SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM

SUBJECT: Construction Contract: CC-4623-09/DRR - Seminole County Regional Water Treatment Facility at Yankee Lake

DEPARTMENT: Administrative Services **DIVISION:** Purchasing and Contracts

AUTHORIZED BY: Frank Raymond **CONTACT:** Diane Reed **EXT:** 7120

MOTION/RECOMMENDATION:
(Continued from 9/22/09 BCC meeting) Award CC-4623-09/DRR - Seminole County Regional Water Treatment Facility at Yankee Lake in the amount of $40,822,000.00 to Encore Construction Company of Winter Garden, Florida.

County-wide Ray Hooper

BACKGROUND:

CC-4623-09/DRR will provide all labor, materials, equipment, tools, transportation, services and incidentals necessary for construction of a water treatment facility that extracts raw water from the St. John's River and treats it to meet reclaimed water quality standards, all in accordance with the drawings and specification in the complete scope of work. The water will be discharged to a new ground storage tank located on the site of the existing Seminole County Water Reclaimed Facility.

The project was publicly advertised and the County received four (4) responses, of which one (1) response was determined to be non-responsive. The Review Committee, consisting of Carol Hunter, Principal Engineer; Mike Harber, Engineer; and Dennis Westrick, PEI Manager, all from the Environmental Services Department, reviewed the remaining responses. Consideration was given to bid price, experience and qualifications.

The solicitation included several alternate bid items, and the Environmental Services Department has selected the bid alternates for the galvanizing of the structural elements for the Dewatering Building, and the interior liner panel for the metal portion of the Dewatering Building. In addition, the base bid included a lump sum allowance for the permitting, excavation, removal and relocation of approximately fifty-three (53) gopher tortoises. The solicitation also included unit price bid alternates for the individual excavation, removal and relocation for any additional gopher tortoises. These unit price alternates were selected in order to provide coverage for an estimated sixty (60) additional gopher tortoises, and all selected bid alternate prices have been included in the award amount.

The Review Committee recommends award to the lowest-priced, responsive, responsible bidder, Encore Construction Company, of Winter Garden, Florida, in the amount of $40,822,000.00, which includes the selected bid alternates. The completion time for the project is seven hundred and thirty (730) calendar days to Substantial Completion, and an additional sixty (60) calendar days to Final Completion, for a total Agreement time on seven hundred and ninety (790) calendar days from the issuance of a Notice to Proceed by the

County. Sales Tax recovery program will be used in this project. The back-up documentation includes the Tabulation Sheet.

The Engineer's Estimate for this project was $50,000,000.00, and funds are available in Yankee Lake Surface Water Plant (Account #087817.560650, CIP #00181601) and Environmental Services Grants (Account #087110.560650, CIP #00181601).

STAFF RECOMMENDATION:

Staff recommends that the Board award CC-4623-09/DRR - Seminole County Regional Water Treatment Facility at Yankee Lake in the amount of $40,822,000.00 to Encore Construction Company of Winter Garden, Florida.

ATTACHMENTS:

1. CC-4623-09_DRR-Award Agreement (Encore)
2. CC-4623-09_DRR-Backup Documentation

Additionally Reviewed By:

☑ County Attorney Review (Ann Colby)

CONSTRUCTION SERVICES AGREEMENT (CC-4623-09/DRR)
SEMINOLE COUNTY REGIONAL WATER TREATMENT FACILITY AT YANKEE LAKE

THIS AGREEMENT is dated as of the _____ day of _____ 20___, by and between **ENCORE CONSTRUCTION COMPANY**, duly authorized to conduct business in the State of Florida, whose mailing address is P.O. Box 771599, Winter Garden, Florida 34777-1599, hereinafter called "CONTRACTOR", and **SEMINOLE COUNTY**, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771, hereinafter called "COUNTY". COUNTY and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

W I T N E S S E T H:

SECTION 1. WORK. CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents, including the Scope of Services (attached hereto as Exhibit A) and the solicitation package and all addenda thereto. The Work is generally described as the Seminole County Regional Water Treatment Plant at Yankee Lake.

The Project for which the Work under the Contract Documents is a part is generally described as the Seminole County Regional Water Treatment Plant at Yankee Lake.

SECTION 2. ENGINEER.

(a) ENGINEER OF RECORD as named in the Contract Documents shall mean CH2M Hill, whose address is 225 E. Robinson Street, Suite 505 Orlando, Florida 32801.

(b) "Construction Manager" is the COUNTY's contracted Consultant for construction management and inspection services. As

named in the Contract Documents, "Construction Manager" shall mean Reiss Engineering, Inc., whose address is 12001 Research Parkway, Suite 228, Orlando, Florida 32826.

SECTION 3. CONTRACT TIME.

(a) All provisions regarding Contract Time are essential to the performance of this Agreement.

(b) The Work shall be substantially completed as described in subsection 14.13 of the General Conditions, within seven hundred thirty (730) calendar days after the date when the Contract Time begins to run as provided in subsection 2.2 of the General Conditions. The Work shall be finally completed, ready for Final Payment in accordance with subsection 14.9 of the General Conditions, within sixty (60) calendar days after the actual date of Substantial Completion.

(c) The parties acknowledge that the Contract Time provided in this Section includes consideration of adverse weather conditions common to Central Florida including the possibility of hurricanes and tropical storms.

(d) The Contract Time provided in this Section includes thirty (30) days allocated specifically to CONTRACTOR's responsibility for utility coordination or relocation of utilities at or adjacent to the Project site. The thirty (30) days shall be depicted by CONTRACTOR as float time not impacting Controlling Work Items on CONTRACTOR's critical path scheduling. No Contract Time extensions shall be considered related to utility coordination matters including, but not limited to, utility relocations and conflicts unless the utility

related time impacts exceed thirty (30) Days impact on Controlling Items of Work in accordance with the Project Schedule.

(e) In the event that the Work requires phased construction, then multiple points of Substantial Completion may be established in the Supplementary Conditions.

SECTION 4. CONTRACT PRICE.

(a) COUNTY shall pay CONTRACTOR for performance of the Work in accordance with the Contract Documents on the basis of the Total Bid (original Contract Price). CONTRACTOR's total compensation is FORTY MILLION EIGHT HUNDRED TWENTY-TWO THOUSAND AND NO/100 DOLLARS ($40,822,000.00) subject only to increases or decreases made in strict conformance with the Contract Documents.

(b) CONTRACTOR agrees to accept the Contract Price as full compensation for doing all Work, furnishing all Materials, and performing all Work embraced in the Contract Documents; for all loss or damage arising out of performance of the Work and from the action of the elements or from any unforeseen or unknown difficulties or obstructions which may arise or be encountered in the prosecution of the Work until the Final Acceptance; and for all risks of every description connected with the Work.

(c) CONTRACTOR acknowledges that CONTRACTOR studied, considered, and included in CONTRACTOR's Total Bid (original Contract Price) all costs of any nature relating to: (1) performance of the Work under Central Florida weather conditions; (2) applicable law, licensing, and permitting requirements; (3) the Project site conditions, including but not limited to, subsurface site conditions;

(4) the terms and conditions of the Contract Documents, including, but not limited to, the indemnification and no damage for delay provisions of the Contract Documents.

(d) CONTRACTOR acknowledges that performance of the Work will involve significant Work adjacent to, above, and in close proximity to Underground Facilities including utilities which will require the support of active utilities, as well as, the scheduling and sequencing of utility installations and relocations (temporary and permanent) by CONTRACTOR.

(1) In addition to the acknowledgments previously made, CONTRACTOR acknowledges that CONTRACTOR's Total Bid (original Contract Price) specifically considered and relied upon CONTRACTOR's own study of Underground Facilities, utilities in their present, relocated (temporary and permanent) and proposed locations, and conflicts relating to utilities and Underground Facilities.

(2) CONTRACTOR acknowledges that CONTRACTOR's Total Bid (original Contract Price) considered and included all of CONTRACTOR's costs relating to its responsibilities to coordinate and sequence the Work of CONTRACTOR with the work of COUNTY with its own forces, the work of other utility contractors, and the work of others at the Project site.

SECTION 5. SALES TAX RECOVERY. Where it is deemed by COUNTY to be in the best interest to do so, COUNTY and CONTRACTOR shall utilize the Sales Tax Recovery procedures as described in Section 8.1513, Seminole County Administrative Code, and Article 1, Section 1.5, Seminole County Manager Policies and Procedures, Guide to Purchasing,

as may be amended from time to time. Said Policies and Procedures are attached herein as Exhibit E.

SECTION 6. PAYMENT PROCEDURES.

(a) *Application for Payment.* CONTRACTOR shall submit Applications for Payment in accordance with Section 14 of the General Conditions. Applications for Payment will be processed by ENGINEER as provided in the General Conditions.

(b) *Progress Payments.* COUNTY shall make progress payments on the basis of CONTRACTOR's Applications for Payment as recommended by ENGINEER, in accordance with Section 14 of the General Conditions.

(c) *Final Payment.* Upon Final Completion and acceptance of the Work in accordance with subsection 14.9.1 of the General Conditions, COUNTY shall pay the remainder of the Contract Price as provided in subsection 14.9.1.

SECTION 7. ADDITIONAL RETAINAGE FOR FAILURE TO MAINTAIN PROGRESS ON THE WORK.

(a) Retainage under the Contract Documents is held as collateral security to secure completion of the Work.

(b) In the event that CONTRACTOR fails to physically mobilize to the Work site as required by Section 6.19 of the General Conditions, COUNTY may withhold additional retainage to secure completion of the Work in an amount equal to the product of the number of days after the 31st day following the Date of Commencement of Contract Time and the liquidated damage amount for Substantial Completion set forth in Section 9 of this Agreement. The additional retainage will be withheld from the initial and each subsequent

Progress Payment. The additional retainage held under this subsection will be released to CONTRACTOR in the next Progress Payment following the ENGINEER's approval of a supplementary Progress Schedule demonstrating that the requisite progress will be regained and maintained as required by Section 6.19.2 of the General Conditions.

(c) If CONTRACTOR is behind schedule and it is anticipated by COUNTY that the Work will not be completed within the Contract Time, COUNTY may withhold additional retainage in anticipation of liquidated damages equal to the product of the number of days after the scheduled Contract Time (Substantial Completion or Final Completion) and the amount of liquidated damages set forth in Section 9 of this Agreement. The additional retainage under this subsection may, at COUNTY's discretion, be withheld from subsequent Progress Payments. Any additional retainage held under this subsection shall be released to CONTRACTOR in the next Progress Payment following the ENGINEER's approval of a supplemental Progress Schedule demonstrating that the requisite progress will be regained and maintained as required by Section 6.19.2 of the General Conditions.

SECTION 8. CONTRACTOR'S REPRESENTATIONS. In order to induce COUNTY to enter into this Agreement, CONTRACTOR makes the following representations:

(a) CONTRACTOR has familiarized himself with the nature and extent of the Contract Documents, Work, locality, and weather; utility locations; all local conditions; Chapter 220, Part 1, "Purchasing Code", Seminole County Code; federal, state, and local laws; and ordinances, rules, policies, and regulations that in any manner may

affect cost, progress, or performance of the Work.

(b) CONTRACTOR has studied carefully and considered in its Bid all reports of investigations and tests of subsurface and physical conditions of the site affecting cost, progress, scheduling, or performance of the Work.

(c) CONTRACTOR has studied carefully and considered in its Bid the Plans and Specifications, performed necessary observations and examinations, and studied the physical conditions at the site related to Underground Facilities, utility installations, conflicts, relocations (temporary and permanent), and all other Underground Facilities and utility related conditions of the Work and site that may affect cost, progress, scheduling, or any aspect of performance of the Work and that its Bid reflects all such conditions. CONTRACTOR, by submitting its Bid and executing this Agreement, acknowledges the constructability of the Work under the Plans and Specifications. CONTRACTOR, by its study, excludes and releases COUNTY from any implied warranties, including but not limited to, the "Spearin Doctrine", and acknowledges that the Plans and Specifications are adequate to perform the Work.

(d) CONTRACTOR has made or caused to be made examinations, investigations, tests, and studies as it deems necessary for the performance of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents; and no additional examinations, investigations, tests, reports, or similar data are or will be required by CONTRACTOR for such purposes.

(e) CONTRACTOR has correlated the results of all such observations, examinations, investigations, tests, reports, and data with the terms and conditions of the Contract Documents.

(f) CONTRACTOR has given ENGINEER written notice of all conflicts, errors, or discrepancies that it has discovered in the Contract Documents; and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.

(g) CONTRACTOR declares and agrees that the approval or acceptance of any part of the Work or Material by COUNTY, ENGINEER, or any agent relating to compliance with the Contract Documents shall not operate as a waiver by COUNTY of strict compliance with the terms and conditions of the Contract Documents.

(h) CONTRACTOR declares and agrees that COUNTY may require him to repair, replace, restore, or make all things comply with the Contract Documents including all Work or Materials which within a period of two (2) years from Acceptance by COUNTY are found to be defective or fail in any way to comply with the Contract Documents. CONTRACTOR acknowledges that the above two (2) year repair, replace, and restoration period is separate from and additional to CONTRACTOR's warranty that the Work has been completed in compliance with the Contract Documents. The two (2) year repair, replace, and restoration period is not a limitation upon CONTRACTOR's other warranties or Material and Workmanship Bond.

(i) CONTRACTOR's resident Superintendent at the Work site shall be Norm Viggiano, and this Superintendent only shall be utilized by CONTRACTOR unless otherwise approved by COUNTY Project Manager after

following the procedure indicated in the General Conditions.

(j) CONTRACTOR has studied carefully and considered all permit requirements related to performance of the Work. CONTRACTOR declares and agrees that all costs related to performing the Work in compliance with the requirements of all permits at the Contract Price are included in the Contract Price. CONTRACTOR agrees that it shall be solely responsible for payment of all fines and penalties of any nature assessed to CONTRACTOR, COUNTY, or both by any governmental entity, district, or authority, or other jurisdictional entity, relating to all permits required for performance of the Work.

(k) CONTRACTOR acknowledges that the performance of the Work under the Contract Documents fulfills a COUNTY, CONTRACTOR and public purpose. To that end, CONTRACTOR agrees to respond to citizen complaints, related to alleged damage caused by CONTRACTOR's performance of the Work, within ten (10) days of receipt of the complaint from any citizen, ENGINEER, or COUNTY. CONTRACTOR shall utilize the attached "Report of Unsatisfactory Materials and/or Service" form to respond separately to each complaint. When a complaint is brought to CONTRACTOR by a citizen, CONTRACTOR shall identify the citizen and street address in the "Statement of Problem". Responses and action taken by CONTRACTOR shall specifically identify the problem and specific actions taken. Generic statements such as "addressed the problem" are unacceptable. If CONTRACTOR fails to respond within ten (10) days, COUNTY may take corrective action and deduct the actual costs of corrective action from subsequent Progress Payments or the retainage.

(1) CONTRACTOR acknowledges that county-owned property obtained for performance of the Work within the project limits includes temporary construction easements. In the event that CONTRACTOR fails to perform the Work within the Contract Time, then CONTRACTOR shall be solely responsible for payment of all costs for additional or extended temporary construction easements. CONTRACTOR authorizes COUNTY to deduct the actual costs of additional or extended temporary construction easements from subsequent Progress Payments or the retainage.

SECTION 9. CONTRACT DOCUMENTS.

(a) The Contract Documents which comprise the entire agreement between COUNTY and CONTRACTOR are made a part hereof and consist of the following, in order of precedence:

(1) This Agreement;

(2) Bid Form, attached hereto as Exhibit B;

(3) Trench Safety Act, attached hereto as Exhibit C; and

(4) American with Disabilities Act Affidavit, attached hereto as Exhibit D;

(5) Sales Tax Recovery, attached hereto as Exhibit E;

(b) As the Project progresses, additional documents shall become part of the Agreement between COUNTY and CONTRACTOR. These documents are:

(1) Performance Bond;

(2) Payment Bond;

(3) Material and Workmanship Bond;

(4) Specifications;

(5) Technical Specifications Provided in these Contract Documents;

(6) General Conditions;

(7) Supplementary Conditions including any utility-specific forms provided by County's Utility Division;

(8) Notice to Proceed;

(9) Change Orders;

(10) Certificate of Substantial Completion;

(11) Certificate of Final Inspection;

(12) Certificate of Engineer;

(13) Certificate of Final Completion;

(14) Contractor's Release;

(15) Drawings and Plans;

(16) Supplemental Agreements;

(17) Contractor's Waiver of Lien (Partial);

(18) Contractor's Waiver of Lien (Final and Complete);

(19) Subcontractor/Vendor's Waiver of Lien (Final and Complete);

(20) Consent of Surety to Final Payment;

(21) Instructions to Bidders; and

(22) Contractor's Insurance Requirements, Certificate, and Insurance Policies.

(c) There are no Contract Documents other than those listed above in this Section 8. The Contract Documents may only be altered, amended, or repealed by a modification as provided in the General Conditions.

SECTION 10. LIQUIDATED DAMAGES.

(a) COUNTY and CONTRACTOR recognize that time is essential to the performance of this Agreement, and CONTRACTOR recognizes that COUNTY and its traveling public will suffer financial loss if the Work is not substantially completed as described in subsection 14.13 of the General Conditions within the time specified below, plus any extensions thereof allowed in accordance with Section 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or alternative dispute resolution proceeding the damages resulting from inconvenience to the traveling public including traffic loading, intersection operations, costs for time, costs of fuel, and costs for some environmental impacts (excluding actual delay damages which may include, but are not limited to, engineering fees and inspection costs) suffered by COUNTY if the Work is not completed on time. Accordingly, CONTRACTOR and CONTRACTOR's Surety agree to pay COUNTY as liquidated damages, and not as a penalty, THREE THOUSAND AND NO/100 DOLLARS ($3,000.00) per day for each day CONTRACTOR exceeds the Contract Time for Substantial Completion until the Work is Substantially Complete. It is agreed that if this Work is not Finally Completed in accordance with the Contract Documents, CONTRACTOR shall pay COUNTY as liquidated damages for delay, and not as a penalty, one-fourth (1/4) of the rate set forth above.

(b) CONTRACTOR shall pay or reimburse, in addition to the liquidated damages specified herein, COUNTY's actual damages which may include, but are not limited to, expenses for engineering fees and

inspection costs arising from CONTRACTOR's failure in meeting either or both the Substantial Completion and Final Completion dates.

(c) The liquidated damages provided in this Section are intended to apply even if CONTRACTOR is terminated, in default, or if CONTRACTOR has abandoned the Work.

SECTION 11. MISCELLANEOUS.

(a) Terms used in this Agreement which are defined in Section 1 of the General Conditions shall have the meanings indicated in the General Conditions.

(b) No assignments by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound, and any such assignment shall be void and of no effect. Specifically, but without limitation, monies that may become due and monies that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

(c) COUNTY and CONTRACTOR each binds itself and its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

SECTION 12. CONTRACTOR'S SPECIFIC CONSIDERATION. In consideration of CONTRACTOR's indemnity agreements as set out in the Contract Documents, COUNTY specifically agrees to pay CONTRACTOR the sum of TWO HUNDRED FIFTY AND NO/100 DOLLARS ($250.00). CONTRACTOR acknowledges receipt of the specific consideration for CONTRACTOR's indemnification of COUNTY and that the specific consideration is included in the original Contract Price allocated by CONTRACTOR among all pay items, receipt of which is hereby acknowledged.

SECTION 13. NOTICES. Whenever either party desires to give notice unto the other including, but not limited to, Contract Claims, it must be given by written notice, hand delivered, signed and dated for receipt, or be sent by certified United States mail, return receipt requested, addressed to the party for whom it is intended at the place last specified. The place for giving of notice shall remain such until it has been changed by written notice in compliance with the provisions of this Section. For the present, the parties designate the following as the respective places for giving of notice, to wit:

For COUNTY:

Environmental Services Department
500 W. Lake Mary Boulevard
Sanford, FL 32773

For CONTRACTOR:

Encore Construction Company
P.O. Box 771599
Winter Garden, FL 34777-1599

SECTION 14. CONFLICT OF INTEREST.

(a) CONTRACTOR agrees that it will not engage in any action that would create a conflict of interest in the performance of its

obligations pursuant to this Agreement with COUNTY or which would violate or cause others to violate the provisions of Part III, Chapter 112, Florida Statutes, relating to ethics in government. (See County Personnel Policy 103.0)

(b) CONTRACTOR hereby certifies that no officer, agent or employee of COUNTY has any material interest (as defined in *Section* 112.312 (15), Florida Statutes, as over 5 percent) either directly or indirectly, in the business of CONTRACTOR to be conducted here and that no such person shall have any such interest at any time during the term of this Agreement.

(c) Pursuant to Section 216.347, Florida Statutes, CONTRACTOR hereby agrees that monies received from COUNTY pursuant to this Agreement will not be used for the purpose of lobbying the legislature or any other State or Federal agency.

SECTION 15. MATERIAL BREACHES OF AGREEMENT.

(a) The parties recognize that breaches of the Contract Documents may occur and that remedies for those breaches may be pursued under the Contract Documents. The parties further recognize that the safety of the traveling public is of paramount concern. Therefore, the parties agree that any breach of the Contract Documents related to life safety, including but not limited to, the maintenance of traffic requirements of the Contract Documents, shall be considered a breach of the Contract Documents.

(b) Upon a material breach of the Contract Documents related to life safety as determined by ENGINEER, the ENGINEER shall issue a Stop Work Order suspending the Work or any specific portion of the Work

until the conditions are corrected. If the life safety conditions giving rise to the Stop Work Order are not corrected within a reasonable time, as determined by ENGINEER, then the material breach shall entitle COUNTY to terminate this Agreement. The recognition of breaches of the provisions of the Contract Documents related to life safety as material breaches shall not be construed as a limitation on other remedies for breaches or material breaches of the Contract Documents.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement. All portions of the Contract Documents have been signed or identified by COUNTY and CONTRACTOR or by ENGINEER on their behalf.

ATTEST: ENCORE CONSTRUCTION COMPANY

_____ By: _____

LOUISE B. RAINEY, Secretary PATRICK T. RAINEY, President

(CORPORATE SEAL) Date: _____

(Remainder of page left intentionally blank)

ATTEST:

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

_____
MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida.

By:_____
BOB DALLARI, Chairman

Date:_____

For the use and reliance
of Seminole County only.

Approved as to form and
legal sufficiency.

As authorized for execution
by the Board of County Commissioners
at their _____, 20_____
regular meeting.

_____
County Attorney
AC/lpk/ljp
8/3/09 8/6/09
P:\Users\Legal Secretary CSB\Purchasing 2009\Agreements\CC-4623.doc

Attachments:
- Exhibit A - Scope of Services
- Exhibit B - Bid Form
- Exhibit C - Trench Safety Act
- Exhibit D - American with Disabilities Act Affidavit
- Exhibit E - Sales Tax Recovery

Exhibit A

Work Summary

The Contractor is responsible for all labor, materials, equipment, coordination, permits, and incidentals necessary for the work for Seminole County Regional Water Treatment Facility at Yankee Lake Project. Work will include, but not limited to:

1. Construction of a raw water pump station and intake structure on piles to be located on a canal off of the St Johns River.
2. Dredging as required to support the construction of the intake structure.
3. Installation of a boat dock at the raw water pump station and intake structure site.
4. Construction of an at-grade road that runs from an existing paved road on the plant site to the raw water pump station. In general this road will be located parallel to an existing FPL easement.
5. Installation of underground piping from the raw water pump station to the treatment facility site. In general this piping will be located under the new at-grade road.
6. Installation of a pig launcher and retrieval station.
7. Installation of buried conduits for electric power and fiber optic cable. The power conduits will be routed within the FPL easement that is adjacent to the at grade road. The conduits for the fiber optic cable will be routed under the road. Spare conduits will be provided for future use.
8. Construction of treatment facilities including Kruger Actiflo Process, chlorine contact basins, sludge gravity thickeners, sludge dewatering process, belt filter press system, and polymer system.
9. Construction of multiple structures on the treatment plant site, including pre-engineered, prefabricated structures, cast-in-place, masonry and metal structures.
10. Piping, electrical, instrumentation, control, HVAC and plumbing work at both the treatment plant site and raw water pump station.
11. Grading, paving and road work at the treatment plant site
12. Grading and road work along the route to the raw water pump station.
13. Installation of buried conduits from the existing FP&L overhead line along Yankee Lake Road to each of two FP&L service transformers at the treatment plant site.
14. Installation of a prestressed concrete ground storage tank adjacent to an existing tank at the Yankee Lake Regional Water Reclamation Facility site.
15. Tie-in to an existing 8-inch potable water line.
16. Tie-ins to existing piping at the existing Ground Storage Tank.

17. Furnish, install, connect and test a SCADA fiber optic loop and tie into the County system.

18. Furnish and install perimeter fencing with electronic gates.

ORIGINAL

EXHIBIT B

BID FORM

SEMINOLE COUNTY, FLORIDA
FOR THE CONSTRUCTION OF

PROJECT: Seminole County Regional Water Treatment Facility at Yankee Lake
COUNTY CONTRACT NO. CC-4623-09/DRR

Name of Bidder: Encore Construction Company

Mailing Address: P.O.Box 771599, Winter Garden, FL 34777-1599

Street Address: 370 East Crown Point Road

City/State/Zip: Winter Garden, FL 34787

Phone Number: (407) 877-5903

FAX Number: (407) 877-5912

Contractor License Number: CGC049828

TO: Purchasing and Contacts Division of Seminole County, Florida

Pursuant to and in compliance with your notice inviting sealed Bids (Invitation for Bid), Instructions to Bidders, and the other documents relating thereto, the undersigned Bidder, having familiarized himself with the terms of the Contract Documents, local conditions affecting the performance of the Work, and the cost of the Work at the place where the Work is to be done, hereby proposes and agrees to perform within the time stipulated in the Contract Documents, including all of its component parts and everything required to be performed, and to provide and furnish any and all of the labor, Material, and tools, expendable Equipment, and all utility and transportation services necessary to perform the Work and complete in a workmanlike manner, all of the Work required in connection with the construction of said Work all in strict conformity with the Plans and Specifications and other Contract Documents, including Addenda Nos. 1 through 6, on file at the Purchasing Division for the Total Bid (Contract Price) hereinafter set forth.

The undersigned Bidder agrees that the Work shall be completed according to the schedule set forth in the Contract Documents.

The undersigned Bidder further agrees to pay liquidated damages as described in the Contract Documents.

Bid prices must be stated in words in accordance with these Instructions to Bidders in the blank space(s) provided for that purpose.

Bidder acknowledges that it has read and fully understands all Sections of the Instructions To Bidders.

The undersigned, as Bidder, declares that the only persons or parties interested in this proposal as principals are those named herein; that this proposal is made without collusion with any person, firm or corporation; and he proposes and agrees, if the proposal is accepted, that he will execute an Agreement with the COUNTY in the form set forth in the Contract Documents; that he will furnish the Contract Security, Insurance Certificates, Endorsements, and Policies, that he is aware that failure to properly comply with the requirements set out in the "Instructions to Bidders" and elsewhere in the Contract Documents may result in a finding that the Bidder is non-responsive and may cause a forfeiture of the Bid Security.

Attention: Bids shall only be considered from those Bidders who have obtained these Contract Documents from the COUNTY directly or via the website (www.seminolecountyfl.gov/purchasing).

BID FORM

Pursuant to and in compliance with your Invitation for Bid, the Instructions to Bidders, and other documents relating thereto, the undersigned hereby agrees to furnish all labor, Materials and Equipment to do the Work in strict accordance with the Contract Documents and all addenda, if any, issued prior to the date of this Bid at the Total Bid herein as follows:

TOTAL AMOUNT OF BID: 40,560,000
Numbers

FORTY MILLION FIVE HUNDRED SIXTY THOUSAND DOLLARS
(IN WORDS)

1. The Bidder acknowledges that the Total Amount of Bid stated above includes the sum of $250.00 or 1% of the Bid whichever is greater, specific consideration for indemnification.

2. The Bidder acknowledges that the Total Amount of Bid stated above includes compensation for all Work, labor, permits, bonds, equipment, materials, and any and all incidental costs necessary for the proper execution of the required services.

BID SUBMITTAL CHECKLIST

The Bidder acknowledges the receipt, execution, and return of the following forms:

Section	Form	Included ☑
00100	Bid (addendum acknowledged)	X
	Bid Security (acceptable type)	X
00110	Trench Safety Act	X
00120	Bidder Information (inc. W-9)	X
00200	Non-Collusion Affidavit of Bidder	X
00300	Certification of Non-segregated Facilities	X
00310	Americans with Disabilities Act	X
00320	Drug-Free Workplace	X
00330	Public Entity Crimes	X
00340	Compliance with Public Records	X
	Copies of required Licenses	X

IN WITNESS WHEREOF. BIDDER has hereunto executed this BID FORM this 29th day of July, 2009.

Encore Construction Company
(Name of BIDDER)

(Signature of person signing this BID FORM)

Patrick T. Rainey
(Printed name of person signing this BID FORM)

President
(Title of person signing this BID FORM)

ACCOMPANYING THIS BID IS "Bidder's Bond"

(insert the word(s) "cashier's check," bidder's bond," certified check," or other security as provided by law, as the case may be) in an amount equal to at least five percent (5%) of the Total Bid, payable to the

BOARD OF COUNTY COMMISSIONERS, SEMINOLE COUNTY, FLORIDA

The undersigned deposits above-named security as a Bid guarantee and agrees that it shall be forfeited to the COUNTY as liquidated damages in case this Bid is accepted by the COUNTY and the undersigned fails to execute an Agreement with the COUNTY as specified in the Contract Documents accompanied by the required Payment and faithful Performance Bonds with Sureties satisfactory to the COUNTY, and accompanied by the required certificates of insurance coverage, and endorsements. Should the COUNTY be required to engage the services of an attorney in connection with the enforcement of this Bid, Bidder promises to pay COUNTY's reasonable attorney's fees and costs (including attorney's fees and costs on appeals) incurred with or without suit.

BID FORM

SEMINOLE COUNTY REGIONAL WATER TREATMENT FACILITY AT YANKEE LAKE

EncoreConstruction Company

Item No.	Item	Units	Qty	Unit Price	Price	
1	Regional Surface Water Facility at Yankee Lake	LS	1	N/A	37,806,000 $	
2	Allowance for Permit Fees	LS	1	N/A	$245,000.00	
3	Allowance for computer equipment as identified in Section 13411 Supplement Component and Panel List. See section 01025 1.02.D.1 for details. Note that the allowance includes just the invoice price of the computer hardware and software. The following work is included in the base bid but is not part of the allowance: SCADA software, computer submittal preparation, integration, networking, installation, commissioning, and testing.	LS	1	N/A	$20,000.00	
4	River dredging including mobilization, obtaining required permits and off-site disposal of material. Removal of 8,000 Cu Yds to be included in this item.	Cu Yd	8,000	31.50	252,000	
5	Removal and off-site disposal of muck along raw water pipeline route. Note that this item only includes muck removal that is identified on the markups to drawings 05-C-36 to 05-C-37 as being included in the Unit Price work. Removal of 7,500 Cu Yds to be included in this item.	Cu Yd	7500 DPR ~~8,000~~	13.44	100,800	
6	Placement of clean sand to replace unsuitable soils along the the raw water pipeline. Note that this item only includes sand placement that is identified on the markups to drawings 05-C-35 to 05-C-37 as being included in the Unit Price work. Placement of 8,000 Cu Yds to be included in this item.	Cu Yd	8000 DPR ~~7,500~~	8.85	70,800	
7	Placement of Number 57 stone along the the raw water pipeline. Placement of 1,300 Cu Yds to be included in this item.	Cu Yd	1,300	52.46	68,200	68,198
8	Supply and installation of indicator piles, including the cost of cut-off and disposal of piles and PDA and CAPWAP analysis. Estimated length of individual piles is 100 feet. Total pile length to be included in this item is 1300 ft.	FT	1,300	94.54	122,900	122,902
9	Supply and installation of production piles, including the cost of cut-off and disposal of piles. Estimated length of individual piles is 90 feet. Total pile length to be included in this item is 12760 feet.	FT	12,760	54.60	696,700	696,696
10	Buildup of piles up to 3 feet. Total of 18 piles to be included in this item.	Each	18	2,111.11	38,000	
11	Splicing of piles that require more than 3 feet increase in length. Total of 10 piles to be included in this item.	Each	10	3,800	38,000	
12	Supply and installation of rip rap as shown on the drawings. Total of 9,560 tons to be included in this item	Ton	9,560	42.01	401,600	401,616
13	Allowance for purchase of equipment to access raw water pump station during flooding and high water events	LS	1	N/A	$500,000.00	
14	Allowance for the permitting, excavation, removal and relocation of gopher tortoises by a company certified by the State of Florida for gopher tortoise relocation	LS	1	N/A	$200,000.00	

TOTAL AMOUNT OF BASE BID $ 40,560,000

(Sum of Bid Items 1 through 14)

BID ALTERNATIVES (Contractor to maintain prices for additions and deletions for 365 days after bid award by County)

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Item No.	Item	Units	Price (indicate additional cost with a "+" and deducts with a "-"	
15	Galvanizing the structural elements of the Dewatering Building (see section 13122 Metal Building Systems).	LS	17,000	include
16	Providing an interior liner panel for the metal portion of the Dewatering Building (see section 13122 Metal Building Systems).	LS	20,000	include
17	Delete purchase and installation of belt filter press #2 and appurtenances. This includes the installation of the following Owner furnished equipment: belt filter press unit, belt filter press feed pump #3, water booster pump #3. Cap piping at tee outlet to allow the future installation of this equipment and associated piping. Delete supply and installation of Hi-Solids Cake Pump #2 and associated piping to the truck discharge line header. Provide tee with cap for the future installation of this piping. Delete all electrical circuits associated with the deleted equipment. Provide spare circuits in MCCs and panelboards for the future installation of these circuits. Provide all platforms and stairs shown on the structural drawings. Delete equipment pads provided for deleted equipment.	LS	<325,000>	
18	Delete supply and installation of the overhead traveling bridge crane in the Dewatering Building. This includes the crane, crane rails and electrical circuits associated with the crane. Provide spare circuits in MCCs and panelboards for the future installation of these circuits. Building features such as special foundation reinforcement are still to be provided.	LS	<50,000>	
19	Deletion of one 42-inch HDPE Raw Water Pipe. Cap the CLDI pipe at the transition from CLDI to HDPE.	LS	<1,300,000>	
20	Delete supply and installation of Gravity Thickener No. 2. This includes the gravity thickener structure, associated cathodic protection, foundation, the portion of the walkway NE of the stairway, the sludge pipe to the belt filter press feed pump (cap at unloading station wye for future installation of this piping), overflow pipe to the recovery basin (cap pipe at wye for future installation of this piping), all electrical circuits associated with the deleted equipment. Provide spare circuits in MCCs and panelboards for the future installation of these circuits.	LS	<380,000> ~~<1,300,000>~~	PTR 7/29/09
21	Delete supply and installation of Raw Water Pump No. 5. This includes the pump itself, associated instrumentation, pump discharge piping (provide tee and cap for future installation of this pump/piping), electrical circuits associated with the pump. Provide spare circuits in MCCs and panelboards for the future installation of these circuits.	LS	<120,000>	
22	Replace the V134 Gate Valves shown on drawing 05-C-38 with V122 Gate Valves (see Addendum 7). The other V134 valves will remain unchanged.	LS	85,000	
23	Removal and relocation of gopher tortoise as required in Item #14	EA	2,500	include @ 60

include @ 60

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24	Excavation of a gopher tortoise burrow to determine if gopher tortoise is present.	EA	1,250

Unit Price Items-Bid Alternatives

Item No.	Item	Units	Unit Price
25	Additional 1000 gallons of Ferric Sulfate (43.6 percent)	EA	3,600
26	Additional 1000 gallons of Potassium Hydroxide (45 percent)	EA	7,100
27	Additional 1000 gallons of Sodium Hypochlorite (12.5 percent)	EA	1,200
28	Additional 1000 gallons of Sulfuric Acid (93 percent)	EA	1,400
29	Additional microsand	TON	300
30	Plant Site clearing and grubbing. This item may be used to increase or decrease the area to be cleared and grubbed relative to the currently defined limits of clearing and grubbing.	ACRE	3,500
31	Fencing per detail 2030A. This item may be used to increase or decrease the total fence length around the treatment plant site.	FT	26
32	Supply and installation of 30 additional production piles at the Raw Water Pump Station, including the cost of cut-off and disposal of piles. Estimated length of individual piles is 70 feet. Total pile length to be included in this item is 2100 feet. General area of the piles is identified on the contract drawings.	FT	46

EXHIBIT C

TRENCH SAFETY ACT (if applicable for this project)
SECTIONS 553.60-553.64, FLORIDA STATUTES

NOTICE TO BIDDERS:

In order to comply with the Trench Safety Act, the Bidder is required to specify the costs of compliance. These costs **are not a separate pay item.** The Bidder must also reference the Trench Safety Standards which will be in effect during construction, and assure in writing that the Bidder will comply with the applicable Trench Safety Standards.

TRENCH SAFETY MEASURE	UNITS OF MEASURE	QUANTITY	UNIT COST	EXTENDED COST
Extended Layback	LF	60,000	$1.00	$60,000.00

TOTAL $ 60,000.00

Patrick T. Rainey, President
Printed Name

Signature

Encore Construction Company
Bidder Name

July 29, 2009
Date

EXHIBIT (D)

AMERICANS WITH DISABILITIES ACT AFFIDAVIT

The undersigned CONTRACTOR swears that the information herein contained is true and correct and that none of the information supplied was for the purpose of defrauding COUNTY.

The CONTRACTOR will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The CONTRACTOR agrees to comply with the rules, regulations and relevant orders issued pursuant to the Americans with Disabilities Act (ADA). 42 USC s. 12101 *et seq.* It is understood that in no event shall the COUNTY be held liable for the actions or omissions of the CONTRACTOR or any other party or parties to the Agreement for failure to comply with the ADA. The CONTRACTOR agrees to hold harmless and indemnify the COUNTY, its agents, officers or employees from any and all claims, demands, debts, liabilities or causes of action of every kind or character, whether in law or equity, resulting from the CONTRACTOR's acts or omissions in connection with the ADA.

CONTRACTOR: Encore Construction Company

Signature: _____

Printed Name: Patrick T. Rainey

Title: President

Date: July 29, 2009

Affix Corporate Seal

STATE OF Florida)
) ss
COUNTY OF Orange)

The foregoing instrument was acknowledged before me this 29th day of July, 2009, by Patrick T. Rainey of Encore Construction Company firm), on behalf of the firm. He/She is personally known to me or has produced _____ identification.

Notary Public State of Florida
Tracy K Winsor
My Commission DD643623
Expires 12/07/2012

Tracy K. Winsor

Print Name TRACY K WINSOR
Notary Public in and for the County and State Aforementioned

My commission expires: 12/07/2012

Exhibit E

E. SALES TAX RECOVERY. *Sales Tax Recovery Resolution No. 96-R-177 will apply when deemed to be in the best interest of the County and as specified in the Administrative Code, Section 8.1513. These purchases shall be exempt from the County's Purchasing Code, preserving the sales tax exemption to the benefit of Seminole County. For construction projects that the material purchased is greater than one million dollars, staff should evaluate using the Sales Tax Recovery Program, providing that sufficient savings can be achieved. The procedures to be followed are:*

(1) The Contractor will include the cost of all construction materials and equipment in its Bid Price. The Bid Price will also include all Florida State sales taxes normally applicable to such materials and equipment. If the County elects to make sales tax recovery purchases, the responsibilities of the County and the Contractor shall be governed by this Section. All clerical, administrative, management, supervisory, inspection handling, storage, and other costs necessary for the Contractor to comply with Sales Tax Recovery are included in the Bid Price.

(2) The Contractor shall require major subcontractors to comply with these procedures.

(3) The Contractor shall furnish County with a Requisition identifying each item of material or equipment to be purchased by the Contractor for the project. This form shall be acceptable to the Project Manager and Engineer of Record. The Requisition shall include:

- The name, address, telephone number and contact person for the supplier.
- Manufacturer or brand, model or specification number of the item.
- Quantity needed as estimated by the Contractor or its Subcontractors and Suppliers.
- The price quoted by the Supplier for the material or equipment in question.
- Any sales tax associated with such quote.
- Shipping, handling and insurance costs.
- Delivery date as established by the Contractor or its Subcontractors and Suppliers.
- Special terms and conditions which have been negotiated with the supplier relative to payment terms, discounts, rebates, warranty, credits or other terms and conditions which will revert to the County.
- Statement with the submittal control number that materials have been reviewed and approved by Engineer and 3rd Party Construction Manager during the shop drawing submittal process.

(4) Promptly upon receipt of a Requisition, the County shall determine which items to purchase under Sales Tax Recovery. The Contractor will be notified of those items the County does not choose to purchase and becomes responsible for their purchase. The County will award a Purchase Order for the items which the County chooses to purchase. The Purchase Order shall require that the supplier provide shipping and handling insurance. The Purchase Order shall also require the delivery on the dates provided on the Requisition. A copy of each Purchase Order will be sent to the Contractor to verify that items ordered are in accordance with the required terms and delivery dates.

(5) The Contractor shall prepare and the County shall execute deductive Change Orders to reflect purchases made by the County. The amount of the deduction shall be based on the Purchase Order amount plus sales tax avoided. These Change Orders must be executed before the related Purchase Order will be paid.

(6) Nothing in this Section shall alter or modify the procedures for submission of shop drawings and other submittals by the Contractor.
(7) The Contractor shall be fully responsible for the receipt and acceptance of Sales Tax Recovery Items. At a minimum, the Contractor shall verify correct quantities, verify documentation, coordinate and expedite delivery, obtain and verify warranties required by the Contract Documents, inspect and accept each item at the time of delivery, unload, handle and store the item. Sales Tax Recovery purchases by the County in no way relieves the Contractor of compliance with specification requirements, coordination, protection, scheduling or warranty.
(8) As Sales Tax Recovery Items are delivered to the job-site, Contractor shall visually inspect all shipments, and approve the supplier's shipping documents and invoice. The Contractor shall assure that each delivery document identifies the Purchase Order against which the delivery is made. The Contractor will forward approved invoices to the County's Representative for payment.
(9) The Contractor shall inspect Sales Tax Recovery items prior to acceptance in accordance with the projects General Conditions. If the Contractor discovers defective or non-conforming items, it shall not utilize such items in the Project, shall promptly notify the County, and shall assist the County in obtaining repair or replacement of the item. The Contractor shall be fully responsible if it fails to perform such inspection or otherwise accepts defective or nonconforming material or equipment. The Contractor shall ensure that materials requisitioned have been reviewed by the Engineer and comply with specifications.
(10) The Contractor warrants Sales Tax Recovery Items the same as all other materials and equipment furnished by the Contractor and nothing in this Section shall alter or modify the Contractor obligations under the Contract relative to warranties.
(11) The Contractor shall purchase and maintain Builder's Risk insurance sufficient to protect against loss of or damage to Sales Tax Recovery Items. Such insurance shall cover the full value of any Sales Tax Recovery Items not yet incorporated into the Project starting from the moment of material delivery to the project site.
(12) The Contractor shall be liable for any interruption or delay in connection with Sales Tax Recovery Items.
(13) The Contractor shall provide the County's Representative with a monthly report documenting the amount and nature of Sales Tax Recovery Items accepted by the Contractor. The Contractor shall match all material and equipment to purchase orders, invoices, delivery tickets, and inspection and acceptance reports. The Contractor shall also obtain lien waivers and other releases from suppliers. Upon receipt of appropriate documentation from the Contractor, payments will be made directly by the County to the appropriate supplier in accordance to the Purchase Order's terms and conditions.
(14) The Contractor shall maintain records of all County Sales Tax Recovery purchase items incorporated into the Work. These records shall be available for inspection by the County upon request.

B.C.C. - SEMINOLE COUNTY, FL
BID TABULATION SHEET

ALL BIDS ACCEPTED BY SEMINOLE COUNTY ARE SUBJECT TO THE COUNTY'S TERMS AND CONDITIONS AND ANY AND ALL ADDITIONAL TERMS AND CONDITIONS SUBMITTED BY THE BIDDERS ARE REJECTED AND SHALL HAVE NO FORCE AND EFFECT. BID DOCUMENTS FROM THE VENDORS LISTED HEREIN ARE THE ONLY BIDS RECEIVED TIMELY AS OF THE ABOVE OPENING DATE AND TIME. ALL OTHER BID DOCUMENTS SUBMITTED IN RESPONSE TO THIS SOLICITATION, IF ANY, ARE HEREBY REJECTED AS LATE.

BID NUMBER: **CC-4623-09/DRR**

PROJECT TITLE: Seminole County Regional Water Treatment Facility at Yankee Lake

BID OPENING DATE: July 29, 2009 at 2:00 P.M. Eastern

ITEM DESCRIPTION	Response #1	Response #2	Response #3	Response #4
	Encore Construction Company PO Box 771599 Winter Garden, FL 34777 Patrick T. Rainey 407-877-5903 (Phone) 407-877-5912 (Fax)	Barton Malow Company 8529 South Park Circle, Ste 140 Orlando, FL 32819 David Price 407-352-8880 (Phone) 407-352-8660 (Fax)	Skanska USA Civil Southeast Inc 3715 Northside Pkwy, Bldg 300, Ste 300 Atlanta, GA 30327 Bob Rose 678-460-2600 (Phone) 678-460-2639(Fax)	Wharton-Smith Inc PO Box 471028 Lake Monroe, FL 32747 Timothy S.Smith 407-321-8410 (Phone) 407-327-6984 (Fax)
TOTAL AMOUNT OF BID Alternates Included at Award **GRAND TOTAL**	**$40,560,000.00** **262,000.00** **$40,822,000.00**	**$41,560,000.00** **144,680.00** **$41,704,680.00**	**$44,309,916.00*** **166,000.00** **$44,475,916.00**	**$45,671,500.00*** **210,000.00** **$45,881,500.00**
Acknowledge addenda 1-6	Yes	Yes	Yes	Yes
Trench Safety Act	Yes	Yes	Yes	Yes
Bidder Information Form	Yes	Yes	Yes	Yes
Non-Collusion Affidavit	Yes	Yes	Yes	Yes
Certification of Non-Segregated Facilities Form	Yes	Non-Responsive**	Yes	Yes
Americans w/Disabilities Act	Yes	Yes	Yes	Yes
Drug-Free Workplace Form	Yes	Yes	Yes	Yes
Public Entity Crimes Form	Yes	Yes	Yes	Yes
Compliance w/ Public Records	Yes	Yes	Yes	Yes

*Corrected Total
** Took Exception to County Requirements
Bid Opening Tabulated by D. Reed, CPPB, Senior Procurement Analyst
(Posted by D. Reed on July 30, 2009 at 3:00 p.m. Eastern)

Recommendation of Award: **Encore Construction Company**

BCC Agenda Date: **~~August 25, 2009, September 22, 2009~~ October 13, 2009**
(Posted by B. Hunter on August 4, 2009 at 3:20 p.m. Eastern)(Posted by D. Reed on August 17, 2009 @5:00 pm)(Posted by D. Reed on September 23, 2009 @1:00)