formality as this Agreement by both parties.

SECTION 15. INDEMNIFICATION/HOLD HARMLESS

15.1 The CONTRACTOR shall indemnify and hold harmless the TOWN, and its officers and employees from liabilities, damages, losses, and costs, including, but not limited to, reasonable

attorneys' fees, to the extent caused by the acts, omissions, negligence, recklessness, wrongful conduct, acts, errors or omissions of the CONTRACTOR or any subcontractors or other persons employed or utilized by the CONTRACTOR in the performance of the Work pursuant to this Agreement. The CONTRACTOR'S obligation under this paragraph shall not be limited in any way by the agreed upon Contract Price, or the CONTRACTOR'S limit of, or lack of, sufficient insurance protection.

15.2 The indemnification obligations under this clause shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the CONTRACTOR or any subcontractor or other persons employed or utilized by the CONTRACTOR in the performance of this Agreement, under worker's compensation acts, disability benefit nets, or other employee benefit acts.

15.3 The CONTRACTOR shall not specify or allow any subcontractor or other persons employed or utilized by the CONTRACTOR in the performance of this Agreement to specify a particular design, process or product that infringes upon any patent. The CONTRACTOR shall indemnify and hold the TOWN and its officers and employees harmless from any loss, cost or expense, including reasonable attorney's fees and costs incurred, on account thereof if the CONTRACTOR violates the requirements of this Section 15.

SECTION 16. INSURANCE

The CONTRACTOR shall secure and maintain throughout the duration of this Agreement insurance of such types and in such amounts not less than those specified below as satisfactory to the TOWN, naming the TOWN as an Additional Insured, underwritten by a firm rated A-X or better by A.M. Best and qualified to do business in the State of Florida. The insurance coverage shall be primary insurance with respect to the TOWN, its officials, employees, agents and volunteers naming the TOWN as additional insured. Any insurance maintained by the TOWN shall be in excess of the CONTRACTOR'S insurance and shall not contribute to the CONTRACTOR'S insurance. The insurance coverage's shall include at a minimum the following amounts set forth in this Section 16:

- (a) Commercial General Liability coverage with limits of liability of not less than a \$1,000,000 per Occurrence combined single limit for Bodily Injury and Property Damage. This Liability Insurance shall also include Completed Operations and Product Liability coverages and eliminate the exclusion with respect to property under the care, custody and control of CONTRACTOR. The General Aggregate Liability limit (including Products/Completed Operations) shall be in the amount of \$2,000,000.
- (b) Workers Compensation and Employer's Liability insurance, to apply for all employees for statutory limits as required by applicable State and Federal laws. The policy(ies) must include Employer's Liability with minimum limits of \$1,000,000. each accident. No employee, subcontractor or agent of the CONTRACTOR shall be allowed to provide Work pursuant to this Agreement who is not covered by Worker's Compensation insurance.

- (c) Business Automobile Liability with minimum limits of \$1,000,000 per Occurrence combined single limit for Bodily Injury and Property Damage. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Service Office, and must include Owned, Hired, and Non-Owned Vehicles.
- (d) Builder's Risk property insurance upon the entire Work to the full replacement cost value thereof. This insurance shall include the interest of the TOWN and the CONTRACTOR and shall provide All-Risk coverage against loss by physical damage including, but not limited to, Fire, Extended Coverage, Theft, Vandalism and Malicious Mischief, Windstorm and Flood.
- (e) The CONTRACTOR acknowledges that it shall bear the full risk of loss for any portion of the Work damaged, destroyed, lost or stolen until final completion has been achieved for the Project, and all such Work shall be fully restored by the CONTRACTOR, at its sole cost and expense, in accordance with the Agreement Documents.
- (f) Certificate of Insurance. On or before the Effective Date of this and prior to commencing of any Work, Certificates of Insurance shall be provided to the TOWN, reflecting the TOWN as an Additional Insured. Each certificate shall include no less than (30) thirty-day advance written notice to TOWN prior to cancellation, termination, or material alteration of said policies or insurance. The CONTRACTOR shall be responsible for assuring that the insurance certificates required by this Section remain in full force and effect for the duration of this Agreement, including any extensions or renewals that may be granted by the TOWN. The Certificates of Insurance shall not only name the types of policy(ies) provided, but also shall refer specifically to this Agreement and shall state that such insurance is as required by this Agreement. The TOWN reserves the right to inspect and return a certified copy of such policies, upon written request by the TOWN. If a policy is due to expire prior to the completion of the Work, renewal Certificates of Insurance shall be furnished thirty (30) calendar days prior to the date of their policy expiration. Acceptance of the Certificate(s) is subject to approval of the TOWN.
- (g) Additional Insured. The TOWN is to be specifically included as an Additional Insured for the liability of the TOWN resulting from Work performed by or on behalf of the CONTRACTOR in performance of this Agreement. The CONTRACTOR'S insurance, including that applicable to the TOWN as an Additional Insured, shall apply on a primary basis and any other insurance maintained by the TOWN shall be in excess of and shall not contribute to the CONTRACTOR'S insurance. The CONTRACTOR'S insurance shall contain a severability of interest provision providing that, except with respect to the total limits of liability, the insurance shall apply to each Insured or Additional Insured (for applicable policies) in the same manner as if separate policies had been issued to each.
- (h) Deductibles. All deductibles or self-insured retentions must be declared to and be reasonably approved by the TOWN. The CONTRACTOR shall be responsible for the payment of any deductible or self-insured retention in the event of any claim.
- (i) The provisions of this section shall survive termination of this Agreement.

SECTION 17. REPRESENTATIVE OF TOWN AND CONTRACTOR

17.1 TOWN Representative. It is recognized that questions in the day-to-day conduct of this Agreement will arise. The TOWN designates the TOWN Manager or his or her designee, as the person to whom all communications pertaining to the day-to-day conduct of this Agreement shall be addressed.

17.2 CONTRACTOR Representative. Before commencing any Work, the CONTRACTOR shall designate a competent, authorized representative ("Authorized Representative") acceptable to the TOWN to represent and act for the CONTRACTOR and shall inform the TOWN, in writing, of the name and address of such representative together with a clear definition of the scope of his authority to represent and act for the CONTRACTOR. Such representative shall be present or duly represented at the Project sites at all times when Work is actually in progress. All notices, determinations, instructions and other communications given to the Authorized Representatives of the CONTRACTOR shall be binding upon the CONTRACTOR. The Authorized Representative, project managers, superintendents and supervisors for the Project are all subject to prior and continuous approval of TOWN. If, at any time during the Term of this Agreement, any of the personnel either functionally or nominally performing any of the positions named above, are, for any reasonable cause whatsoever, unacceptable to the TOWN, the CONTRACTOR shall replace the unacceptable personnel with personnel acceptable to the TOWN.

SECTION 18. PREVAILING PARTY COST AND ATTORNEY'S FEES/WAIVER OF JURY TRIAL

18.1 If either the TOWN or the CONTRACTOR is required to enforce the terms of this Agreement by court proceedings or otherwise, whether or not formal legal action is required, the prevailing party shall be entitled to recover from the other party all costs, expenses, and reasonable attorney's fees in any state or federal administrative, circuit court and appellate court proceedings.

18.2 In the event of any litigation arising out of this Agreement, each party hereby knowingly, irrevocably, voluntarily and intentionally waives its right to trial by jury.

SECTION 19. ALL PRIOR AGREEMENTS SUPERSEDED

This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained in this Agreement and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly it is agreed that no deviation from the terms of the Agreement shall be predicated upon any prior representations or agreements whether oral or written.

SECTION 20. CONTRACTOR'S RESPONSIBILITIES.

20.1 The CONTRACTOR warrants that the Work to be performed hereunder shall be performed by the CONTRACTOR'S own staff or employees, unless otherwise approved in writing by the TOWN. The TOWN shall approve any and all subcontractors providing Work to the TOWN

pursuant to this Agreement. Said approval shall not be construed as constituting an agreement between the TOWNS and said other person or firm. The CONTRACTOR'S Work shall be performed in a manner consistent with that degree of skill and care ordinarily exercised by practicing professionals performing similar Work in the same locality and under the same or similar circumstances and conditions.

20.2 The CONTRACTOR represents that it possesses the requisite skills and shall follow the professional standards and the standard of conduct for the CONTRACTORS or vendors in performing all Work under this Agreement. The CONTRACTOR agrees to use its skill and judgment in furthering the TOWN'S interests hereunder and the CONTRACTOR shall perform the Work in accordance with the practice of the pertinent industry and as expeditiously as is consistent with reasonable skill and care. The TOWN shall have the right to reject or disapprove Work which the TOWN finds to be defective or non-conforming. If at any time during the term of this Agreement or the Project for which the CONTRACTOR has provided Work under this Agreement, it is determined that the CONTRACTOR'S Work is incorrect, defective, non-conforming or fails to conform to the terms of this Agreement, upon written notification from the TOWN, the CONTRACTOR shall immediately proceed to correct the Work, re- perform Work which failed to satisfy the foregoing standard of care and shall pay all costs and expenses associated with correcting said incorrect or defective work, including any additional inspections, and installation and reimbursements to the TOWN for any other Work and expenses made necessary thereby, save and except any costs which the TOWN would have otherwise paid absent the CONTRACTOR'S error or omission. The TOWN'S approval, acceptance, use of or payment for all or any part of the CONTRACTOR'S Work shall in no way alter the CONTRACTOR'S obligations or the TOWN'S rights hereunder.

20.3 The CONTRACTOR agrees, within seven (7) calendar days of receipt of a written request from the TOWN, to promptly remove and replace any personnel employed or retained by the CONTRACTOR, any subcontractor or other persons employed or utilized by the CONTRACTOR in the performance of this Agreement or any personnel of any such subcontractor or other persons employed or utilized by the CONTRACTOR to provide and perform the Work or work pursuant to the requirements of this Agreement, whom the TOWN shall request in writing to be removed, which request may be made by the TOWN.

20.4 If the CONTRACTOR allows any work to be performed knowing, or when with the exercise of due care the CONTRACTOR should have known, it to be contrary to any such applicable laws, ordinances, rules, regulations or restrictions and fails to give the TOWN written notice thereof prior to performance thereof, the CONTRACTOR shall bear all costs, liabilities, and expenses arising therefrom, which costs, liabilities and expenses shall not be considered a part of the CONTRACTOR'S fees or any other amounts due hereunder.

20.5 The CONTRACTOR hereby represents and warrants that it has reviewed all necessary Project documents, specifications, and that this Agreement and the Proposal, when taken together, fully and accurately describe the Work needed to complete the Project in accordance with the requisite standard of care, and that the CONTRACTOR is not aware of any additional work, labor or Work that will be required to complete the Project. The CONTRACTOR warrants and represents

that it has visited and inspected the Project Sites and become familiar with and is satisfied as to the general and local conditions and site conditions that may affect performance or progress of the Work, and the cost of the Work.

20.6 The CONTRACTOR hereby represents and warrants that all Work shall comply with all applicable federal, state and local laws, ordinances and building codes.

20.7 The CONTRACTOR shall be responsible for promptly notifying the TOWN of any damage to irrigation systems, buildings or other structures, vehicles, or property or possessions, which occur as a result of the Work performed by the CONTRACTOR pursuant to this Agreement, or the improper or negligent activities of the CONTRACTOR.

20.8 The CONTRACTOR warrants that it shall have, prior to commencement of Work under this Agreement and at all times during said Work, all required licenses whether federal, state, County or TOWN. The Contractor acknowledges that it is the obligation of the CONTRACTOR to obtain all licenses required for this Project.

20.9 The CONTRACTOR'S obligations under this Section 20 shall survive termination of this Agreement.

SECTION 21. TAXES.

The CONTRACTOR shall pay all taxes, levies, duties and assessments of every nature which may be applicable to the Work under this Agreement. The pricing and any agreed variations thereof shall include all taxes imposed by law at the time of this Agreement. The CONTRACTOR shall make any and all payroll deductions required by law. The CONTRACTOR herein indemnifies and holds the TOWN harmless from any liability on account of any and all such taxes, levies, duties and assessments.

Notwithstanding anything contained in the Agreement Documents to the contrary, the TOWN may exercise its right to implement an owner direct purchase program whereby the TOWN will directly purchase equipment or materials for the Work. Under an owner direct purchase program, the CONTRACTOR shall work with the TOWN to identify materials and equipment for purchase by the TOWN. The CONTRACTOR will receive, unload, properly store, and provide insurance consistent with the requirements of this Agreement and applicable law and regulations for all equipment and materials purchased under an owner direct purchase program. The Contract Price shall be reduced as appropriate by the value of the purchase order(s), plus the applicable sales tax, issued by the TOWN under any owner direct purchase program.

SECTION 22. SAFETY.

The CONTRACTOR shall be fully and solely responsible for safety and conducting all operations under this Agreement at all times in such a manner as to avoid the risk of bodily harm to persons and damage to property. The CONTRACTOR shall continually and diligently inspect all Work, materials and equipment to discover any conditions which might involve such risks and shall be solely responsible for discovery and correction of any such conditions. The CONTRACTOR shall

have sole responsibility for implementing its safety program. The TOWN shall not be responsible for supervising the implementation of the CONTRACTOR'S safety program, and shall not have responsibility for the safety of the CONTRACTOR'S or its subcontractor's employees. The CONTRACTOR shall maintain all portions of the Project sites and Work in a neat, clean and sanitary condition at all times. The CONTRACTOR shall assure that subcontractors performing Work comply with the foregoing safety requirements.

SECTION 23. CLEANING UP.

The CONTRACTOR shall, at all times, at its expense, keep the Project sites in a neat, clean and safe condition. Upon completion of any portion of the Work, the CONTRACTOR shall promptly remove all of its equipment, construction materials, temporary structures and surplus materials not to be used at or near the same location during later stages of the Work. Upon completion of the Work, the CONTRACTOR shall, at its expense, satisfactorily dispose of all rubbish, unused materials and other equipment and materials belonging to it or used in the performance of the Work and the CONTRACTOR shall leave the Project in a neat, clean and safe condition. In the event of the CONTRACTOR'S failure to comply with the foregoing, the same may be accomplished by the TOWN at the CONTRACTOR'S expense

SECTION 24. DEFECTIVE WORK/WARRANTY.

24.1 The TOWN shall have the authority to reject or disapprove Work which the TOWN finds to be defective. If required by the TOWN, the CONTRACTOR shall promptly either correct all defective Work or remove such defective Work and replace it with non-defective Work. The CONTRACTOR shall bear all direct, indirect and consequential costs of such removal or corrections.

24.2 The CONTRACTOR shall unconditionally warrant and guarantee all materials and equipment furnished and Work performed pursuant to its product assurance and warranty program, which includes 100% maintenance costs, labor and materials, as set forth in the Proposal attached hereto as Exhibit "A". If any of the Work is found to be defective or not in accordance with the Agreement Documents, the CONTRACTOR, after receipt of written notice from the TOWN, shall promptly correct such defective or nonconforming Work without cost to the TOWN. The CONTRACTOR shall provide and assign to the TOWN all material and equipment warranties upon completion of the Work hereunder.

SECTION 25. NOTICES.

Whenever either party desires to give notice to the other, it must be given by hand delivery or written notice, sent by certified United States mail, with return receipt requested or a nationally recognized private mail delivery service, addressed to the party for whom it is intended, at the place last specified, and the place for giving of notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice, to-wit:

FOR CONTRACTOR:
Musco Sports Lighting, LLC
Attention: Jody Price
100 Ist Avenue West
Oskaloosa, IA 52577
Phone: () -
Facsimile: () -

FOR TOWN:
Town of Surfside, Florida
Attn: Michael P. Crotty, Town Manager
9293 Harding Avenue
Surfside, Florida 33154
Phone: (305) 861-4863

With a copy to:

Town of Surfside, Florida
Attn: Linda Miller, Town Attorney
9293 Harding Avenue
Surfside, Florida 33154
Phone: (305) 861-4863

SECTION 26. TRUTH-IN-NEGOTIATION CERTIFICATE

Execution of this Agreement by the CONTRACTOR shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the Contract Price under this Agreement are accurate, complete, and current at the time of contracting. This Agreement's Contract Price and any additions shall be adjusted to exclude any significant sums by which the TOWN determines the Project's Contract Price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such adjustments shall be made within one (1) year following the end of this Agreement.

SECTION 27. CONSENT TO JURISDICTION

The parties submit to the jurisdiction of any Florida state or federal court in any action or proceeding arising out of relating to this Agreement. Venue of any action to enforce this Agreement shall be proper exclusively in Miami-Dade County, Florida.

SECTION 28. GOVERNING LAW

This Agreement shall be construed in accordance with and governed by the laws of the State of Florida.

SECTION 29. HEADINGS

Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.

SECTION 30. EXHIBITS

Each Exhibit referred to in this Agreement forms an essential part of this Agreement. The Exhibits if not physically attached, should be treated as part of this Agreement, and are hereby incorporated by reference.

SECTION 31. NO WAIVER OF BREACH

The failure of a party to insist on strict performance of any provision of this Agreement shall not be construed to constitute a waiver of a breach of any other provision or of a subsequent breach of the same provision.

SECTION 32. SEVERABILITY

If any provision of this Agreement or the application thereof to any person or situation shall to any extent, be held invalid or unenforceable, the remainder of this Agreement, and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable shall not be affected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law.

SECTION 33. COUNTERPARTS

This Agreement may be executed in several counterparts, each of which shall be deemed an original and all such counterparts shall constitute one and the same instrument.

SECTION 34. FAVORED NATION STATUS

The CONTRACTOR agrees that if, after the Effective Date of this Agreement, it enters into an agreement with another municipality, county, state or other local government which is substantially similar in all material respects to the instant Project, and which is more favorable than the terms of this Agreement, including a reduction in the pricing or Contract Price, the TOWN shall be entitled to the same favorable terms as the other municipality, county, state or other local government, without the need for an amendment to this Agreement. In the event that the more favorable term results in a reduction in the pricing or Contract Price of the Work, said reduction shall be applied to any remaining balance due the CONTRACTOR on the Contract Price or credited or refunded back to the TOWN, as applicable.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

TOWN OF SURFSIDE
A Florida Municipal Corporation,

BY: Michael P. Crotty
Michael P. Crotty, Town Manager

Date 10/10/13

BY: Jody Price
Jody Price, Musco Sports Lighting, LLC

Date 9/30/2013

James U. Thomson

Attest: Sandra Novoa
Sandra Novoa, CMC, Town Clerk

Date 10/10/2013

APPROVED AS TO FORM AND LEGAL SUFFICIENCY
FOR THE USE AND RELIANCE OF THE TOWN OF
SURFSIDE ONLY:

BY: Linda Miller
Linda Miller, Town Attorney

Date 10/8/2013



Surfside Tennis Center
Surfside, FL
Date: August 5, 2013
To: Tim Milian
Pricing per Clay County Contract RFP#08/09-3

Quotation Price – Materials and Turnkey Installation – (3) Tennis Courts

Musco's Light Structure Green™ lighting system as described below and delivered to the job site \$122,000.

Equipment Description

Light Structure Green™ System delivered to your site in Five Easy Pieces™

- Pre-cast concrete bases
- Galvanized steel poles
- Electrical component enclosures
- Pole length wire harness
- Factory-aimed and assembled luminaires

Also Includes:

- Energy savings of more than 50% over a standard lighting system
- 50% less spill and glare light than Musco's prior industry leading technology
- Musco Constant 25™ product assurance and warranty program that eliminates 100% of your maintenance costs for 25 years, including labor and materials
- Guaranteed constant light level of 30 footcandles for 25 years
- Two group re-lamp(s) at the end of the lamps' rated life, 12000 hours
- Control Link® Control & Monitoring System for flexible control and solid management of your lighting system
- Lighting Contactors sized for voltage and phasing at site

Field Description	Quantity	Pricing Per Clay County	Extended Price
(Sect I) Tennis (30 footcandles)	1	\$62,733.00	\$62,733.00
(Sect II G) Freight	1	\$549.00	\$549.00
(Sect III A) Installation of 50' poles	4	\$3,035.00	\$12,140.00
(Sect III B) Demo of existing structures	4	\$4,600.00	\$18,400.00
(Sect IV B 1a)Wiring from panel to Contactors	4	\$90.00	\$360.00
(Sect IV B 2a)Wiring from Contactors to Poles	550	\$34.00	\$18,700.00
(Sect IV B 3a)Pull Box 38T	4	\$460.00	\$1,840.00
(Sect IV B 3b)Connect Pull boxes	4	\$110.00	\$440.00
(Sect V B 2)Structural Engineering	1	\$1,150.00	\$1,150.00
(Sect V F) Project Management	1	\$5,750.00	\$5,750.00
(Sect V A 3) Electrical Engineering	1	\$5,750.00	\$5,750.00
(Sect C 1) Surge Arrestor	1	\$1,035.00	\$1,035.00
Deducts: Design Parameters			-\$6,847.00
Total			\$122,000.00

Sales tax, permitting, and bonding are not included as part of this quote.

Pricing furnished is effective for 60 days unless otherwise noted and is considered confidential. Divulging technical or pricing information to competitive vendors will result in removal from the bid list.

Payment Terms

To be determined between Musco Credit Department and owner.

Late payment will be subject to service charges of 1 ½% per month (18% APR).

Musco will make every effort to coordinate shipment so that delivery corresponds with the customer's payment schedule. We will expect payment within the terms described above unless there is a written statement from Musco's corporate headquarters stating the acceptance of different terms.

Delivery to the job site from the time of order, submittal approval, and confirmation of order details including voltage and phase, pole locations is approximately 30-45 days. Due to the built-in custom light control per luminaire, pole locations need to be confirmed prior to production. Changes to pole locations after the product is sent to production could result in additional charges.

Notes

Quote is based on:

- Shipment of entire project together to one location
- (3) Tennis Courts
- Structural code and wind speed = 2010 FBC, 175 MPH, HVHZ Dade County
- Confirmation of pole locations prior to production

Scope of Work

Owner Responsibilities:

1. Provide total access to the site and pole locations for construction. Equipment must be able to move from location to location on standard rubber tires – no towing required.
2. Survey in pole locations and aiming points (one per field) for sighting in lighting cross-arms. Final grade elevations will also need to be marked if necessary.
3. Remove any trees, limbs, shrubs, etc. for total access to pole locations.
4. Removal, replacement, and repair of all fencing necessary for construction.
5. Repair and replacement of any field turf, asphalt, curbs, and concrete inadvertently damaged during installation.
6. Provide area on site for disposal of spoils from foundation excavation.
7. Locate and mark existing underground utilities not covered by "One Call" and irrigation systems including sprinkler heads prior to excavation. Musco or Subcontractor will not be responsible for repairs to unmarked utilities.
8. Pay for any power company fees and requirements. **(If necessary).**
9. Additional charges will apply for foundation excavation and construction in non-standard soils (rock, caliche, high water table, collapsing holes, alluvial soils, etc.). Standard soils are defined as Class 5 soils in the 2010 edition of the Florida Building Code and can be excavated using standard earth auguring equipment.
10. Provide a source of water such as a fire hydrant or 2" water line for foundation excavation. Pay for any and all fees associated with the water access and usage.
11. Provide primary transformer to within 150 feet of site.
12. Pay for all appropriate permitting fees.

Musco Responsibilities / Musco Subcontractor Responsibilities:

1. Provide required poles, fixtures, foundations, and associated designs.
2. Provide structural design for poles and foundations, certified by a professional engineer licensed in the State of Florida.
3. Provide layout of pole locations and aiming diagram.
4. Provide light test upon completion of works once owner supplied electrical system is energized.
5. Provide Project Management assistance as needed.
6. Provide electrical design by electrical engineer as necessary.
7. Provide review of electrical design as provided by Electrical Contractor or Electrical Engineer.
8. Provide equipment and materials to off load equipment at jobsite per scheduled delivery.
9. Provide storage containers for material, including ballast enclosures.
10. Provide adequate trash container for cardboard waste and packing debris.
11. Provide adequate security to protect Musco delivered products from theft, vandalism or damage during the installation.
12. Obtain all required permits.
13. Provide materials and equipment to upgrade existing electrical service panels as required or necessary.
14. Provide materials and equipment to install all underground conduit, wiring, pull boxes, switchgear, etc. and terminate wiring as required per electrical design.
15. Make appropriate contact to ensure utility locations have been marked prior to excavation and trenching. Repair any damage to existing utilities made during construction.
16. Provide materials and equipment to install (4) Light Structure System foundations as specified on Layout.
17. Remove augured spoils to owner-designated location at jobsite.
18. Provide materials and equipment to assemble and install (12) Light Structure Green™ fixtures and terminate all necessary wiring.
19. Provide equipment and materials to assemble and erect (4) Light Structure System Poles.
20. Verify aiming points have been located and are correct before sighting in lighting cross-arms.
21. Provide equipment and materials to install the new Controls and Monitoring Cabinet(s) and terminate all necessary wiring. Installation of Musco supplied surge protection required. Subcontractor to commission Control Link once system is energized.
22. Provide dedicated breaker in distribution panel (Voltage TBD) for surge protection device.
23. Keep all heavy equipment off of playing fields and surfaces whenever possible. Use due care to minimize damages when playing surface access is required.
24. Conduct system startup and additional aiming as required to provide a complete and operating sports lighting system.

Thank you for considering Musco for your sports-lighting needs. Please contact me with any questions.



Jason Frucht
Field Sales
Musco Sports Lighting, LLC
Phone: 954-732-5674
E-mail: jason.frucht@musco.com



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
09/30/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Holmes Murphy & Assoc - WDM PO Box 9207 Des Moines, IA 50306-9207	1-800-247-7756	CONTACT NAME: PHONE (A/C, No, Ext): E-MAIL ADDRESS:	FAX (A/C, No):
INSURED Musco Sports Lighting, LLC Attn: Carrie Ferguson P O Box 808 Oskaloosa, IA 52577		INSURER(S) AFFORDING COVERAGE INSURER A: EMPLOYERS MUT CAS CO A XII 21415 INSURER B: STARR IND & LIAB CO A XIV c/o RT 38318 INSURER C: FEDERAL INS CO A++ XV 21415 INSURER D: INSURER E: INSURER F:	

COVERAGES

CERTIFICATE NUMBER: 36059472

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Contractual Liability GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC			2D5362514	07/01/13	07/01/14	EACH OCCURRENCE	\$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 300,000
							MED EXP (Any one person)	\$ 15,000
							PERSONAL & ADV INJURY	\$ 1,000,000
							GENERAL AGGREGATE	\$ 2,000,000
							PRODUCTS - COMP/OP AGG	\$ 2,000,000
								\$
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			2E5362514	07/01/13	07/01/14	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
								\$
B	UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$			1000010100	07/01/13	07/01/14	EACH OCCURRENCE	\$ 1,000,000
							AGGREGATE	\$ 1,000,000
								\$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	2S5362514 (Non Ded States)	07/01/13	07/01/14	<input checked="" type="checkbox"/> WC STATUTORY LIMITS	OTHER
A				2Z5362514 (All Other States)	07/01/13	07/01/14	E.L. EACH ACCIDENT	\$ 500,000
A				2P5362514 (Florida)	07/01/13	07/01/14	E.L. DISEASE - EA EMPLOYEE	\$ 500,000
A				2M5362514 (New Jersey)	07/01/13	07/01/14	E.L. DISEASE - POLICY LIMIT	\$ 500,000
C	Installation Floater			6686375	07/01/13	07/01/14	Limit-Any one Site	1,000,000
				Special Cause of Loss			Limit-Any one Occ.	1,000,000
							Deductible	10,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Re: Musco Project 118220 - Surfside Tennis Center
Town of Surfside is included as an Additional Insured on the General Liability for work performed by the Named Insured when required by written contract or agreement.

CERTIFICATE HOLDER**CANCELLATION**

Town of Surfside 9293 Harding Avenue Surfside, FL 33154 USA	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>Rene Guisinger</i>
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**BOARD OF COUNTY COMMISSIONERS
CLAY COUNTY, FLORIDA**

REQUEST FOR BID

**VARIOUS EQUIPMENT AND AMENITIES FOR PARKS
AND PLAYGROUNDS, CLAY COUNTY, FLORIDA
PARKS, RECREATION & SPECIAL EVENTS DIVISION**

RFP No. 08/09-3

**Due Date: Monday, December 1, 2008 - 4:00 pm
Open Date: Tuesday, December 2, 2008 -1:00 pm**

**Issued By:
Donna Fish**

**Clay County Board of County Commissioners
Purchasing Division**

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Attachments:

No Bid Statement

Form W-9

BOARD OF COUNTY COMMISSIONERS

<p>Fritz A. Behring County Manager www.claycountygov.com</p>	 <p>CLAY COUNTY</p>	<p>Purchasing Division P.O. Box 1366, 477 Houston St Green Cove Springs, FL 32043 904-278-3761 ● Fax: 904-278-3728</p>
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Dear prospective bidder:

You and your firm are cordially invited to submit a bid in accordance with the attached instructions and specifications for:

**RFP # 08/09-3, Various Equipment and Amenities for Parks and Playgrounds,
Clay County, Florida**

Interested Vendors may contact me for clarification, by phone at (904) 278-3761 or e-mail at donna.fish@co.clay.fl.us with any questions about this bid. All prospective bidders are hereby instructed NOT to contact any member of the Elected Officials, County Manager, or other County employees for meetings, conferences or technical discussions related to the bid.

To remain on our active bidders list, you should reply in writing with a written quote or a “NO BID” response.

Sincerely,

Donna Fish
Buyer
Clay County Purchasing Division

/df

- Att. Complete Bid Pack which includes:
- Bid Instructions
 - Bid Specifications
 - Bid Forms
 - Extract(s) from Clay County Purchasing Manual
 - No Bid Statement
 - W-9 Form

REQUEST FOR PROPOSALS

NOTICE IS HEREBY GIVEN that sealed proposals will be received until 4:00 P.M., Monday, December 1, 2008, at the Clay County Administration Building, Purchasing Department, 4th floor, 477 Houston Street, Green Cove Springs, Florida 32043, for the following:

RFP NO: 08/09-3, Various Equipment and Amenities for Parks and Playgrounds, Clay County, Florida.

Bids will be opened at 1:00 P.M., or as soon thereafter as possible, on Tuesday, December 2, 2008 in the Clay County Administration Building, Conference Room "B", fourth floor, 477 Houston Street, Green Cove Springs, Florida, in the presence of the Purchasing Department staff, and/or the Clerk or Deputy Clerk and all other interested persons.

The opened bids will be read aloud, examined for conformance to specifications, tabulated, and preserved in the custody of the Purchasing Department. The Finance Committee of the Board will present its recommendations to the Board of County Commissioners at its meeting of December 23, 2008, or as soon thereafter as possible.

Bids will not be valid unless received by the proposal deadline and in a sealed envelope marked "Sealed Bid, RFP No. 08/09-3, Various Equipment and Amenities for Parks and Playgrounds, Clay County, Florida", to be received until 4:00 P.M., Monday, December 1, 2008.

Envelopes are to be mailed or delivered in person to the above address.

All prospective Bidders are hereby instructed NOT to contact any member of the Elected Officials, County Manager or County Employees for meetings, conferences or technical discussions related to the Bid. Unauthorized contact with Elected Officials, County Manager or County personnel may result in rejection of the Vendor's Bid. All communications with the County regarding this Bid should be directed to: Donna Fish, Buyer, Clay County Purchasing Department, 477 Houston Street, Green Cove Springs, FL 32043, 904-278-3632 or by email: donna.fish@co.clay.fl.us

The County reserves the right to waive formalities in any bid, to reject any or all bids with or without cause, including the lack of availability of adequate funds, regulatory agency requirements, and/or to accept the bid that, in its judgment, will be in the best interest of the County of Clay.

FOLLOWING THE BID OPENING AND TABULATION, A “NOTICE OF INTENT TO AWARD BID” OR A “NOTICE OF REJECTION OF ALL BIDS” WILL BE POSTED ON THE INTERNET AT:

www.claycountygov.com/Departments/Purchasing/decision_bids.htm. THIS WEB PAGE CAN ALSO BE ACCESSED FROM THE HOMEPAGE OF THE COUNTY’S WEBSITE AT: www.claycountygov.com BY FOLLOWING THE “NOTICE OF INTENT BIDS” LINK UNDER THE “BUSINESS” ROLLOVER BUTTON ON THE COUNTY’S HOMEPAGE. NO OTHER NOTICE WILL BE POSTED.

PROSPECTIVE BIDDERS ARE NOTIFIED THAT THE FAILURE TO INCLUDE WITHIN THE SEALED BID ENVELOPE, A PROPER BID BOND OR OTHER SECURITY APPROVED UNDER THE COUNTY’S PURCHASING POLICY, IF REQUIRED FOR THIS SOLICITATION, OR THE FAILURE TO FILE A WRITTEN PETITION INITIATING A FORMAL PROTEST PROCEEDING WITHIN THE TIMES AND IN THE MANNER PRESCRIBED IN SECTION 8. (N)., OF SAID POLICY, SHALL CONSTITUTE A WAIVER OF THE RIGHT TO PROTEST THE BID SOLICITATION, ANY ADDENDUM THERETO, OR THE BID DECISION, AS APPLICABLE, AND TO INITIATE A FORMAL PROTEST PROCEEDING UNDER SAID POLICY. THE COUNTY’S PURCHASING POLICY CAN BE VIEWED AT THE COUNTY’S WEBSITE BY FOLLOWING THE APPROPRIATE LINKS FROM THE HOMEPAGE ADDRESS SET FORTH ABOVE.

IF A PROSPECTIVE BIDDER IS IN DOUBT WHETHER THIS SOLICITATION REQUIRES A BID BOND, SUCH PROSPECTIVE BIDDER IS SOLELY RESPONSIBLE FOR MAKING APPROPRIATE INQUIRY.

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

Fritz A. Behring
County Manager

-----END OF NOTICE-----

(CLAY TODAY) For Publication on November 6, 2008

(CLAY COUNTY LEADER) For Publication on November 6, 2008

PLEASE SEND ORIGINAL INVOICE AND OF PROOF OF PUBLICATION TO:

Clay County Board of County Commissioners
Purchasing Department
P.O. Box 1366
Green Cove Springs, Florida 32043
ATTENTION: Donna Fish

REQUEST FOR BID INSTRUCTIONS

RFP NO. 08/09-3 Various Equipment and Amenities for Parks and Playgrounds, Clay County, Florida

1. All Sealed proposals submitted shall be received by the Purchasing Department, Clay County, Florida.

A. Bids submitted by mail should be addressed to:

Clay County Board of County Commissioners
Purchasing Department
Attn: Donna Fish
P O Box 1366
Green Cove Springs, Florida 32043

B. Bids submitted in person will be received at:

Clay County Administrative Building
477 Houston Street
Fourth Floor, Purchasing Department
Green Cove Springs, Florida 32043

THREE paper copies of the bid package shall be submitted, IN WRITING, AND SEALED in an envelope. All requested bid information, proof of liability insurance in the minimum amount of \$1,000,000.00, bids and performance data, and form W-9 taxpayer identification number and certification shall be included with all responses submitted.

2. The words **“RFP #08/09-3, Various Equipment and Amenities for Parks and Playgrounds, Clay County, FL”** shall be clearly marked on the front and back of the envelope containing the proposals.
3. Bids will be received by mail or in person until 4:00 p.m., Monday, December 1, 2008 and will be opened after 1:00 p.m., on Tuesday, December 2, 2008 in the Clay County Administration Building, 477 Houston Street, Conference Room “B”, Fourth Floor, Green Cove Springs, Florida. Proposals will be reviewed by Clay County as soon thereafter as possible.
 - A. All bids will be “clocked” at the time they are received to indicate the time and date of receipt. Bids **WILL NOT** be accepted in person after the time and date specified.
 - B. Bids received by mail **WILL NOT** be accepted if they are received after the Time and date specified regardless of the postmark or circumstances.
4. All prospective bidders are hereby instructed NOT to contact any member of the Elected Officials, County Manager or County Employees for meetings, conferences or technical discussions related to the bid. Unauthorized contact with

Elected Officials, County Manager or County personnel may result in rejection of the Vendor's bid response. For information concerning procedures for responding to this Bid, contact Purchasing Buyer, Donna Fish at (904) 278-3761 or by e-mail to donna.fish@co.clay.fl.us. For all technical questions contact Parks, Recreation & Special Events, Tom Price at (904) 269-6378.

Written inquiries/questions must be received by November 20, 2008

5. Each firm receiving an invitation should reply as noted above or reply with a written **"NO RESPONSE."** Either action will keep the firm on the appropriate active Professional Services list. Three (3) failures to respond to solicitations may result in deletion from the solicitation list.
6. If submitting proposals as a certified minority business enterprise as defined by the Florida Small and Minority Business Assistance Act of 1985, please include documentation of same.
7. Any firm affected adversely by Clay County's decision shall file with the Clay County Board of County Commissioners a Notice of Protest in writing within 72 hours after the posting of the selected vendor. Failure to file a written notice of Protest shall constitute a waiver of proceedings under Chapter 120.57(3)(a)(3) (Administrative Procedures Act), Florida Statutes.
8. The Board of County Commissioners of Clay County, Florida, reserves the right to waive formalities in any response, to reject any or all responses with or without cause, including the lack of availability of adequate funds, regulatory agency requirements, and/or to accept the response(s) that, in its judgment, will be in the best interest of the County of Clay.
9. Indemnification Statement: The awarded vendor must agree to defend, protect, indemnify and hold harmless the County and all its principals, employees, officers, agents and servants (collectively, the Indemnitees), from and against any and all suits, claims, demands, liabilities and costs and all damages, including reasonable attorney's fees and court costs, asserted against the Indemnitees or any of them by reason of injury to the persons or property of others, including any Participant, which is caused by the fault, acts, omissions or comparative negligence, whether active or passive, attributable the performance of its duties and obligations under this Agreement, or to any of the employees, officers, agents or servants, or to any subcontractor of the firm. The vendor's obligations under this paragraph shall also apply to actions by third parties performed on behalf of the firm pursuant to this Agreement.
10. The successful bidder(s) shall extend these prices to the City of Green Cove Springs, Town of Orange Park, City of Keystone Heights, Town of Penny Farms, and the Clay County Board of Public Instruction upon the written request of the using agency.

Contractor's Insurance Requirement:

1. Any Contractor submitting a bid for any public works project must include, within its initial bid response, proof of the following insurance, in effect continuously from the date of submittal through the 60 days subsequent to the scheduled bid opening date:
 - a. Commercial General Liability
 1. General Aggregate \$1,000,000
 2. Products and Completed Operations Aggregate \$1,000,000
 3. Personal and Advertising Injury \$1,000,000
 4. Each Occurrence \$1,000,000
 5. Fire Damage (any one fire) \$ 50,000
 6. Medical Expense (any one person) \$ 5,000
 - b. Automobile Liability
 1. Any automobile-Combined bodily injury/
property damage, \$1,000,000
With minimum limits for all additional
coverages as required by Florida law
 - c. Workers Compensation/Employers Liability
 1. Workers Compensation statutory limits
 2. Employers Liability
 - a. Each Accident \$ 100,000
 - b. Disease-Policy \$ 500,000
 - c. Disease-Each Employee \$ 100,000
 - d. Professional Liability
 1. When required by contract-per occurrence \$1,000,000
2. Upon being awarded the bid, the contractor must provide proof that such insurance will be in effect from the date of commencement of the project. The contractor will maintain insurance coverage at the above-prescribed levels through the date of completion of the project and that coverage will include all independent contractors and subcontractors. Either prior to or simultaneously with the execution of the contract, the successful bidder must deliver certificates of insurance for the required insurance coverages to the County naming "Clay County, a political subdivision of the State of Florida; The Board of County Commissioners, Clay County, Florida; and all public agencies of Clay county, as

their interests may appear” as “Additional Insureds.” Said certificates of insurance shall also include a thirty day prior written notice of cancellation, modification or non-renewal to be provided to the County.

3. The Board reserves the right to waive, raise or lower the minimum coverages required for particular projects prior to bid solicitation by affirmative action. The Board will not waive any defects in a bid submittal pertaining to matters under this subsection.

Bid Specifications for Price Agreement Contract
Various Equipment and Amenities for Parks and Playgrounds
Clay County Division of Parks, Recreation and Special Events

SCOPE:

The purpose of this bid invitation is to establish a firm, fixed percentage discount from manufacturer's and/or bidder's current catalog/supply/product information price list for the purchase of various equipment and amenities for parks and playgrounds as requested by the Clay County Division of Parks, Recreation and Special Events. Additionally, this bid invitation shall also establish a firm, fixed percentage of manufacturer's and/or bidder's current catalog/supply/product information price list, after applying the above requested discount for purchase, for the installation of various equipment and amenities for parks and playgrounds as requested by the Clay County Division of Parks, Recreation and Special Events. It is understood that bidder's current catalog/supply/product information price list are subject to change; however, percentages shall remain fixed. No extra charges or compensation will be allowed for installation above and beyond what has already been presented in your bid. If the bidder offers specialized catalogs, the catalogs must be submitted separately from any other catalog offered by the bidder. This bid is also a means for qualifying vendors for Ball Park lighting services. Qualifying vendors will be requested to provide pricing on a project by project basis as defined in the method of ordering section of this bid. The qualified vendor providing the lowest responsive quote will be awarded the project.

RESPONSIBILITY:

Bidder shall be responsible for all labor, materials, equipment, supervision, off-loading, storage, and installation, of various equipment and amenities for parks and playground equipment ordered, unless otherwise specified by the County. The County may elect, in certain circumstances, to purchase only materials and have those materials installed by others (e.g., volunteers). These items will be shipped to a designed location and off-loaded by the bidder or bidder's representative.

QUALIFICATION OF INSTALLERS:

If a bidder utilizes a sub-contracted installer for any park or playground equipment, a list of sub-contracted installer must be included with their bid. Additionally, the bidder must supply WRITTEN FACTORY/MANUFACTURER CERTIFICATION that its installer, or its sub-contracted installer, is an authorized installer, certified to install various equipment and amenities for parks and playground equipment as required by each manufacturer. Failure to complete this requirement of the bid proposal may result in the rejection of their bid.

COMPLIANCE WITH SPECIFICATIONS:

Bid only on items that meet specifications. Bid only a single offering for each bid item. Do not bid multiple offering or "alternates." All corrections will be initialed. Bid only new, unused material.

CATALOGS AND MANUFACTURER SUGGESTED RETAIL PRICE (MSRP) LISTS:

Each bidder shall submit with this bid, at no charge, two (2) sets of each current catalog/supply/product information price list as well as current MSRP list for each catalog submitted. All catalogs and/or MSRP lists

shall clearly identify the bid number and the bidder's name, address and telephone number. Additionally, each bidder awarded an option year renewal of this contract will submit, at no charge, two (2) sets of each then current catalog/supply/product information price list as well as current MSRP list for each catalog submitted, within 30 days of award of an option year renewal.

COMPLIANCE WITH LAWS AND CODES:

Bidders must strictly comply with Federal, State and local building and safety codes. Equipment must meet all State and Federal safety regulations. The following publications (issue in effect on date of invitation to bid) shall form a part of this specification:

A. American Society for Testing and Materials (ASTM):

ASTM-F1487 Standards – Methods of testing Playground Equipment for Public Use.

ASTM-F1292 Standards - Method for testing various surfacing materials to determine their "critical height" (the fall height below which a life threatening head injury would not be expected to occur)

Copies may be obtained from the - American Society for Testing and Materials
100 Barr Harbor Drive
West Conshohocken, PA 19428

B. Consumer Product Safety Commission (CPSC) – printed Handbook for Public Playground Safety.

Copies may be obtained from the - US Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814
(301) 504-7923

C. National Playground Safety Institute (NPSI) – identification of 12 leading causes of injuries on playgrounds.

Copies may be obtained from the - National Recreation and Park Association
22377 Belmont Ridge Road
Ashburn, VA 20148-4150
(703) 858-0784

D. Americans with Disabilities Act (ADA) Regulations for Title III, Appendix A, Standards for Accessible Design, issued by the Department of Justice.

Copies may be obtained by calling (800) 514-0301

Bidders certify that all products (materials, equipment, processes, age appropriate signage, or other items supplied in response to this bid) contained in its bid meet all Federal and State requirements, **Upon completion of installation of play equipment and/or playground surfacing, bidder shall furnish to the County a certificate so stating the equipment /surfacing and its installation meet all Federal and State requirements as outlined in the above publications.**

Bidders further certify that if the product(s) delivered and/or installed are subsequently found to be deficient in any if the aforementioned requirements in effect on date of delivery, all costs necessary to bring the product(s) and installation into compliance shall be borne by the bidder.

AWARD:

Performance and payment bonds may be required for specific projects. This requirement is driven by the size and price of each particular job. Vendors will be required to meet this requirement before receiving a purchase order for the project. Multiple awards will be made to any and all responsive bidders. There is no guarantee any purchase order will be issued after award. Purchase orders will be issued subject to availability of funds.

INVOICING:

Invoices may be issued once supplies are shipped, delivered and/or installed to the county's satisfaction. At a minimum, invoices must include: Purchase Order Number, Item Number and Description, Date of Shipment, Quantity Ordered, Unit Price, Unit of Measure, and a total for all purchases. Standard payment terms are Net 45 days per the Local Government Prompt Payment Act.

TERMS OF CONTRACT:

The Price Agreement Contract for various equipment and amenities for parks and playgrounds will be three (3) years, with two (2) one (1) year renewal options.

Renewal options are at the discretion of the County based on the successful bidder(s) performance and adherence to the terms, conditions, and requirements in maintaining firm percentages(s) for the following year(s), within 30 days of contract expiration. All percentages will remain firm for the following years, within 30 days of contract expiration.

STATE CONTRACTS:

The County is entitled to purchase from contracts established by the State of Florida. Should the State establish a contract for items on this bid, the County reserves the right to cancel this contract in whole or in part and purchase those item(s) from the State Contract, if in its best interest.

METHOD OF ORDERING:

The County may generate a Request for Quotation (RFQ), on an "as needed" basis, for park and playground equipment, ball field lighting and additional services for individual projects, together with a request for additional services required to complete that project (see attached RFQ sample sheet). The County reserves the right to send such RFQ to any or all awarded bidders. The RFQ can define the project exactly or the RFQ can describe a desired end result, allowing the bidder to design the park or playground site.

After generating a RFQ for a project, and before bidder's submission of its quotation in response to the RFQ, the County may require requested bidder (s) to attend a site visit with County personnel to familiarize

the bidder (s) with the site and determine additional services that may be required to complete the project. Bidders will be responsible for the accuracy of all fixed measurements.

The bidder's quotation in response to the RFQ must contain each of the following:

- A detailed breakdown of the cost for the entire project. Descriptions of additional services required, together with their price, shall also be listed.
- Names of any and all subcontractors on the project, together with their designated work and costs. It is understood the bidder remains responsible for project completion and acceptance by the County. The County reserves the right to reject any quotation in response to an RFQ if said quotation names a subcontractor who has, in the sole opinion of the County, previously failed in the proper performance of an award or failed to deliver on time contracts of a similar nature, or who is not in a position to perform properly under this award.
- A date certain by which the project must be completed.
- Include an updated catalog, if needed and updated MSRP lists for the park and play equipment specifically quoted.

The County will generate purchase orders as a result of approved "Request for Quotations" submitted, at the sole discretion of the County. The County reserves the right to not award to any, or to go outside the contract at lower prices.

PROMOTIONAL PRICING:

During the contract period, bidders will extend any pricing offered on a "promotional" basis from the manufacturer to the county. It will be the bidder's responsibility to monitor said items and report any that are or will be offered at lower prices.

SUPERVISION:

A bidder's job supervisor/representative will be on the work site at all times and be thoroughly knowledgeable of the materials, job requirements, plans, specifications and installation functions.

JOB COMPLETION:

Bidder/contractor/installer will be responsible for all materials received and signed for from date of order to completion of job installation.

Bidder/installer will be responsible for clean up and removal of all debris resulting in job completion, leaving work site in neat and orderly fashion at the end of each workday. Additionally, bidder/installer will be responsible for restoring the work site to its original condition at the completion of the project.

RESPONSIBILITY FOR DAMAGES AND PRESERVATION OF PROPERTY:

The bidder shall use due care to avoid damaging all property associated with, adjacent to, or in any way affected by the work being performed. This applies to private property and all utilities which may exist within the work area. Any damage occurring to such items by bidder shall be immediately repaired or replaced to a condition at least equal to that which existed prior to the damage. All costs incurred for repair or replacement shall be borne by the successful bidder. Any damages not repaired or replaced by the bidder within ten (10) calendar days from notification will be fixed by the County or its contractor and the cost shall be paid by the bidder or deducted from their invoice.

VIOLATIONS/DEFAULT:

In the event the awarded bidder(s) should violate any provisions of this bid, such bidder will be given written notice stating the deficiencies and given ten (10) days to correct deficiencies found. The County reserves the right to terminate any contract at any time due to any violation.

In the event the awarded bidder(s) should breach this contract, the County reserves the right to seek all remedies in law and/or in equity. Failure of an awarded bidder to adhere to completion dates defined by bidder and County may result in no further awards being made to such bidder under this Price Agreement Contract.

GENERAL CONDITIONS:

Signature on bid form verifies that the bidder is acquainted with the general conditions contained herein and will comply with all specifications, terms and conditions contained in this bid invitation.

INSURANCE/WORKER'S COMPENSATION:

The contractor shall take out and maintain during the life of this agreement, worker's compensation insurance for all of his employees connected with the work of this project and in case any work is sublet, the contractor shall require the subcontractor similarly to provide worker's compensation insurance for all of the latter's employees unless such employees are covered by the protection afforded by the contractor. Such insurance shall comply fully with the Florida Worker's Compensation Law. In case any class of employees engaged in hazardous work under this contract at the site of the project is not protected under the worker's compensation statute, the contractor shall provide, and cause each sub-contractor to provide, adequate insurance, satisfactory to the purchaser, for the protection of his employees not otherwise protected. The awarded vendor must submit a copy of an insurance certificate naming the County as an additional insured with the following verbiage placed on the certificate no later than ten (10) days after the award has been made. "Clay County, a political subdivision of the State of Florida; The Board of County Commissioners, Clay County, Florida; and all public agencies of Clay County, as their interest may appear." Additional insurance requirements as listed on pages 24-25 apply.

COOPERATIVE PURCHASES:

This is a cooperative purchase contract. State law allows any government agency and any accredited school in the state to buy off this contract without going to bid, as long as it does not conflict with any of their local regulations.

Bid Form

Price Agreement Contract For
Park and Playground Equipment

Bid No. 08/09-3

Bidder: _____

Address: _____

City, State and Zip: _____

Phone: _____ Email: _____

Contact Name(s): _____

Signature of Bidder

MANUFACTURER CATALOGS:

Manufacturer: _____

Fixed Percentage Discount off MSRP: _____

Installation (Fixed Percentage of cost after discounts of equipment): _____

Manufacturer: _____

Fixed Percentage Discount off MSRP: _____

Installation (Fixed Percentage of cost after discounts of equipment): _____

Manufacturer: _____

Fixed Percentage Discount off MSRP: _____

Installation (Fixed Percentage of cost after discounts of equipment): _____

Manufacturer: _____

Fixed Percentage Discount off MSRP: _____

Installation (Fixed Percentage of cost after discounts of equipment): _____

SUB-CONTRACTOR EQUIPMENT INSTALLERS:

Business Name: _____

Address: _____

Phone Number: _____

Contact Name: _____

Business Name: _____

Address: _____

Phone Number: _____

Contact Name: _____

Business Name: _____

Address: _____

Phone Number: _____

Contact Name: _____

Note: Attach vendor/manufacture WRITTEN CERTIFICATION (s) naming bidder, and/or each of its sub-contractor installer(s), as an authorized installer certified to install park and playground equipment as required by each manufacturer. Failure to comply with this provision may result in rejection of bid.

WARRANTY INFORMATION FORM

MAKE AND MODEL OF EQUIPMENT PROPOSED: _____

Is there a warranty on the equipment proposed? _____ Yes _____ No

Does the warranty apply to ALL components or only part? (State Explicitly)

Parts Warranty Period: _____ Service Warranty Period: _____

Nearest source for parts and/or service center (s):

Name, address and phone number of the authorized service center (s):

- 1) _____
- 2) _____
- 3) _____

Name, address and phone number of the authority issuing this warranty: (Manufacturer, Distributor, etc.)

COPY OF COMPLETE WARRANTY STATEMENT IS SUBMITTED HEREWITH: _____ Yes _____ No

Name of Bidder: _____

Signature _____

Title _____ Phone Number _____

Warranty period must meet or exceed the warranty conditions as stated in the specifications on the bid

Various Equipment and Amenities for Parks and Playgrounds
Clay County Division of Parks, Recreation and Special Events
Contract # _____

Request for Quotation

Description of Project: _____

A site plan (not to scale), along with drawing of proposed amenities, is attached. A mandatory site visit is scheduled for _____ at _____.

Price Quotation:

Manufacturer	Item and Page Number	Quantity	MSRP Unit Price	Contract Discount	Extended Price

Additional Services Required:

Description	Quantity	Unit Price	Extended Price

Total: \$ _____

List any Subcontractors:

1. Name _____
2. Address _____
3. Telephone Number _____
4. Contact Name _____
5. Designated Work _____
6. Subcontractor Cost _____

CHAPTER 8: PROCEDURES FOR PUBLIC BID OPENINGS

(A) **Purpose:** The purpose of this chapter is to specify procedures for the submittal, receipt, opening and recording of all formal bids required by all of the various laws, ordinances, and other procedures and manuals governing the solicitation and awarding of public bids in Clay County, Florida, including but not limited to:

- a. Section 336.44, Florida Statutes (2001).
- b. Applicable Provisions of Clay County Code.
- c. Florida Department of Transportation Standard Specifications, most recent edition.

(B) **Time of Opening:** All bids shall be submitted to the Purchasing division, 4th Floor, Clay County Administration Building, 477 Houston Street, Green Cove Springs, Florida, which shall record receipt thereof by date and time on the bid envelope. Upon receipt, the Purchasing division will maintain custody and control of all bid submittals until after they have been opened. The deadline for a particular bid submittal shall be 4:00 P.M., of the Monday immediately preceding the Tuesday upon which the bid is to be opened. No bid shall be opened unless and until proof by publisher's affidavit of publication of the bid solicitation is received and filed by the Purchasing division. Bidders and the public are welcomed to attend the opening and all subsequent committee and commission meetings related to the bids.

(C) **Form of Bid Submittal:** All bids shall be submitted in triplicate, (and if applicable only on the forms provided by the County or its staff). Each bid and its accompanying materials shall be submitted in a single, sealed and opaque envelope. The following items shall be prominently marked on the cover of the envelope by the party making the submittal prior thereto:

- a. The number assigned to the particular bid solicitation.
- b. The title of the bid exactly as it appeared in the published solicitation.
- c. The date of the bid opening.

(D) **Bid Receipt Procedure:** The County Manager shall, in cooperation with his or her Department heads and the Purchasing division, assign a specific and discrete number and title to each bid solicitation, which shall be contained in the Request for Bids, the newspaper publication, specifications and the Bid Form thereof. Three copies of each request for bid shall be submitted to the Purchasing division for distribution as provided in Section F hereof, and the "Request for Bids" (see Example 2 attached) shall be signed prior to publication.

(E) **Place of Opening:** All bids properly submitted shall be opened in a public location so designated in the bid solicitation.

(F) **Distribution of Copies:** Upon the opening of a bid, one copy shall be distributed to the head of the originating department. Purchasing shall submit to the Finance committee of the Board a tabulated list of all bidders and their bids, including bid number, name, staff assigned, a recommendation to include but not be limited to the lowest responsive and responsible bid, or in a proper circumstance the best bid, budget information and alternatives. All staff assigned to evaluate bid and RFP responses shall do so observing all requirements of the Sunshine Law and in meetings noticed at least 72 hours in advance thereof. The Purchasing division shall serve as the permanent record holder for the County Manager.

(G) **Committee Review, Report and Recommendations:** Bids shall be reviewed by the Board's Finance committee following the bid opening. The Committee should, in the absence of unusual circumstances, report its recommendation to the Board at the Board's next regularly scheduled meeting, which shall include a tabulated list of all bidders and their bids. In all events, the County Manager shall cause to be spread upon the minutes of the regular meeting of the Board next following the opening of a particular bid, a list of all bidders and their bids. Upon being awarded a bid, and if a contract is entered into with the successful bidder then the County's Standard Addendum and IRS Form W-9, Request for Taxpayer Identification and Certification must be completed.

(H) **Ineligible Bid:** Any bid that does not meet the foregoing requirements for form, time of submittal, number of copies or the specifications advertised will be rejected and the reasons stated therefor; provided that the Purchasing division shall reject and return unopened all bids which do not meet the foregoing requirements for time of submittal, or envelope markings. Bids

that do not meet requirements for form will be rejected and declared "No Bid". The Board reserves the power to reject all bids and in its discretion to re-advertise the solicitation.

(I) **Bid Withdrawal Period:** Any bid submitted requires a five (5) percent bond unless waived by the Board prior to solicitation, which cannot be withdrawn for a period of 30 days subsequent to the date of the bid opening, notice of which shall be incorporated in all requests for bids. As used herein, the term bond shall include cashier or certified checks payable to the County. All such checks shall be held by the Finance department for safekeeping immediately upon acceptance of the bid (but not deposited). The Finance department is hereby authorized to return each bond to the submitting party, as soon as practicable, upon written request to the Finance department, but only after a bid and contract have been awarded and executed between the County and the successful bidder for a particular project, or in the event that all bids have been rejected by the Board, or in the event the time provided that the bid shall remain in effect shall have expired and the bid submitter requests its return in writing.

(1) Vendors bidding on SHIP rehabilitation projects are exempt from the bid bond requirements delineated in 8(I) above or as may be otherwise stated elsewhere in this policy document.

(2) Vendors bidding on commodities price contracts, or any other type of contract that does not commit the Board to an actual exchange transaction (purchase) but rather seeks only a fixed unit price commitment from a vendor in the event a future purchase decision is made, shall be exempt from the bid bond requirements delineated in 8(I) above or as may be otherwise stated elsewhere in this policy document.

(J) **Bid Addenda:** All addenda distributed subsequent to the initial distribution of specifications shall be sent by certified mail/return receipt requested, said return receipt to be returned to the Purchasing division identified by bid number. Prior to mailing, a copy of each addendum shall be received by the Purchasing division, provided that no addendum shall be mailed later than five (5) working days prior to the scheduled bid opening date.

(K) **Bid Tabulation Form:** The bid Tabulation Form used at bid openings shall include a place thereon for three witnesses to sign. This procedure will eliminate the need for signing each individual bid at the time of opening, thus requiring the three witnesses to sign only once for each bid number submitted.

(L) **Authority to Delay Bid Openings:** The County Manager is hereby authorized, without seeking prior approval of the Board in any particular case, to order a delay of any bid opening from its scheduled date and time to a time certain on the agenda of the next regularly scheduled meeting of the Board, or such special meeting called for such purpose. The delay may be ordered at any time prior to the time of the scheduled opening, provided that such order be in writing, addressed and delivered to the Purchasing division with a copy delivered to the County Manager, and that copies thereof be mailed by certified mail, return receipt requested to all responding bidders as soon thereafter as is reasonably practicable. Upon receipt of the order, the Purchasing division shall immediately record the date and time thereof. The Purchasing division shall continue to accept sealed bids up until the applicable deadline. At the date and time originally scheduled for the bid opening, the Purchasing division shall announce the delay order to all in attendance and shall continue to maintain in its custody all properly submitted sealed bids until further order of the Board. At the time certain scheduled before the Board, the County Manager shall present his reason or reasons for the delay order and his recommendation for disposition of bids submitted. The Board may order the bids to be opened then and there, or at some other time and date certain; it may cancel the bid and order the return of all bids unopened; it may order a further delay of the bid opening; or it may make any other order appropriate to the circumstances. If the bids are ultimately opened, they shall be reviewed as provided elsewhere herein. If a delay occurs as provided herein, then the 30 day withdrawal period as provided in 8(I) shall commence upon the date of the actual bid opening, provided such date is not more than 60 days subsequent to the originally scheduled date. No delay shall be ordered beyond such 60 day period, unless the parties submitting timely bids consent to such delay in writing. In no event is the County Manager authorized to extend the deadline for bid submittals for any particular project, only the bid opening date.

(M) **Contractor's Insurance Requirement:**

1. Any Contractor submitting a bid for any public works project must include, within its initial bid response, proof of the following insurance, in effect continuously from the date of submittal through the 60 days subsequent to the scheduled bid opening date:

a. Commercial General Liability

1.	General Aggregate	\$1,000,000
2.	Products and Completed Operations Aggregate	\$1,000,000
3.	Personal and Advertising Injury	\$1,000,000
4.	Each Occurrence	\$1,000,000
5.	Fire Damage (any one fire)	\$ 50,000
6.	Medical Expense (any one person)	\$ 5,000

b. Automobile Liability

1.	Any automobile-Combined bodily injury/property damage, with minimum limits for all additional coverages as required by Florida law	\$1,000,000
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c. Workers Compensation/Employers Liability

1.	Workers Compensation	statutory limits
2.	Employers Liability	
	a. Each Accident	\$ 100,000
	b. Disease-Policy	\$ 500,000
	c. Disease-Each Employee	\$ 100,000

d. Professional Liability

1.	When required by contract-per occurrence	\$1,000,000
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2. Upon being awarded the bid, the contractor must provide proof that such insurance will be in effect from the date of commencement of the project. The contractor will maintain insurance coverage at the above-prescribed levels through the date of completion of the project and that coverage will include all independent contractors and subcontractors. Either prior to or

simultaneously with the execution of the contract, the successful bidder must deliver certificates of insurance for the required insurance coverages to the County naming “Clay County, a political subdivision of the State of Florida; The Board of County Commissioners, Clay County, Florida; and all public agencies of Clay County, as their interests may appear” as “Additional Insureds.” Said certificates of insurance shall also include a thirty day prior written notice of cancellation, modification or non-renewal to be provided to the County.

3. The Board reserves the right to waive, raise or lower the minimum coverages required for particular projects prior to bid solicitation by affirmative action. The Board will not waive any defects in a bid submittal pertaining to matters under this subsection.

(N) Bid Awards and Protests:

1. Both the **INSTRUCTIONS** and the **PUBLISHED NOTICE** for every sealed bid solicitation shall include conspicuously the following statements:

FOLLOWING THE BID OPENING AND TABULATION, A “NOTICE OF INTENT TO AWARD BID” OR A “NOTICE OF REJECTION OF ALL BIDS” WILL BE POSTED ON THE INTERNET AT: [insert bid notice web address¹]. THIS WEBPAGE CAN ALSO BE ACCESSED FROM THE HOMEPAGE OF THE COUNTY’S WEBSITE AT: [insert County’s homepage address²] BY [insert suitable directions³]. NO OTHER NOTICE WILL BE POSTED.

PROSPECTIVE BIDDERS ARE NOTIFIED THAT THE FAILURE TO INCLUDE WITHIN THE SEALED BID ENVELOPE A PROPER BID BOND OR OTHER SECURITY

¹ As of the date on which this Purchasing Policy was adopted, the bid notice web address was: http://www.claycountygov.com/Departments/Finance/decision_bids.htm.

² As of the date on which this Purchasing Policy was adopted, the County’s homepage address was: <http://www.claycountygov.com/>.

³ As of the date on which this Purchasing Policy was adopted, suitable directions would be: “FOLLOWING THE “Notice of Intent Bids” LINK UNDER THE “Business” ROLLOVER BUTTON”.

APPROVED UNDER THE COUNTY'S PURCHASING POLICY, IF REQUIRED FOR THIS SOLICITATION, OR THE FAILURE TO FILE A WRITTEN NOTICE OF PROTEST AND TO FILE A WRITTEN PETITION INITIATING A FORMAL PROTEST PROCEEDING WITHIN THE TIMES AND IN THE MANNER PRESCRIBED IN SECTION 8.N. OF SAID POLICY, SHALL CONSTITUTE A WAIVER OF THE RIGHT TO PROTEST THE BID SOLICITATION, ANY ADDENDUM THERETO, OR THE BID DECISION, AS APPLICABLE, AND TO INITIATE A FORMAL PROTEST PROCEEDING UNDER SAID POLICY. THE COUNTY'S PURCHASING POLICY CAN BE VIEWED AT THE COUNTY'S WEBSITE BY FOLLOWING THE APPROPRIATE LINKS FROM THE HOMEPAGE ADDRESS SET FORTH ABOVE.

IF A PROSPECTIVE BIDDER IS IN DOUBT WHETHER THIS SOLICITATION REQUIRES A BID BOND, SUCH PROSPECTIVE BIDDER IS SOLELY RESPONSIBLE FOR MAKING APPROPRIATE INQUIRY.

2. Unless otherwise expressly directed by the Board in its decision on a bid award, immediately following such decision the County Manager shall cause a "Notice of Intent to Award Bid" or a "Notice of Rejection of All Bids" to be posted on the County's website, with the time and date of posting appearing thereon. Notice shall not be posted elsewhere. The notice shall be posted in portable document format or other secure format.
3. The failure on the part of a prospective bidder to include within the sealed bid envelope a proper bid bond or other security approved under this policy, if required for the particular bid solicitation, or the failure by a prospective bidder to file a written notice of protest and to file a written petition initiating a formal protest proceeding within the times and in the manner prescribed in this section shall constitute a waiver of the prospective bidder's right to protest the bid solicitation, any addendum thereto, the Board's bid decision, as applicable, and to initiate a formal protest proceeding hereunder.

4. A prospective bidder is solely responsible for determining whether a particular bid solicitation requires a bid bond, and for resolving any doubt by making appropriate inquiry.

5. The County Manager shall cause a copy of this policy to be posted on the County's website in portable document format or other secure format. The County Manager shall cause to be established conspicuous and easy-to-follow links to the policy from the homepage.

6. Any person who is adversely affected by a bid solicitation, by any addendum thereto, or by a bid decision may file with the County Manager a written notice of protest no later than 4:30 p.m. on the third business day immediately following the date notice is published, with respect to a bid solicitation; no later than 4:30 p.m. on the third business day immediately following the date of issuance, with respect to a bid addendum; and within 72 hours after the posting of the notice, exclusive of hours occurring during days that are other than business days, with respect to a bid decision.

7. A formal protest proceeding shall be deemed commenced upon the timely filing of a written petition initiating the same. A written petition initiating a formal protest proceeding must be filed with the County Manager no later than 4:30 p.m. on the tenth calendar day immediately following the date on which the written notice of protest was filed; provided, if the tenth calendar day is not a business day, then the petition must be filed no later than 4:30 p.m. on the first business day immediately following said tenth calendar day. The petition must set forth with particularity the facts and law upon which the protest is based. The petition must conform substantially with the requirements for petitions set forth in Rule 28-106.201, Florida Administrative Code. References in this section to a petition shall mean a written petition initiating a formal protest proceeding filed in accordance with this subsection.

8. Any protest of a bid solicitation or bid addendum shall pertain exclusively to the terms, conditions, and specifications contained in a bid solicitation or bid addendum, including any provisions governing the methods for ranking bids, proposals, or replies, awarding contracts, reserving rights of further negotiation, or modifying or amending any contract.

9. Upon receipt of a formal written notice of protest that has been timely filed, the County Manager shall suspend the bid solicitation or bid award process until the subject of the protest is resolved by final action as specified in this section, unless the County Manager sets forth in writing particular facts and circumstances which require the continuance of the solicitation or award process without delay in order to avoid an immediate and serious danger to the public health, safety, or welfare. Such suspension shall be lifted immediately in the event the protesting party shall have failed to timely file a petition.

10. Intervenors shall be permitted to participate in the formal protest proceeding in accordance with the procedures governing intervenor practice set forth in Rule Chapter 28-106, Florida Administrative Code, and shall be subject to all limitations provided therein applicable to intervenors.

11. In his or her discretion, the County Manager may provide an opportunity to resolve the protest by mutual agreement between the County Manager and the protesting party within 7 calendar days after receipt of a timely petition. Such agreement must be reduced to writing, signed by the County Manager and the protesting party or such party's authorized agent, and submitted to the Board at the earliest opportunity. The agreement shall not be deemed effective unless ratified by the Board. If the Board shall fail to ratify the agreement, then the protest shall proceed to resolution as hereinafter provided.

12. Within 10 business days following the timely filing of a petition, or, if the Board shall have considered but failed to ratify an agreement submitted to it under subsection 11, then within 10 business days thereafter, a hearing shall be conducted pursuant to subsection 13 before a hearing officer, who shall be the County Manager or his or her designee. The County Manager may designate any department head as the hearing officer; provided, a department head who is substantially involved in or connected with the bid solicitation or bid award process shall be deemed disqualified from serving as the hearing officer, unless such involvement or connection is purely ministerial in nature.

13. All hearings shall be conducted pursuant to written notice to the protesting party, the County Attorney's Office and all intervenors by the hearing officer specifying the time, date and place of the hearing. Particular rules and procedures governing each such hearing are as follows:

- a. The audio thereof shall be recorded electronically.
- b. Prior to the hearing only, motion practice may be permitted by the hearing officer in his or her discretion in accordance with the rules governing the same set forth in Rule Chapter 28-106, Florida Administrative Code. All motions shall be ruled upon prior to or at the start of the hearing, except that rulings on motions in limine may be deferred to an appropriate time during or after the hearing.
- c. Prior to the hearing, the protesting party, the County and all intervenors must confer and endeavor to stipulate to as many relevant and undisputed facts upon which the decision is to be based as may be practicable. Such stipulation must also identify those issues of material fact, if any, that remain in dispute. The stipulation must be reduced to a writing signed by or on behalf of the protesting party, the County and all intervenors, and be submitted to the hearing officer at least two business days prior to the hearing. The stipulation may include an appendix comprising documents that shall be deemed admitted and considered as evidence for purposes of the hearing, or referring to tangible items deemed admitted and considered as evidence for purposes of the hearing, which items shall either be presented at the hearing or, if such presentation is impractical, submitted to the hearing officer by graphic, descriptive, representational, photographic, videotape or similar medium properly depicting or characterizing the items.
- d. The protesting party and all intervenors shall have the right to appear before the hearing officer at the hearing in proper person or through counsel and, as to those issues of material fact, if any, that remain in dispute, as identified in the stipulation, to present relevant testimonial, documentary and tangible evidence, and to be heard on the substantive issues bearing on the protest. The County shall be deemed a party to the proceeding, and the County Attorney or any assistant county attorney may participate in the protest proceeding, appear before the hearing officer, present evidence and be heard on behalf of the County.

e. All witnesses shall be placed under oath by the hearing officer prior to testifying, and shall be subject to cross-examination by any hearing participant.

f. Hearsay evidence shall be admissible unless the hearing officer shall determine the same to be redundant, unreliable or prejudicial.

g. At the hearing any hearing participant may offer appropriate argument and summation, and submit a written brief and a proposed order, but only after the conclusion of the evidentiary portion of the hearing, if any.

h. Immediately following the hearing, the County Manager shall cause a written transcript of all testimonial evidence introduced at the hearing to be prepared expeditiously based upon the audio recording, and shall provide copies of the same to all of the hearing participants.

i. Within 7 business days following the hearing, the hearing officer shall submit a recommended order to the County Manager and serve copies on all hearing participants; provided, if the County Manager is the hearing officer, then within 7 business days following the hearing, the County Manager shall issue a recommended order and serve copies on all hearing participants. The recommended order shall contain findings of fact and, based upon such facts, a disposition of the protest; provided, no finding of fact may be predicated solely upon the basis of hearsay.

j. The recommended order shall thereafter be submitted to the Board along with the transcript of the hearing testimony and the entire written and tangible record of the protest proceedings at the earliest opportunity to be considered at a time certain, with notice thereof served upon the hearing participants. Each of the hearing participants shall be allowed 3 minutes to address the Board regarding the recommended order, unless the Chairman in his or her discretion shall allow additional time. If a hearing participant intends to challenge any finding of fact in a recommended order that was based upon testimonial evidence, such participant shall be allowed 2 additional minutes for such purpose, and may direct the attention of the Board members to any portion of the transcript relevant to the challenge. The other hearing participants shall each have the right to offer

argument in rebuttal to the challenge, and to direct the attention of the Board members to any portion of the transcript relevant to the rebuttal. No testimony or other evidence beyond the record and the transcript shall be presented to the Board. Thereafter the Board shall render its decision on the protest. In so doing the Board shall be bound by the findings of fact in the recommended order that are based upon testimonial evidence, except those for which it upholds a challenge. A challenge shall be upheld only if the finding of fact is not supported by competent, substantial evidence in the record or in the transcript. Otherwise, the Board shall not be bound by any of the provisions of the recommended order. The decision of the Board shall be reduced to a written order signed by the Chairman, and shall constitute final action of the County on the protest.

k. The date, type and substance of all ex parte communications between any Board member and a hearing participant, including counsel therefor or any agent thereof, and between any Board member and third party, must be publicly disclosed by the Board member prior to the rendering of the Board's decision. All such communications that are written or received electronically must be filed for the record, and copies thereof provided to each Board member and hearing participant.

14. All proceedings before the hearing officer shall be informal, and customary rules of evidence shall be relaxed. In all respects both the hearing officer and the Board shall observe the requirements of procedural and substantive due process that are the minimum necessary for accomplishing a fair, just and expeditious resolution of the protest.

15. Ex parte communications between a hearing participant and the hearing officer are forbidden. The hearing officer may take such steps as he or she may deem just and appropriate to prevent or sanction attempted ex parte communications, including promptly disclosing the attempted communication, or requiring the offending hearing participant to disclose promptly the attempted communication, to the other hearing participants. Where necessary, the hearing officer may recuse himself or herself, and the subsequently designated hearing officer may order the offending participant to pay for all or any portion of the costs incurred by the County and any other hearing participant strictly as a consequence of the ex parte communication or attempted ex parte communication, else be excluded from

further participation. Neither the County Attorney nor any assistant county attorney shall be subject to this subsection or prohibited from engaging in ex parte communications with the hearing officer.

16. The purpose of this policy is to promote fairness and public confidence in the competitive bidding process. To further such end, and except as otherwise specifically provided herein, the substantive law governing the resolution of bid protests found in the decisions of the Florida appellate courts, as well as any statutes or agency rules that may be applicable to the particular bid solicitation, shall guide the hearing officer and the Board in rendering a decision on a bid protest under this section. The significant principles of law governing the bid protest and the resolution thereof, which shall prevail to the extent not otherwise in conflict with any governing statutes or agency rules, are as follows:

- a. The burden is on the party protesting the award of the bid to establish a ground for invalidating the award.
- b. The standard of proof for the protest proceeding shall be whether the proposed award was clearly erroneous, contrary to competition, arbitrary, or capricious.
- c. The proposed award shall be deemed arbitrary or capricious if it is contrary in a material way to any governing statutes, the County's rules or policies, or the bid or proposal instructions or specifications.
- d. The scope of the inquiry is limited initially to whether the proposed award is improper under the foregoing standard of proof. If and only if the hearing officer first determines on the basis of competent and substantial evidence that the proposed award is improper, then the hearing officer may recommend, in accordance with the law and this policy, an alternate disposition for the proposed award. Such disposition may include, but shall not be limited to, rejecting all bids, or awarding all or a portion of the bid to the protesting party.
- e. A bid protest proceeding may not serve as a vehicle for the Board to revisit the proposed award absent a determination of impropriety as set forth above.

17. By written agreement amongst the protesting party, the County, and all then-existing intervenors, any provision of this section pertaining to the procedures for resolving a protest for which a petition has been timely filed may be modified or waived so long as such modification or waiver shall not hinder or thwart the proper and expeditious resolution of the protest, or otherwise operate to undermine the salutary purposes of competitive, public bidding.

18. Only to the extent necessary to avoid a miscarriage of justice or to prevent a manifest violation of a hearing participant's procedural or substantive due process rights, a hearing officer may modify or suspend the applicability of any of the provisions or requirements of this section in the course of conducting a protest proceeding hereunder; provided, a hearing officer may not modify or suspend any of the provisions or requirements of subsections 3, 4, 6, 7, 8, 16, 20, 21 and 22 hereof.

19. Except and to the extent specifically provided in this section, and except and to the extent otherwise specified provided by written agreement amongst the protesting party, the County, and all then-existing intervenors, no provisions of Rule Chapter 28-106, Florida Administrative Code, shall be deemed applicable to the resolution of protests under this section.

20. For purposes of this section, the filing with the County Manager of a written notice of protest or of a written petition initiating a formal protest proceeding shall be deemed accomplished only when the original written notice or original written petition has been physically received by the County Manager or his or her designee. A notice or petition shall be deemed original only if it bears the original signature of the protesting party or such party's authorized agent. No notice or petition may be filed by facsimile transmission or by e-mail, and any notice or petition received in such manner shall be deemed unfiled and ineffective. The use of an overnight delivery service or of the United States Postal Service to file a notice or petition shall be entirely at the risk of the person submitting the same, and any such notice or petition so received after the applicable deadline shall be deemed untimely.

21. For purposes of this section, a business day shall mean any 24-hour day that is not a Saturday, a Sunday, or a holiday observed by the County.

22. For purposes of this section, counsel shall mean an attorney who is a member of the Florida Bar in good standing.

23. For purposes of this section, all notices of protest and petitions initiating formal protest proceedings, and all stipulations, briefs, proposed findings of fact, written motions and proposed orders submitted to a hearing officer shall be on white, opaque paper 8 ½ by 11 inches in size. The pages of all such documents shall have margins on all sides of not less than 1 inch; shall be in Times New Roman or Courier New font no smaller than 12 in size, including footnotes and endnotes; shall have standard double-spacing between lines, excluding quotations, footnotes and endnotes; and shall be numbered at the bottom. All quotations shall be indented. Briefs shall not exceed 15 pages in length, and may not include any appendices. A digital copy of all written stipulations, briefs, proposed findings of fact, written motions and proposed orders submitted to the hearing officer must be simultaneously provided to the hearing officer in Word format, version 2000 or later, on compact disc or 3 ½” diskette.

24. For purposes of this section, a hearing participant shall mean and include the protesting party, the County and any intervenor.

25. This section shall be construed and implemented so as to secure the just, speedy, and inexpensive resolution of bid protests.









“NO BID” Statement

RFP # 08/09-3 Various Equipment and Amenities for Parks and Playgrounds, Clay County, Florida

If your company does not intend to bid on this procurement, please complete and return this form prior to the date shown for receipt of bids to:

Clay County Purchasing Division,
Attn: Donna Fish,
P.O. Box 1366
Green Cove Springs, FL 32043

We, the undersigned, decline to bid on the above referenced invitation to bid for the following reasons:

-  Specifications are too restrictive (please explain below or attach separately)
-  Unable to meet specifications
-  Specifications were unclear (please explain below or attach separately)
-  Insufficient time to respond
-  We do not offer this product or service
-  Our schedule would not permit us to perform at this time
-  Unable to meet bond requirements
-  Other (please explain below or attach separately)

Remarks: _____

Company Name: _____

Telephone: _____

Signature: _____

Fax #: _____

Print Name: _____

Title: _____

Address: _____

City: _____

Zip: _____

Request for Taxpayer Identification Number and Certification

**Give form to the
 requester. Do not
 send to the IRS.**

Print or type See Specific Instructions on page 2	Name (as shown on your income tax return)	
	Business name, if different from above	
	Check appropriate box: <input type="checkbox"/> Individual/ Sole proprietor <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Other ▶	
	<input type="checkbox"/> Exempt from backup withholding	
	Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
	City, state, and ZIP code	
List account number(s) here (optional)		

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Social security number								

or

Employer identification number								

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. person (including a U.S. resident alien).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. (See the instructions on page 4.)

Sign Here	Signature of U.S. person ▶	Date ▶
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Purpose of Form

A person who is required to file an information return with the IRS, must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

U.S. person. Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee.

In 3 above, if applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

For federal tax purposes, you are considered a person if you are:

- An individual who is a citizen or resident of the United States,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States, or
- Any estate (other than a foreign estate) or trust. See Regulations sections 301.7701-6(a) and 7(a) for additional information.

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,

- The U.S. grantor or other owner of a grantor trust and not the trust, and
- The U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person, do not use Form W-9. Instead, use the appropriate Form W-8 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien.

Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the recipient has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exemption contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity not subject to backup withholding, give the requester the appropriate completed Form W-8.

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments (after December 31, 2002). This is called "backup withholding." Payments that may be subject to backup withholding include interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 4 for details),

3. The IRS tells the requester that you furnished an incorrect TIN,

4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or

5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the instructions below and the separate Instructions for the Requester of Form W-9.

Also see *Special rules regarding partnerships* on page 1.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Name

If you are an individual, you must generally enter the name shown on your income tax return. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

Sole proprietor. Enter your individual name as shown on your income tax return on the "Name" line. You may enter your business, trade, or "doing business as (DBA)" name on the "Business name" line.

Limited liability company (LLC). If you are a single-member LLC (including a foreign LLC with a domestic owner) that is disregarded as an entity separate from its owner under Treasury regulations section 301.7701-3, enter the owner's name on the "Name" line. Enter the LLC's name on the "Business name" line. Check the appropriate box for your filing status (sole proprietor, corporation, etc.), then check the box for "Other" and enter "LLC" in the space provided.

Other entities. Enter your business name as shown on required federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name" line.

Note. You are requested to check the appropriate box for your status (individual/sole proprietor, corporation, etc.).

Exempt From Backup Withholding

If you are exempt, enter your name as described above and check the appropriate box for your status, then check the "Exempt from backup withholding" box in the line following the business name, sign and date the form.

Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends.

Note. If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

Exempt payees. Backup withholding is not required on any payments made to the following payees:

1. An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2),
 2. The United States or any of its agencies or instrumentalities,
 3. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities,
 4. A foreign government or any of its political subdivisions, agencies, or instrumentalities, or
 5. An international organization or any of its agencies or instrumentalities.
- Other payees that may be exempt from backup withholding include:
6. A corporation,
 7. A foreign central bank of issue,
 8. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States,
 9. A futures commission merchant registered with the Commodity Futures Trading Commission,
 10. A real estate investment trust,
 11. An entity registered at all times during the tax year under the Investment Company Act of 1940,
 12. A common trust fund operated by a bank under section 584(a),
 13. A financial institution,
 14. A middleman known in the investment community as a nominee or custodian, or
 15. A trust exempt from tax under section 664 or described in section 4947.

The chart below shows types of payments that may be exempt from backup withholding. The chart applies to the exempt recipients listed above, 1 through 15.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt recipients except for 9
Broker transactions	Exempt recipients 1 through 13. Also, a person registered under the Investment Advisers Act of 1940 who regularly acts as a broker
Barter exchange transactions and patronage dividends	Exempt recipients 1 through 5
Payments over \$600 required to be reported and direct sales over \$5,000 ¹	Generally, exempt recipients 1 through 7

¹See Form 1099-MISC, Miscellaneous Income, and its instructions.

²However, the following payments made to a corporation (including gross proceeds paid to an attorney under section 6045(f), even if the attorney is a corporation) and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees; and payments for services paid by a federal executive agency.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-owner LLC that is disregarded as an entity separate from its owner (see *Limited liability company (LLC)* on page 2), enter your SSN (or EIN, if you have one). If the LLC is a corporation, partnership, etc., enter the entity's EIN.

Note. See the chart on page 4 for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration office or get this form online at www.socialsecurity.gov. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/businesses and clicking on Employer ID Numbers under Related Topics. You can get Forms W-7 and SS-4 from the IRS by visiting www.irs.gov or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note. Writing "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded domestic entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 4, and 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). Exempt recipients, see *Exempt From Backup Withholding* on page 2.

Signature requirements. Complete the certification as indicated in 1 through 5 below.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account ¹
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor ²
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee ¹
b. So-called trust account that is not a legal or valid trust under state law	The actual owner ¹
5. Sole proprietorship or single-owner LLC	The owner ³
For this type of account:	Give name and EIN of:
6. Sole proprietorship or single-owner LLC	The owner ³
7. A valid trust, estate, or pension trust	Legal entity ⁴
8. Corporate or LLC electing corporate status on Form 8832	The corporation
9. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
10. Partnership or multi-member LLC	The partnership
11. A broker or registered nominee	The broker or nominee
12. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ You must show your individual name and you may also enter your business or "DBA" name on the second name line. You may use either your SSN or EIN (if you have one). If you are a sole proprietor, IRS encourages you to use your SSN.

⁴ List first and circle the name of the legal trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules regarding partnerships* on page 1.

Note. If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons who must file information returns with the IRS to report interest, dividends, and certain other income paid to you, mortgage interest you paid, the acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA, or Archer MSA or HSA. The IRS uses the numbers for identification purposes and to help verify the accuracy of your tax return. The IRS may also provide this information to the Department of Justice for civil and criminal litigation, and to cities, states, the District of Columbia, and U.S. possessions to carry out their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

You must provide your TIN whether or not you are required to file a tax return. Payers must generally withhold 28% of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to a payer. Certain penalties may also apply.



September 30, 2013

Town of Surfside
Stacie Barrett
9293 Harding Ave
Surfside FL 33154

Following is the Musco signed contract for the project that we are doing with you. If you could please have an official sign and return the contract to us, I would greatly appreciate it.

Thanks so much for your help and feel free to call me with questions.

Jill Sandeen
Credit Analyst
Ph: 800-825-6020
Fax: 641-673-6360
Jill.sandeen@musco.com

