

**Lee County Board Of County Commissioners
Agenda Item Summary**

Blue Sheet No. 20041270

1. REQUESTED MOTION:

ACTION REQUESTED: Approve award of **Formal Quotation No.: Q-040523 SULFURIC ACID**, for Utilities for various Water Treatment Plants, to the low quoter meeting all specifications requirements, Transammonia, Inc.; and authorize the Board Chairman on behalf of the BOCC to execute and sign the accompanying purchasing agreement. This quotation shall be in effect for one (1) year, or until new quotes are taken and awarded. Also, request authority to renew this quote for four (4) additional one-year periods at the same terms and conditions if in the best interest of Lee County.

WHY ACTION IS NECESSARY: As this expenditure will exceed \$50,000.00; Board approval is required.

WHAT ACTION ACCOMPLISHES: Provides the purchase of sulfuric acid on an as needed basis for various water facilities within the Lee County Utilities Department. Annual estimated savings to taxpayers: \$120,000.

2. DEPARTMENTAL CATEGORY: 10
COMMISSION DISTRICT #

C10J

3. MEETING DATE:

10-19-2004

4. AGENDA:

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:

5. REQUIREMENT/PURPOSE:
(Specify)

- STATUTE
- ORDINANCE
- ADMIN. AC-4-1
- CODE
- OTHER

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER
- B. DEPARTMENT
- C. DIVISION UTILITIES

BY: Rick Diaz, P.E. Director

[Signature]
9/30/04

BACKGROUND: Sealed quotes were received by the Division of Purchasing on July 20, 2004. On that date three (3) responses were received. After review, recommendation was made to award to the low quoter meeting all specification requirements, Transammonia, Inc. Funding will come from the individual department or division's budget whom will be responsible for monitoring their individual expenditures.

Funds are available: Acct Strings OD53601-5240; OD53625-5240; OD53619-5240; OD53631

Please see attachments:

- (1) Tabulation Sheet
- (2) Specification
- (3) Transammonia, Inc. Quotation
- (4) Department's Recommendation
- (5) Purchasing Agreement - Originals

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
<i>[Signature]</i> 10-1-04	<i>[Signature]</i> 9-29-04	N/A	N/A	<i>[Signature]</i> 10/4/04	OA <i>[Signature]</i> 10/4/04	OM <i>[Signature]</i> 10/4/04	Risk <i>[Signature]</i> 10/4/04	GC <i>[Signature]</i> 10/4/04	<i>[Signature]</i> 10-1-04

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by CoAtty
Date: **10/1/04**
Time: **4:15**
Forwarded To:
[Signature]
10/4/04

RECEIVED BY
COUNTY ADMIN:
[Signature]
10/1/04
COUNTY ADMIN
FORWARDED TO:
[Signature]
10/7/04
9:30

LEE COUNTY, FLORIDA TABULATION SHEET

FOR

SULFURIC ACID, ANNUAL

FORMAL QUOTATION #Q-040523
OPENING DATE: July 20, 2004
BUYER: Chevone Peterson

VENDORS

Transammonia, Inc.	Allied Universal Corp.	Sulphuric Acid Trading Co. Inc.
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ACKNOWLEDGE ADDENDUM (S)

SULFURIC ACID -	N/A	N/A
TOTAL COST PER TON	\$70.41	\$60.75

TOTAL COST X 1,600 TONS	\$112,656.00	\$97,200.00
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DELIVER WITHIN CALENDAR DAYS	2	1
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DELIVER WITH OWN VEHICLE	NO	NO
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LOCAL VENDOR PREFERENCE	NO	NO
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MODIFICATIONS

NO	NO	YES
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NO BIDS

* minimum tank truck load is 24 tons, w/ one hour free unloading time; followed by

detention billed at \$31.00 per half hour; tractor air is an additional \$25.00 per load

** delivered price is applicable only to Alva, Ft. Myers, and Estero locations. Other

Lee County locations or government entities will be subject to freight/distance variances.

POSTING TIME/DATE

FROM: / /

UNTIL: / /

BY:



LEE COUNTY
SOUTHWEST FLORIDA

PROJECT NO.: Q-040523

OPEN DATE: JULY 20, 2004

AND TIME: 2:30 P.M.

PRE-BID DATE: JULY 14, 2004

AND TIME: 10:00 A.M.

LOCATION: LEE COUNTY PURCHASING
1825 HENDRY ST, 3RD FLOOR
FORT MYERS, FL 33901

REQUEST FOR QUOTATIONS

SULFURIC ACID, ANNUAL

REQUESTER: LEE COUNTY BOARD OF COUNTY COMMISSIONERS
DIVISION OF PURCHASING

MAILING ADDRESS

P.O. BOX 398
FORT MYERS, FL 33902-0398

PHYSICAL ADDRESS

1825 Hendry St 3rd Floor
FORT MYERS, FL 33901

BUYER: CHEVONE PETERSON
PHONE NO.: (239) 344-5450

FORMAL QUOTATION NO.: Q-040523
GENERAL CONDITIONS

Sealed Quotations will be received by the DIVISION OF PURCHASING, until 2:30pm on the date specified on the cover sheet of this "Request for Quotations", and opened immediately thereafter by the Purchasing Director or designee.

Any question regarding this solicitation should be directed to the Buyer listed on the cover page of this solicitation, or by calling the Division of Purchasing at (239) 344-5450.

1. **SUBMISSION OF QUOTE:**

- a. Quotations shall be sealed in an envelope, and the outside of the envelope should be marked with the following information:
 1. Marked with the words "Sealed Quote"
 2. Name of the firm submitting the quotation
 3. Title of the quotation
 4. Quotation number

- b. The Quotation shall be submitted in triplicate as follows:
 1. The original consisting of the Lee County quotes forms completed and signed.
 2. A copy of the original quote forms for the Purchasing Director.
 3. A second copy of the original quote forms for use by the requesting department.

- c. The following should be submitted along with the quotation in a separate envelope. This envelope should be marked as described above, but instead of marking the envelope as "Sealed Quote", please indicate the contents; i.e., literature, drawings, submittals, etc. This information should be submitted in duplicate.
 1. Any information (either required or in addition to that asked for by the specifications) necessary to analyze your quotation; i.e., required submittals, literature, technical data, financial statements.
 2. Warranties and guarantees against defective materials and workmanship.

- d. **ALTERNATE QUOTE:** If the vendor elects to submit more than one quote, then the quotes should be submitted in separate envelopes and marked as indicated above. The second, or alternate quote should be marked as "Alternate".

- e. **QUOTES RECEIVED LATE:** It is the quoter's responsibility to ensure that his quote is received by the Division of Purchasing prior to the

opening date and time specified. Any quote received after the opening date and time will be promptly returned to the quoter unopened. Lee County will not be responsible for quotes received late because of delays by a third party delivery service; i.e., U.S. Mail, UPS, Federal Express, etc.

- f. **QUOTE CALCULATION ERRORS:** In the event there is a discrepancy between the total quoted amount or the extended amounts and the unit prices quoted, the unit prices will prevail and the corrected sum will be considered the quoted price.
- g. **PAST PERFORMANCE:** All vendors will be evaluated on their past performance and prior dealings with Lee County (i.e., failure to meet specifications, poor workmanship, late delivery, etc.).
- h. **WITHDRAWAL OF QUOTE:** No quote may be withdrawn for a period of 90 days after the scheduled time for receiving quotes. A quote may be withdrawn prior to the quote-opening date and time. Such a request to withdraw should be made in writing to the Purchasing Director, who will approve or disapprove of the request.
- i. **COUNTY RESERVES THE RIGHT:** The County reserves the right to waive minor informalities in any quote; to reject any or all quotes with or without cause; and/or to accept the quote that in its judgment will be in the best interest of the County of Lee.
- j. **EXECUTION OF QUOTE:** All quotes shall contain the signature of an authorized representative of the quoter in the space provided on the quote proposal form. All quotes shall be typed or printed in ink. The bidder may not use erasable ink. All corrections made to the quote shall be initialed.

2. **ACCEPTANCE**

The materials and/or services delivered under the quote **shall** remain the property of the seller until a physical inspection and actual usage of these materials and/or services is accepted by the County and is to be in compliance with the terms herein, fully in accord with the specifications and of the highest quality. In the event the materials and/or services supplied to the County are found to be defective or do not conform to specifications, the County reserves the right to cancel the order upon written notice to the seller and return such product to the seller at the seller's expense.

3. **SUBSTITUTIONS**

Whenever in these specifications a brand name or make is mentioned, it is the intention of the County only to establish a grade or quality of materials and not to rule out other brands or makes of equality. However, if a product other than that

specified is quote, it is the vendor's responsibility to name such product with his quote and to prove to the County that said product is equal to the product specified. Lee County **shall** be the sole judge as to whether a product being offered by the quoter is actually equivalent to the one being specified by the detailed specifications. (Note: This paragraph does not apply when it is determined that the technical requirements of this solicitation require only a specific product as stated in the detailed specifications.)

4. **RULES, REGULATIONS, LAWS, ORDINANCES & LICENSES**

The awarded vendor shall observe and obey all laws, ordinances, rules, and regulations, of the federal, state, and local government, which may be applicable to the supply of this product or service.

- a. Occupational License – Vendor shall submit within 10 calendar days after request.
- b. Specialty License(s) – Vendor shall possess at the time of the opening of the quote all necessary permits and/or license required for the sale of this product and/or service and upon the request of the County provide copies of licenses and/or permits within 10 calendar days after request.

5. **RECYCLED PRODUCTS**

It is the Lee County Board of County Commissioners' stated policy objective to "Ensure all departments are aware of the availability of recycled products..." (Administrative Code #AC-10-4). In an effort to provide the utmost opportunity for the use of recycled products by Lee County, vendors should list on their letterhead, all necessary information regarding any applicable recycled products they have available. Recycled products should meet all other specifications listed and have a minimum of 50%-recycled content. Whenever fiscally feasible, available recycled products will be purchased.

6. **WARRANTY/GUARANTY** (unless otherwise specified)

All materials and/or services furnished under this quote shall be warranted by the vendor to be free from defects and fit for the intended use.

7. **PRE-BID CONFERENCE**

A pre-bid conference will be held at the location, date, and time specified on the cover of this solicitation. Pre-bid conferences are generally non-mandatory, but it is highly recommended that everyone planning to submit a quote attend.

In the event a pre-bid conference is classified as mandatory, it will be so specified on the cover of this solicitation and it will be the responsibility of the quoter to

ensure that they are represented at the pre-bid. Only those quoters who attend the pre-bid conference will be allowed to quote on this project.

8. **BIDDERS LIST MAINTENANCE**

A bidder should respond to “Request for Quotations” in order to be kept on the Bidder’s List. Failure to respond to three different “request for quotations” may result in the vendor being removed from the Bidder’s List. A bidder may do one of the following, in order to respond properly to the request:

- a. Submission of a quotation prior to the quote receipt deadline.
- b. Submission of a “no bid” notice prior to the quote receipt deadline.

9. **LEE COUNTY PAYMENT PROCEDURES**

All vendors are requested to mail one original invoice and one invoice copy to:

Lee County Finance Department
Post Office Box 2238
Fort Myers, FL 33902-2238

All invoices will be paid as directed by the Lee County payment procedure unless otherwise differently stated in the detailed specification portion of this quote.

Lee county will not be liable for request of payment deriving from aid, assistance, or help by any individual, vendor, quoter, or bidder for the preparation of these specifications.

Lee County is generally a tax-exempt entity subject to the provisions of the 1987 legislation regarding sales tax on services. Lee County will pay those taxes for which it is obligated, or it will provide a Certificate of Exemption furnished by the Department of Revenue. All contractors or quoters should include in their quote all sales or use taxes, which they will pay when making purchases of material or subcontractor’s services.

10. **LEE COUNTY BID PROTEST PROCEDURE**

Any contractor/vendor/firm that has submitted a formal bid/quote/proposal to Lee County, and who is adversely affected by an intended decision with respect to the award of the formal bid/quote/proposal, shall file with the County’s Purchasing Director or Public Works Director a written “Notice of Intent to File a Protest” not later than seventy-two (72) hours (excluding Saturdays, Sundays and Legal Holidays) after receipt of a “Notice of Intended Decision” from the County with respect to the proposed award of the formal bid/quote/proposal.

The "Notice of Intent to File a Protest" is one of two documents necessary to perfect Protest. The second document is the "Formal Written Protest", both documents are described below.

The "Notice of Intent to File a Protest" document shall state all grounds claimed for the Protest, and clearly indicate it as the "Notice of Intent to File a Protest". Failure to clearly indicate the Intent to file the Protest shall constitute a waiver of all rights to seek any further remedies provided for under this Protest Procedure.

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

The affected party shall then file its Formal Written Protest within ten (10) calendar days after the time for the filing of the Notice of Intent to File a Protest has expired. Except as provided for in the paragraph below, upon filing of the Formal Written Protest, the contractor/vendor/firm shall post a bond, payable to the Lee County Board of County Commissioners in an amount equal to five percent (5%) of the total bid/quote/proposal, or Ten Thousand Dollars (\$10,000.00), whichever is less. Said bond shall be designated and held for payment of any costs that may be levied against the protesting contractor/vendor/firm by the Board of County Commissioners, as the result of a frivolous Protest.

A clean, Irrevocable Letter of Credit or other form of approved security, payable to the County, may be accepted. Failure to submit a bond, letter of credit, or other approved security simultaneously with the Formal Written Protest shall invalidate the protest, at which time the County may continue its procurement process as if the original "Notice of Intent to File a Protest" had never been filed. Any contractor/vendor/firm submitting the County's standard bond form (CSD: 514), along with the bid/quote/proposal, shall not be required to submit an additional bond with the filing of the Formal Written Protest.

The Formal Written Protest shall contain the following:

- County bid/quote/proposal identification number and title.
- Name and address of the affected party, and the title or position of the person submitting the Protest.
- A statement of disputed issues of material fact. If there are no disputed material facts, the Formal Protest must so indicate.
- A concise statement of the facts alleged, and of the rules, regulations, statues, or constitutional provisions, which entitle the affected party to relief.

- All information, documents, other materials, calculations, and any statutory or case law authority in support of the grounds for the Protest.
- A statement indicating the relief sought by the affected (protesting) party.
- Any other relevant information that the affected party deems to be material to Protest.

Upon receipt of a timely filed "Notice of Intent to File a Protest", the Purchasing Director or Public Works Director (as appropriate) may abate the award of the formal bid/quote/proposal as appropriate, until the Protest is heard pursuant to the informal hearing process as further outlined below, except and unless the County Manager shall find and set forth in writing, particular facts and circumstances that would require an immediate award of the formal bid/quote/proposal for the purpose of avoiding a danger to the public health, safety, or welfare. Upon such written finding by the County Manager, the County Manager may authorize an expedited Protest hearing procedure. The expedited Protest hearing shall be held within ninety-six (96) hours of the action giving rise to the contractor/vendor/firm's Protest, or as soon as may be practicable for all parties. The "Notice of Intent to File a Protest" shall serve as the grounds for the affected party's presentation and the requirements for the submittal of a formal, written Protest under these procedures, to include the requirement for a bond, shall not apply.

The Dispute Committee shall conduct an informal hearing with the protesting contractor/vendor/firm to attempt to resolve the Protest, within seven working days (excluding Saturdays, Sundays and legal holidays) from receipt of the Formal Written Protest. The Chairman of the Dispute Committee shall ensure that all affected parties may make presentations and rebuttals, subject to reasonable time limitations, as appropriate. The purpose of the informal hearing by the Dispute Committee, the protestor and other affected parties is to provide and opportunity: (1) to review the basis of the Protest; (2) to evaluate the facts and merits of the Protest; and (3) to make a determination whether to accept or reject the Protest.

Once a determination is made by the Dispute Committee with respect to the merits of the Protest, the Dispute Committee shall forward to the Board of County Commissioners its recommendations, which shall include relevant background information related to the procurement.

Upon receiving the recommendation from the Dispute Committee, the Board of County Commissioners shall conduct a hearing on the matter at a regularly scheduled meeting. Following presentations by the affected parties, the Board shall render its decision on the merits of the Protest.

If the Board's decision upholds the recommendation by the Dispute Committee regarding the award, and further finds that the Protest was either frivolous and/or lacked merit, the Board, at its discretion, may assess costs, charges, or damages associated with any delay of the award, or any costs incurred with regard to the protest. These costs, charges or damages may be deducted from the security (bond or letter of credit) provided by the contractor/vendor/firm. Any costs, charges or damages assessed by the Board in excess of the security shall be paid by the protesting contractor/vendor/firm within thirty (30) calendar days of the Board's final determination concerning the award.

All formal bid/quote/proposal solicitations shall set forth the following statement:

“FAILURE TO FOLLOW THE BID PROTEST PROCEDURE REQUIREMENTS WITHIN THE TIMEFRAMES AS PRESCRIBED HEREIN AND ESTABLISHED BY LEE COUNTY BOARD OF COUNTY COMMISSIONERS, FLORIDA, SHALL CONSTITUTE A WAIVER OF YOUR PROTEST AND ANY RESULTING CLAIMS.”

11. **PUBLIC ENTITY CRIME**

Any person or affiliate as defined by statute who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid or a contract to provide any goods or services to the County; may not submit a bid on a contract with the County for the construction or repair of a public building or a public work; may not submit bids or leases of real property to the County; may not be awarded or perform works as a contractor, supplier, subcontractor, or consultant under a contract with the County, and may not transact business with the County in excess of \$25,000.00 for a period of 36 months from the date of being placed on the convicted vendor list.

12. **QUALIFICATION OF QUOTERS** (unless otherwise noted)

Quotes will be considered only from firms normally engaged in the sale and distribution or provision of the services as specified herein. Quoters shall have adequate organization, facilities, equipment, and personnel to ensure prompt and efficient service to Lee County. The County reserves the right before recommending any award to inspect the facilities and organization; or to take any other action necessary to determine ability to perform is satisfactory, and reserves the right to reject quotes where evidence submitted or investigation and evaluation indicates an inability of the quoter to perform.

13. **MATERIAL SAFETY DATA SHEETS**

In accordance with Chapter 443 of the Florida Statutes, it is the vendor's responsibility to provide Lee County with Materials Safety Data Sheets on quoted materials, as may apply to this procurement.

14. **MISCELLANEOUS**

If a conflict exists between the General Conditions and the detailed specifications, then the detailed specifications shall prevail.

15. **WAIVER OF CLAIMS**

Once this contract expires, or final payment has been requested and made, the awarded contractor shall have no more than 30 days to present or file any claims against the County concerning this contract. After that period, the County will consider the Contractor to have waived any right to claims against the County concerning this agreement.

16. **AUTHORITY TO PIGGYBACK**

It is hereby made a precondition of any quote and a part of these specifications that the submission of any quote in response to this request constitutes a quote made under the same conditions, for the same price, and for the same effective period as this quote, to any other governmental entity.

17. **COUNTY RESERVES THE RIGHT**

a) **State Contract**

If applicable, the County reserves the right to purchase any of the items in this quote from State Contract Vendors if the prices are deemed lower on State Contract than the prices we receive in this quotation.

b) **Any Single Large Project**

The County, in its sole discretion, reserves the right to separately quote any project that is outside the scope of this quote, whether through size, complexity, or dollar value.

c) **Disadvantaged Business Enterprises**

The County, in its sole discretion, reserves the right to purchase any of the items in this quote from Disadvantage Business Enterprise vendor if the prices are determined to be in the best interest of the County, to assist the County in the fulfillment of any of the County's grant commitments to federal or state agencies.

The County further reserves the right to purchase any of the items in this quote from DBE's to fulfill the County's state policy toward DBE's as outlined in County Ordinance 88-45 and 90-04, as amended.

d) Anti-Discrimination

The vendor for itself, its successors in interest, and assignees, as part of the consideration there of covenant and agree that:

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

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

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

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

Where any information required of the vendor is in the exclusive possession of another who fails or refuses to furnish this information, the vendor shall so certify to the County its effort made toward obtaining said information. The vendor shall remain obligated under this paragraph until the expiration of three (3) years after the termination of this contract.

In the event of breach of any of the above anti-discrimination covenants, the County shall have the right to impose sanctions as it may determine to be appropriate, including withholding payment to the vendor or canceling, terminating, or suspending this contract, in whole or in part.

Additionally, the vendor may be declared ineligible for further County contracts by rule, regulation or order of the Board of County Commissioners of Lee County, or as otherwise provided by law.

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

The vendor will include the provisions of this section in every subcontract under this contract to insure its provisions will be binding upon each subcontractor. The vendor will take such actions with respect to any subcontractor, as the contracting agency may direct, as a means of enforcing such provisions, including sanctions for non-compliance.

18. **AUDITABLE RECORDS**

The awarded vendor shall maintain auditable records concerning the procurement adequate to account for all receipts and expenditures, and to document compliance with the specifications. These records shall be kept in accordance with generally accepted accounting methods, and Lee County reserves the right to determine the record-keeping method required in the event of non-conformity. These records shall be maintained for two years after completion of the project and shall be readily available to County personnel with reasonable notice, and to other persons in accordance with the Florida Public Disclosure Statutes.

19. **DRUG FREE WORKPLACE**

Whenever two or more quotes/proposals, which are equal with respect to price, quality and service, are received for the procurement of commodities or contractual services, a quote/proposal received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. In order to have a drug-free workplace program, a business shall comply with the requirements of Florida Statutes 287.087.

20. **REQUIRED SUBMITTALS**

Any submittals requested should be returned with the quote response. This information may be accepted after opening, but no later than 10 calendar days after request.

21. **TERMINATION**

Any agreement as a result of this quote may be terminated by either party giving thirty (30) calendar days advance written notice. The County reserves the right to accept or not accept a termination notice submitted by the vendor, and no such termination notice submitted by the vendor shall become effective unless and until the vendor is notified in writing by the County of its acceptance.

The Purchasing Director may immediately terminate any agreement as a result of this quote for emergency purposes, as defined by the Lee County Purchasing and Payment Procedure Manual.

Any vendor who has voluntarily withdrawn from a formal quote/proposal without the County's mutual consent during the contract period shall be barred from further County procurement for a period of 180 days. The vendor may apply to the Board of Lee County Commissioners for waiver of this debarment. Such application for waiver of debarment must be coordinated with and processed by Purchasing.

22. **CONFIDENTIALITY**

Vendors should be aware that all submittals (including financial statements) provided with a quote/proposal are subject to public disclosure and will **not** be afforded confidentiality.

23. **ANTI-LOBBYING CLAUSE**

All firms are hereby placed on formal notice that neither the County Commissioners nor candidates for County Commission, nor any employees from the Lee County Government, Lee County staff members, nor any members of the Qualification/Evaluation Review Committee are to be lobbied, either individually or collectively, concerning this project. Firms and their agents who intend to submit qualifications, or have submitted qualifications, for this project are hereby placed on *formal notice* that they are ***not*** to contact County personnel for such purposes as holding meetings of introduction, meals, or meetings relating to the selection process outside of those specifically scheduled by the County for negotiations. Any such lobbying activities may cause immediate disqualification for this project.

24. **INSURANCE (AS APPLICABLE)**

Insurance shall be provided, per the attached insurance guide. Upon request, an insurance certificate complying with the attached guide may be required prior to award.

FORMAL QUOTATION NO.: Q-040523

**LEE COUNTY, FLORIDA
PROPOSAL QUOTE FORM
FOR THE ANNUAL PURCHASE OF
SULFURIC ACID**

DATE SUBMITTED: _____

VENDOR NAME: _____

TO: The Board of County Commissioners
Lee County
Fort Myers, Florida

Having carefully examined the "General Conditions", and the "Detailed Specifications", all of which are contained herein, the Undersigned proposes to furnish the following which meet these specifications:

The undersigned acknowledges receipt of Addenda numbers:

GRAND TOTAL: \$ _____

WILL YOU DELIVER WITH YOUR OWN VEHICLE AS OPPOSED TO COMMON CARRIER?

YES _____ NO _____

NOTE: Prices shall include firm delivered prices within the minimum/maximum quantity ranges F.O.B., Lee County Florida to the delivery locations as specified.

SULFURIC ACID (BULK)

Specify product name: _____

\$ _____ EA. X 1,600 tons = Total Cost \$ _____

Manufacturer _____

Min/max 500 – 3,000 gallons

TO BE STARTED WITHIN _____ CALENDAR DAYS AFTER RECEIPT OF AWARD AND PURCHASE ORDER.

Is your firm interested in being considered for the Local Vendor Preference?

Yes _____ No _____

If yes, then read the paragraph entitled "Local Vendor Preference" included in these specifications. Also complete the Local Vendor Preference Questionnaire and return with your quotation.

Quoters should carefully read all the terms and conditions of the specifications. Any representation of deviation or modification to the quote may be grounds to reject the quote.

Are there any modifications to the quote or specifications:

Yes _____ No _____

Failure to clearly identify any modifications in the space below or on a separate page may be grounds for the quoter being declared nonresponsive or to have the award of the quote rescinded by the County.

MODIFICATIONS:

Quoter shall submit his/her quote on the County's Proposal Quote Form, including the firm name and authorized signature. Any blank spaces on the Proposal Quote Form, qualifying notes or exceptions, counter offers, lack of required submittals, or signatures, on County's Form may result in the Quoter/Quote being declared non-responsive by the County.

FORMAL QUOTATION NO.: Q-040523
ANTI-COLLUSION STATEMENT

THE BELOW SIGNED QUOTER HAS NOT DIVULGED TO, DISCUSSED OR COMPARED HIS QUOTE WITH OTHER QUOTERS AND HAS NOT COLLUDED WITH ANY OTHER QUOTER OR PARTIES TO A QUOTE WHATSOEVER. NOTE: NO PREMIUMS, REBATES OR GRATUITIES TO ANY EMPLOYEE OR AGENT ARE PERMITTED EITHER WITH, PRIOR TO, OR AFTER ANY DELIVERY OF MATERIALS. ANY SUCH VIOLATION WILL RESULT IN THE CANCELLATION AND/OR RETURN OF MATERIAL (AS APPLICABLE) AND THE REMOVAL FROM THE MASTER BIDDERS LIST.

FIRM NAME _____

BY (Printed): _____

BY (Signature): _____

TITLE: _____

FEDERAL ID # OR S.S.# _____

ADDRESS: _____

PHONE NO.: _____

FAX NO.: _____

CELLULAR PHONE/PAGER NO.: _____

LEE COUNTY OCCUPATIONAL LICENSE NUMBER: _____

E-MAIL ADDRESS: _____

REVISED: 7/28/00

FORMAL QUOTATION NO.: Q-040523
LEE COUNTY, FLORIDA
DETAILED SPECIFICATIONS
FOR THE ANNUAL PURCHASE OF
SULFURIC ACID

SCOPE

The purpose of this quotation is to solicit prospective bidders to furnish and deliver sulfuric acid on an annual basis for use at Lee County Utilities.

PURCHASING AGREEMENT

As a result of this quotation, the awarded vendor shall enter into a purchasing agreement with and approved by Lee County. See Attachment "B". This agreement will be initiated and signed prior to start-up by the awarded vendor.

TERM OF QUOTE

This quote shall be in effect for one year, or until new quotes are taken and awarded. This quote (or any portion thereof) has the option of being renewed for four additional one-year periods, upon mutual agreement of both parties, under the same terms and conditions.

DELIVERY REQUIREMENTS

Quotes are to be based on firm prices delivered F.O.B., as directed to the locations specified herein, Lee County, Florida.

The County reserves the right to add or delete delivery sites at its discretion at anytime throughout the term of this quote.

Delivery driver must present a photo I.D. upon delivery. The I.D. must show that the driver is an employee of either the trucking company or the awarded vendor. All personnel making deliveries must wear the appropriate personal protective equipment (PPE as required by the MSDS).

Lee County Utilities reserves the right to refuse a delivery if that delivery is not in the proper timeframe; the vendor has improper equipment to offload the delivery; and/or is taking improper safety precautions or has malfunctioning equipment.

BASIS OF AWARD

Lee County reserves the right, at the Purchasing Director's discretion, not to award certain items on the Proposal Quote Form.

The basis of award for this quote will be low quoter meeting specifications at Lee County's sole discretion. Award shall include firm delivered prices within the

minimum/maximum quantity ranges F.O.B., Lee County, Florida to the delivery locations as specified.

Lee County reserves the right to reject unbalanced quotes (a quote where a normally low cost item is priced well out of the normal range).

Lee County reserves the right to award this quote which best serves the interest of Lee County; i.e.: to a single vendor, to multiple vendors, or by a primary/secondary vendor basis, at Lee County's sole discretion.

SUBMITTALS

Vendor must have written proof of conformance as required in technical specifications.

NATIONAL RESPONSE CENTER

The bidder shall provide a detailed listing of all accidents, incidents, releases, spills, and National Response Center notifications ("safety incidents") for all chemicals it delivers or manufacturers for the past five (5) years.

The bidder shall also provide the names of any customers where its contract was terminated early (e.g., debarred) for safety, quality, or service issues for any product it supplies over the past five years. Failure to disclose references, terminations, or safety incidents will result in Bidder being disqualified from bidding on this product.

For purposes of this Bid, the term "Bidder" shall be defined as the vendor submitting the proposal and shall include all subsidiaries, affiliates, and subcontractors. As such, any requested documentation shall apply to all subsidiaries and affiliated companies as well as any subcontractors. In the event that a vendor is using a subcontractor to either manufacture or deliver the product, the requested items (e.g., references, terminations, and safety incidents) shall apply to the subcontractor as well.

MINIMUM ORDER QUANTITIES

If Lee County requires less than the minimum order quantity stated on the Proposal Quote Form, Lee County will contact the awarded vendor to receive that product at the same quoted price or obtain alternate firm delivered pricing for that product. Lee County reserves the right to accept that price or go elsewhere.

PRICE ESCALATION

If the awarded vendor(s) experiences a major price increase from suppliers for items in this quotation, the vendor may submit a written request to increase pricing. All information necessary to review and analyze the request must be submitted to Lee County Purchasing. Lee County shall have the right to grant the price increase, or re-quote, at the County's sole discretion. Should prices decrease, the same procedure shall apply.

QUANTITY PRICE BREAKS

If your firm can offer quantity price breaks to Lee County on any items listed, specify item(s), quantity breaks and pricing on company letterhead. The prices offered on the Proposal Quote Form will form the basis of award.

TRAINING SESSIONS

Awarded supplier (s) will be required to provide, at no additional cost to the County, two 4-hour training sessions each year, that meet the federal and state safety and right to know training requirements. The education and instruction of the County's operations personnel shall be by a qualified instructor familiar with the safe handling practices associated with the chemical being discussed. Session dates, times and course outlines should be submitted by the supplier as part of their bid package, and approved by the County. Failure to provide this service will be considered a default of the contract. The awarded vendor(s) shall be required to provide a letter certifying that the course outline meets the requirements listed above.

The training sessions will be held in one central location in Lee County which will be determined by Lee County Utilities. The awarded supplier(s) will be responsible for travel, lodging, meals and training materials costs.

SAFETY

The supplier's truck must be equipped to safely handle and unload product/products.

DELIVERY LOCATIONS AND CONTACTS

Olga WTP
1450 Werner Drive
Alva, FL 33920

Phone: (239) 694-4038
Fax: (239) 694-2370
Contact Person: John Gibson

Waterway Estates WTP
4271 Saint Claire Ave
Fort Myers, FL 33903

Phone: (239) 997-1861
Fax : (239) 997-0098
Contact Person: Lenny Sword

Pinewoods WTP
11950 Corkscrew Road
Estero, FL 33928

Phone: (239) 992-1319
Fax: (239) 992-9095
Contact Person: Damon Hardy

DESIGNATED CONTACT

The awarded vendor shall appoint a person or persons to act as a primary contact for all County departments. This person or back-up shall be readily available during normal work hours by phone or in person, and shall be knowledgeable of the terms and procedures involved.

CONTRACT

A purchase order will serve as the contract. If your firm will require Lee County to sign a contract of any type, please include that contract with your quotation.

ADDITIONAL REQUIREMENTS

Vendors must provide MSDS sheets for all products to be provided, prior to startup of this contract.

Vendors agree to conform to any and all State and Federal regulations pertaining to chemicals, and to assist Lee County in doing so (Chapter 442 F.S.).

All Chemicals must be approved by the National Sanitation Foundation as applicable. Supplemental documentation (should be submitted with your quote) shall include:

1. Drinking water additives and treatment chemicals, including chemicals used to regenerate ion-exchange resins or generate disinfectants on site at treatment plants, shall conform to one of the following:
 - a. NSF International Standard 60 as adopted in Rule 62-555.335. F.A.C.
 - b. The standards in Water Chemicals Codex as adopted in Rule 612-555.335 F.A.C.; or
 - c. The standards in Food Chemicals Codex as adopted in Rule 62-555.335. F.A.C.

All products shall be provided exactly as specified. Any variations will not be accepted.

Vendors do not need to quote on all chemicals in order to be considered for award; however, each chemical has its own specific requirements which vary by location (delivery times, etc.) with which the awarded vendor must comply.

SUMMARY REPORTS

Upon completion of each six-month period of the quote, the awarded vendor(s) shall be responsible for furnishing a summary report to Purchasing. This report shall include the previous six months history, showing at a minimum, the following information:

- 1) Total dollars expended per item,
- 2) Total quantity of each item purchased.

MAJOR BREAKDOWNS/NATURAL DISASTERS

Lee County requires that the awarded vendor provide the name of a contact person and phone number which will afford Lee County access twenty-four hours per day, 365 days per year, of this product or service in the event of major breakdowns or natural disasters.

Lee County reserves the right to purchase the product or service listed in this quotation elsewhere in an emergency situation.

LOCAL BIDDER'S PREFERENCE

Note: In order for your firm to be considered for the local vendor preference, you must complete and return the attached "Local Vendor Preference Questionnaire" with your quotation.

The Lee County Local Bidder's Preference Ordinance No. 00-10 is being included as part of the award process for this project. As such, Lee County at its sole discretion, may choose to award a preference to any qualified "Local Contractor/Vendor" in an amount not to exceed 3 % of the total amount quoted by that firm.

"Local Contractor / Vendor" shall mean: a) any person, firm, partnership, company or corporation whose principal place of business in the sole opinion of the County, is located within the boundaries of Lee County, Florida; or b) any person, firm, partnership, company or corporation that has provided goods or services to Lee County on a regular basis for the preceding consecutive five (5) years, and that has the personnel, equipment and materials located within the boundaries of Lee County sufficient to constitute a present ability to perform the service or provide the goods.

The County reserves the exclusive right to compare, contrast and otherwise evaluate the qualifications, character, responsibility and fitness of all persons, firms, partnerships, companies or corporations submitting formal bids or formal quotes in any procurement for goods or services when making an award in the best interests of the County.

SECTION 13, SULFURIC ACID (BULK)

A. Description

Sulfuric Acid

B. Physical properties

Sulfuric acid technical grade, 93.19% minimum, 95% maximum, 66 degree baume.

C. Packaging

Bulk; Packaging shall conform with all applicable federal and state standards.

D. Delivery Location

Olga WTP
1450 Werner Drive
Alva, FL 33920

Waterway Estates WTP
4271 Saint Claire Ave
Fort Myers, FL 33903

Pinewoods WTP
11950 Corkscrew Road
Estero, FL 33928

E. Amount

Annual Estimated Usage: 1,600 tons

F. Delivery Time

Shipments will be FOB Destination, and received between the hours of **8:00am and 4:00pm, Monday thru Friday**, within three (3) working days after verbal receipt of the order from Lee County Utilities.

G. Delivery Amounts/Requirements

Olga WTP;

Min/max 1,000-3,000 gallons per delivery, 30' 2 inch hose is required

Waterway Estates WTP;

Min/max 500-750 gallons per delivery, 30' 2 inch hose is required

Pinewoods WTP;

Min/max 1,000 to 3,000 gallons per delivery, 20' 2 inch hose is required

H. Prospective Bidders

Prospective bidders shall supply a complete analysis and a representative sample of their product for independent verification to the County prior to the award of the contract. All analysis shall be in accordance with accepted industry standards.

INSURANCE REQUIREMENTS

1. Minimum Insurance Requirements: Risk Management in no way represents that the insurance required is sufficient or adequate to protect the vendor's interest or liabilities, but are merely minimums.
 - a. Workers' Compensation - Statutory benefits as defined by FS 440 encompassing all operations contemplated by this contract or agreement to apply to all owners, officers, and employees regardless of the number of employees. Individual employees may be exempted per State Law. Employers' liability will have minimum limits of:
 - \$500,000 per accident
 - \$500,000 disease limit
 - \$500,000 disease limit per employee
 - b. Commercial General Liability - Coverage shall apply to premises and/or operations, products and/or completed operations, independent contractors, contractual liability, and broad form property damage exposures with minimum limits of:
 - \$1,000,000 bodily injury per person (BI)
 - \$2,000,000 bodily injury per occurrence (BI)
 - \$1,000,000 property damage (PD) or
 - \$2,000,000 combined single limit (CSL) of BI and PD
 - c. Business Auto Liability - The following Automobile Liability will be required and coverage shall apply to all owned, hired and non-owned vehicles use with minimum limits of:
 - \$1,000,000 bodily injury per person (BI)
 - \$2,000,000 bodily injury per occurrence (BI)
 - \$1,000,000 property damage (PD) or
 - \$2,000,000 combined single limit (CSL) of BI and PD
 - d. Pollution Liability - Covering a transporter moving hazardous products or waste as cargo aboard the transporter's truck:
 - \$1,000,000 bodily injury / property damage/ cleanup, including wrongful delivery.

**The required limit of liability shown in Insurance Requirements item: 1.a; 1.b; 1.c; 1. d; may be provided in the form of "Excess" or "Commercial Umbrella Insurance Policies." In which case, a "Following Form Endorsement" will be required on the "Excess Insurance Policy" or "Commercial Umbrella Policy."*

2. Verification of Coverage:

a. Ten (10) days prior to the commencement of any work under the contract a certificate of insurance will be provided to the Risk Manager for review and approval. The certificate shall provide for the following:

1. *"Lee County, a political subdivision and Charter County of the State of Florida, its agents, employees, and public officials will be named as an **"Additional Insured"** on the General Liability policies.*
2. Lee County will be given thirty (30) days notice prior to cancellation or modification of any stipulated insurance. Such notification will be in writing by registered mail, return receipt requested and addressed to the Risk Manager (P.O. BOX 398 Ft. Myers, FL 33902).

3. Special Requirements:

- a. It is the responsibility of the general contractor to insure that all subcontractors comply with all insurance requirements.

FORMAL QUOTATION NO.: Q-040523
ATTACHMENT A
LOCAL VENDOR PREFERENCE QUESTIONNAIRE
(LEE COUNTY ORDINANCE NO. 00-10)

Instructions: Please complete either Part A or B whichever is applicable to your firm

PART A: VENDOR'S PRINCIPAL PLACE OF BUSINESS IS LOCATED WITHIN LEE COUNTY (Only complete Part A if your principal place of business is located within the boundaries of Lee County)

1. What is the physical location of your principal place of business that is located within the boundaries of Lee County, Florida?

2. What is the size of this facility (i.e. sales area size, warehouse, storage yard, etc.)

PART B: VENDOR'S PRINCIPAL PLACE OF BUSINESS IS NOT LOCATED WITHIN LEE COUNTY OR DOES NOT HAVE A PHYSICAL LOCATION WITHIN LEE COUNTY (Please complete this section.)

1. How many employees are available to service this contract? _____
2. Describe the types and amount of equipment you have available to service this contract.

3. Describe the types and amount of material stock that you have available to service this contract.

4. Have you provided goods or services to Lee County on a regular basis for the preceding, consecutive five years?

Yes _____ No _____

If yes, please provide your contractual history with Lee County for the past five, consecutive years. Attach additional pages if necessary.

FORMAL QUOTATION NO.: Q-040523
ATTACHMENT B
PURCHASING AGREEMENT

This Agreement, made and entered into this _____ day of _____, in the year _____, by and between LEE COUNTY, FLORIDA, a political subdivision of the STATE OF FLORIDA, acting by and through the BOARD OF COUNTY COMMISSIONERS, PARTY OF THE FIRST PART AND, _____ PARTY OF THE SECOND PART.

WITNESSTH: That the parties hereto, for the consideration herein set forth mutually agree as follows:

Article 1. SCOPE OF WORK: The vendor shall provide all services, materials, and equipment necessary in the manner and form provided by the Contract Documents for the delivery of **SULFURIC ACID**

Article 2. CONTRACT SUM: The County shall pay to the vendor, for the faithful performance of the terms as specified in the Purchasing Agreement, in lawful money of the United States of America, and subject to the additions and deductions as provided in the Contract Documents, total sum as follows:

Based on the agreed upon price shown in the Proposal previously submitted to the County, a copy of said Proposal being a part of this Agreement

the sum of _____
DOLLARS (_____)

Article 3. PAYMENTS: If during the progress of the work or furnishing of services it appears that the vendor's bills for the materials and labor are not being paid, the County shall have the right to withhold from the vendor's monthly payments sufficient sums to protect itself against all losses from possible liens, and to apply the said sums to the payment of such debts. Payments of monthly estimates are agreed not to be admission by the County that the work is done or that its quality or quantity is satisfactory; final acceptance shall occur only with final payment. Before the final payment is made, the vendor shall show to the County satisfactory evidence that all just liens or claims for payment from all persons supplying the vendor labor, material and supplies used directly or indirectly by the vendor or any subcontractor or subcontractors of the vendor in the prosecution of the work are fully satisfied, and that there are no liens, claims and demands resulting from the vendor's performance. The County shall have the right to withhold up to ten (10%) percent of each progress payment which shall be due and payable to the vendor upon final completion of the work.

Should the vendor fail to complete the work within the time limit, no partial estimate will be rendered and no payments will be made after the date established for completion except as follows:

1. If a Surety Bond was furnished, the vendor shall deliver to the County's Agent the written consent of the vendor's Surety covering every such partial payment permitting such payment to be made without affecting the validity of the Bond.
2. If a Cash Bond was furnished, the County's Agent will examine the conditions relating to the delay, also the amount and nature of the work remaining to be completed and his decision will determine whether partial payments will continue to be made or withheld.

The validity of the Bond shall in no way be affected regardless of which course of action is taken.

Article 4. This purchasing Agreement shall be in effect from the period commencing the _____ day of _____, 20__ up to and including the _____ day of _____, 20__.

Article 5. **FAILURE TO COMPLETE THE WORK ON TIME:** The time limit for the completion of all work under this Purchasing Agreement shall be as set forth in the Proposal. The dates fixing this period upon the calendar shall be as established and stated in the "NOTICE TO PROCEED" from the Purchasing Agent. After commencement of work for this Agreement, it shall be pushed with proper dispatch toward completion, to the satisfaction of the County and shall be fully completed within the time limit if so established. It is understood and agreed that the time limit for completion of said work is the essence of this agreement and, should the party of the second part fail to complete the work within the time limit, it is agreed that for each calendar day that any work provided for in these plans or specifications shall remain incomplete after the time limit has expired, including any official extension of time limit, the sum per day given in the following schedule shall be deducted from monies due this vendor, not as a penalty, but as liquidated damages and added expense for supervision.

Amount of Liquidated Damages per day: \$50 per day

Article 6. **PURCHASING AGREEMENT DOCUMENTS:** The documents hereinafter listed shall form the Purchasing Agreement and they are as fully part of the Purchasing Agreement as if attached hereto:

1. Advertisement for quotes (If Advertising actually performed)
2. Proposal Quote Form
3. Quote Bond (if required)
4. Specifications
5. Insurance Certificate (if required)
6. Vendors Bond (if required)
7. Plans (if applicable)

Article 7. **APPLICABLE LAW:** Unless Otherwise specified, this Purchasing Agreement shall be governed by the laws, rules, and regulations of the State of Florida, or

the laws, rules and regulations of the United State when providing services funded by the United State Government.

Article 8. ASSIGNMENT AND TRANSFER: The vendor shall not assign or transfer any of its rights, benefits or obligations hereunder, except for transfer that result from transfer or consolidation with a third party, without the prior written approval of the county. The vendor shall have the right to employ other persons and/or firms to serve as subcontractors in connection with the requirements of the Agreement.

Article 9. TERMINATION: This Agreement may be terminated by either party by giving thirty (30) calendar days advance written notice. The County reserves the right to accept or not accept a termination notice submitted by the vendor, and no such termination notice submitted by the vendor shall become effective unless and until the vendor is notified in writing by the County of its acceptance.

However, if the vendor is adjudged bankrupt or insolvent, if it makes a general assignment for the benefit of its creditors, if a trustee or receiver is appointed for the vendor or for any of the property, if it files a petition to take advantage of any debtors act or to reorganize under the bankruptcy or similar laws, if it disregards the authority of the County's designated representatives, if it otherwise violates any provisions of this Agreement, or for any other just cause, the County may, without prejudice to any other right or remedy and after giving the vendor seven (7) calendar days written notice, terminate this Agreement.

Where the vendor's services have been terminated by the County, said termination shall not affect any rights of the County against the vendor then existing or which may thereafter accrue.

In the event of termination of this Agreement, not the fault of the vendor, the County shall compensate the vendor for: (1) all services completed prior to the effective date of termination; (2) reimbursable expenses then due; and (3) reasonable expenses incurred by the vendor in effecting the termination of services and work, and incurred by the submittal to the County of project drawings, plans, data, and other project documents which are the subject of this Agreement.

Article 10. SEVERABILITY: The provisions and scope of work included in this Agreement are severable. The excuse of nonperformance of a portion of this Agreement shall not excuse the vendor from further performance or completion of the Agreement.

Article 11. CONFLICTING PROVISION: Should any provision of this Agreement conflict with any other specifications or provisions included or incorporated by reference, the provisions of this Agreement shall control.

Article 12. WAIVER: Any waiver by the County or the breach of any provision of this Agreement shall not be construed or deemed to be a modification of the terms of this Agreement.

Article 13. **MODIFICATION:** Modification to covenants, terms and provisions of the Agreement shall only be valid when issued in writing as an amendment or change order agreed to by both parties.

Article 14. **ILLEGAL OR UNCONSTITUTIONAL PROVISIONS:** Should a Court of Law determine any provision of this Agreement to be contrary to the law, such a ruling shall not relieve the vendor from fulfilling other responsibilities under the Agreement.

Article 15. **DAMAGE TO PRIVATE PROPERTY:** Should any private property not belonging to the vendor be damaged through the fault of the vendor, while carrying out this Agreement, such damage shall be repaired by the vendor prior to the completion of the project. The County shall withhold final payment until such repairs have been made.

Article 16. **INSURANCE:** The vendor will provide a certificate of insurance, meeting the requirements outlined in the specifications (if required).

Article 17. **HOLD HARMLESS AND INDEMNITY:** The vendor agrees through the signing of this document by an authorized party or agent that he shall hold harmless and defend the County of Lee and its agents and employees from all suits and actions, including attorneys' fees and all costs of litigation and judgements of every name and description arising out of or incidental to the performance of this Agreement or work performed thereunder, whether or not due to or caused by negligence of the County excluding only the sole negligence of the County.

Article 18. **EMPLOYEES:** Persons employed by the vendor in the performance of services pursuant to this Purchasing Agreement shall not be considered employees of the County, shall be independent thereof and shall have no claim against the County as to pension, worker compensation, unemployment compensation, insurance, salary, wages or other employee rights or privileges granted by operation of law or by the County to its officers and employees.

Article 19. **LIABILITY FOR ACTS AND OMISSIONS:** The County shall not be deemed to assume any liability for the acts, omissions or negligence of the vendor, its agents or employees, and the vendor shall indemnify, release and hold the county harmless from and shall defend the County and its officers and employees against any and all claims, demands, liabilities and suits arising from any act or omission of the vendor, his agents or employees performing services and functions pursuant to this Agreement. This Agreement to indemnify shall not apply to any liability for personal injury, property damage, or breach of Agreement caused solely by the negligence of the County.

Article 20. This Agreement embodies the entire understanding of the parties and there are no other agreements or understandings, written or oral, in effect between parties, relating to the subject matter hereof. This instrument may be amended or modified only by an instrument of equal formality signed by the respective parties.

Article 21. **ANTI-DISCRIMINATION CLAUSE:** The vendor hereby agrees to comply with all applicable provisions of Federal, State and local anti-discrimination laws.

A list of all pertinent provisions are attached as an addendum, if applicable. The vendor agrees to hold harmless, defend, and indemnify the County for any losses incurred as a result of its failure to abide by the applicable anti-discrimination laws.

Article 22. SALES AND USE TAX: The Contractor is responsible for complying with the Florida Sales and Use Tax Law as it may apply to any and all of the Services and Work to be provided and performed pursuant to this Contract. The amount(s) of Compensation set forth in the Contract or in any Change Orders or Work Orders authorized pursuant to this Contract shall be understood and agreed to include any and all Florida Sales and Use Tax payment obligations required by Florida Law of the Contractor and of any an all of the Sub-Contractors or material suppliers engaged by the Contractors pursuant thereto.

Article 23. INDEMNIFICATION: The County, to the extent allowed by Section 768.28, Florida Statutes, will be liable for money damages in tort for any injuries to or losses of property, personal injury, or death caused by the negligent or wrongful act(s) or omission(s) of any official or employee of the County while acting within the scope of the official's or employee's office or employment under circumstances in which a private person would be held to be liable in accordance with the general laws of the State of Florida.

The _____ shall indemnify, defend, and hold harmless, the County officers, agents, and employees from all suits, actions, claims, demands, and liabilities of any nature whatsoever arising out of, because of, or due to breach of (vendor name) due to any act or occurrence of omission or commission of the (vendor name) its agents or employees.

IN WITNESS WHEREOF the said Lee County, Florida, has caused this Agreement to be executed in its name by the Chairman, attested by the Clerk of Courts to be hereto attached; and the said party of the second part has caused this Agreement to be executed in its name by its _____ President, attested by its _____ Secretary _____, and has caused the seal of said corporation to be hereunto attached, all on the day and year first above written.

Signed, sealed and delivered
in the presence of:

Secretary

(Correct Name of Corporation)

BY: _____

President

(Corporate Seal)

ATTEST: Clerk of Court
COMMISSIONERS

LEE COUNTY BOARD OF COUNTY
OF LEE COUNTY, FLORIDA

BY: _____
Deputy Clerk

BY: _____
Chairman

APPROVED AS TO FORM

BY: _____
County Attorney's Office

Revised: March 18, 2002

LEE COUNTY PURCHASING - BIDDERS CHECK LIST

IMPORTANT: Please read carefully and return with your bid proposal. Please check off each of the following items as the necessary action is completed:

- 1. The Quote has been signed.
- 2. The Quote prices offered have been reviewed.
- 3. The price extensions and totals have been checked.
- 4. The original (must be manually signed) and 2 copies of the quote have been submitted.
- 5. Three (3) identical sets of descriptive literature, brochures and/or data (if required) have been submitted under separate cover.
- 6. All modifications have been acknowledged in the space provided.
- 7. All addendums issued, if any, have been acknowledged in the space provided.
- 8. Erasures or other changes made to the quote document have been initialed by the person signing the quote.
- 9. Bid Bond and/or certified Check, (if required) have been submitted with the quote in amounts indicated.
- 10. Any Delivery information required is included.

11. The mailing envelope has been addressed to:

MAILING ADDRESS

Lee County Purchasing
P.O. Box 398 or
Ft. Myers, FL 33902-0398

PHYSICAL ADDRESS

Lee County Purchasing
1825 HENDRY STREET, 3RD FLOOR
Ft. Myers, FL 33901

12. The mailing envelope **MUST** be sealed and marked with:
Quote Number
Opening Date and/or Receiving Date

13. The quote will be mailed or delivered in time to be received no later than the specified opening date and time. (Otherwise quote cannot be considered or accepted.)

14. If submitting a "NO BID" please write quote number here _____ and check one of the following:

Do not offer this product Insufficient time to respond.

Unable to meet specifications (why)

Unable to meet bond or insurance requirement.

Other: _____

Company Name and Address:

ATTACHMENT 3

FORMAL QUOTATION NO.: Q-040523
LEE COUNTY, FLORIDA
PROPOSAL QUOTE FORM
FOR THE ANNUAL PURCHASE OF
SULFURIC ACID

DATE SUBMITTED: July 19th, 2004
VENDOR NAME: Trans ammonia, Inc.

TO: The Board of County Commissioners
Lee County
Fort Myers, Florida

Having carefully examined the "General Conditions", and the "Detailed Specifications", all of which are contained herein, the Undersigned proposes to furnish the following which meet these specifications:

The undersigned acknowledges receipt of Addenda numbers:

GRAND TOTAL: \$ _____

WILL YOU DELIVER WITH YOUR OWN VEHICLE AS OPPOSED TO COMMON CARRIER?

YES _____ NO

NOTE: Prices shall include firm delivered prices within the minimum/maximum quantity ranges F.O.B., Lee County Florida to the delivery locations as specified.

SULFURIC ACID (BULK)

Specify product name: Sulfuric Acid

\$ 70.41 EA. X 1,600 tons = Total Cost \$ 112,656.00

Manufacturer Cargill Fertilizer (MOSATC)

Min/max 500 - 3,000 gallons

TO BE STARTED WITHIN 2 CALENDAR DAYS AFTER RECEIPT OF AWARD AND PURCHASE ORDER.

Is your firm interested in being considered for the Local Vendor Preference?

Yes No

If yes, then read the paragraph entitled "Local Vendor Preference" included in these specifications. Also complete the Local Vendor Preference Questionnaire and return with your quotation.

Quoters should carefully read all the terms and conditions of the specifications. Any representation of deviation or modification to the quote may be grounds to reject the quote.

Are there any modifications to the quote or specifications:

Yes No

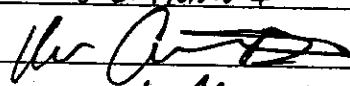
Failure to clearly identify any modifications in the space below or on a separate page may be grounds for the quoter being declared nonresponsive or to have the award of the quote rescinded by the County.

MODIFICATIONS:

Quoter shall submit his/her quote on the County's Proposal Quote Form, including the firm name and authorized signature. Any blank spaces on the Proposal Quote Form, qualifying notes or exceptions, counter offers, lack of required submittals, or signatures, on County's Form may result in the Quoter/Quote being declared non-responsive by the County.

FORMAL QUOTATION NO.: Q-040523
ANTI-COLLUSION STATEMENT

THE BELOW SIGNED QUOTER HAS NOT DIVULGED TO, DISCUSSED OR COMPARED HIS QUOTE WITH OTHER QUOTERS AND HAS NOT COLLUDED WITH ANY OTHER QUOTER OR PARTIES TO A QUOTE WHATSOEVER. NOTE: NO PREMIUMS, REBATES OR GRATUITIES TO ANY EMPLOYEE OR AGENT ARE PERMITTED EITHER WITH, PRIOR TO, OR AFTER ANY DELIVERY OF MATERIALS. ANY SUCH VIOLATION WILL RESULT IN THE CANCELLATION AND/OR RETURN OF MATERIAL (AS APPLICABLE) AND THE REMOVAL FROM THE MASTER BIDDERS LIST.

FIRM NAME Transammonia, Inc.
BY (Printed): Ken Castellano II
BY (Signature): 
TITLE: Sulfuric Acid Marketing Manager
FEDERAL ID # OR S.S.# 132679131
ADDRESS: 4211 West Bay Scout Blvd. Site 600
Tampa, FL 33607-5757
PHONE NO.: 813 261-0600
FAX NO.: 813-261-0601
CELLULAR PHONE/PAGER NO.: 813-503-7386

LEE COUNTY OCCUPATIONAL LICENSE NUMBER: _____

E-MAIL ADDRESS: _____

REVISED: 7/28/00

FORMAL QUOTATION NO.: Q-040523
ATTACHMENT A
LOCAL VENDOR PREFERENCE QUESTIONNAIRE
(LEE COUNTY ORDINANCE NO. 00-10)

Instructions: Please complete either Part A or B whichever is applicable to your firm

PART A: VENDOR'S PRINCIPAL PLACE OF BUSINESS IS LOCATED WITHIN LEE COUNTY (Only complete Part A if your principal place of business is located within the boundaries of Lee County)

1. What is the physical location of your principal place of business that is located within the boundaries of Lee County, Florida?

location not within Lee County

2. What is the size of this facility (i.e. sales area size, warehouse, storage yard, etc.)

N/A

PART B: VENDOR'S PRINCIPAL PLACE OF BUSINESS IS NOT LOCATED WITHIN LEE COUNTY OR DOES NOT HAVE A PHYSICAL LOCATION WITHIN LEE COUNTY (Please complete this section.)

1. How many employees are available to service this contract? 3
2. Describe the types and amount of equipment you have available to service this contract.

Using common carriers with adequate # of trucks & trailers and sourcing from the largest sulfuric producer on the east coast

3. Describe the types and amount of material stock that you have available to service this contract.

25,000^{ton} per day Capacity. Plenty of
Material Available.

4. Have you provided goods or services to Lee County on a regular basis for the preceding, consecutive five years?

Yes _____

No

If yes, please provide your contractual history with Lee County for the past five, consecutive years. Attach additional pages if necessary.

ATTACHMENT 4

From: Chad Denney
To: Peterson, Chevone
Date: 8/6/04 9:08AM
Subject: Re: Q-040523 Sulfuric Acid, Annual

Chevone, please award the quote to Transammonia, they were the lowest quoter meeting specs. The lowest price company SATCO did not meet the minimum delivery requirements. The reason for this quote is to provide Sulfuric acid to our water plants who use it in the chemicla process of provideing potable water to our customers.

The account strings are as follows

Olga Water Plant OD53601
Waterway Estates Water Plant OD53625
Pinewoods Water Plant OD53619
New RO plant to be on line next april OD53631, I think this plant is going to be called Durance Road Water Plant.

Should you need any further info please let me know.

Thanks
Chad

>>> Chevone Peterson 08/04/04 03:09PM >>>

Chad,
good afternoon. As was discussed in yesterdays meeting, Utilities have decided to award above subject to Transammonia as the low quoter meeting specifications. Please provide why action is necessary and what action accomplishes along with account string so that I may complete the bluesheet.

Questions? please let me know.

Thanks a bunch!

Chevone Peterson
Buyer
Purchasing Department
239.344.5450
239.344.5460 (fax)
cpeterson@leegov.com

CC: Hill, Thomas

ATTACHMENT 5

PURCHASING AGREEMENT

This Agreement, made and entered into this _____ day of _____, in the year _____, by and between LEE COUNTY, FLORIDA, a political subdivision of the STATE OF FLORIDA, acting by and through the BOARD OF COUNTY COMMISSIONERS, PARTY OF THE FIRST PART AND, _____ PARTY OF THE SECOND PART.

WITNESSTH: That the parties hereto, for the consideration herein set forth mutually agree as follows:

Article 1. SCOPE OF WORK: The vendor shall provide all services, materials, and equipment necessary in the manner and form provided by the Contract Documents for the delivery of **SULFURIC ACID**.

Article 2. CONTRACT SUM: The County shall pay to the vendor, for the faithful performance of the terms as specified in the Purchasing Agreement, in lawful money of the United States of America, and subject to the additions and deductions as provided in the Contract Documents, total sum as follows:

Based on the agreed upon price shown in the Proposal previously submitted to the County, a copy of said Proposal being a part of this Agreement

the sum of \$112,656.00

Article 3. PAYMENTS: If during the progress of the work or furnishing of services it appears that the vendor's bills for the materials and labor are not being paid, the County shall have the right to withhold from the vendor's monthly payments sufficient sums to protect itself against all losses from possible liens, and to apply the said sums to the payment of such debts. Payments of monthly estimates are agreed not to be admission by the County that the work is done or that its quality or quantity is satisfactory; final acceptance shall occur only with final payment. Before the final payment is made, the vendor shall show to the County satisfactory evidence that all just liens or claims for payment from all persons supplying the vendor labor, material and supplies used directly or indirectly by the vendor or any subcontractor or subcontractors of the vendor in the prosecution of the work are fully satisfied, and that there are no liens, claims and demands resulting from the vendor's performance. The County shall have the right to withhold up to ten (10%) percent of each progress payment which shall be due and payable to the vendor upon final completion of the work.

Should the vendor fail to complete the work within the time limit, no partial estimate will be rendered and no payments will be made after the date established for completion except as follows:

1. If a Surety Bond was furnished, the vendor shall deliver to the County's Agent the written consent of the vendor's Surety covering every such partial payment permitting such payment to be made without affecting the validity of the Bond.
2. If a Cash Bond was furnished, the County's Agent will examine the conditions relating to the delay, also the amount and nature of the work remaining to be completed and his decision will determine whether partial payments will continue to be made or withheld.

The validity of the Bond shall in no way be affected regardless of which course of action is taken.

Article 4. This purchasing Agreement shall be in effect from the period commencing the _____ day of _____, 20__ up to and including the _____ day of _____, 20__.

Article 5. FAILURE TO COMPLETE THE WORK ON TIME: The time limit for the completion of all work under this Purchasing Agreement shall be as set forth in the Proposal. The dates fixing this period upon the calendar shall be as established and stated in the "NOTICE TO PROCEED" from the Purchasing Agent. After commencement of work for this Agreement, it shall be pushed with proper dispatch toward completion, to the satisfaction of the County and shall be fully completed within the time limit if so established. It is understood and agreed that the time limit for completion of said work is the essence of this agreement and, should the party of the second part fail to complete the work within the time limit, it is agreed that for each calendar day that any work provided for in these plans or specifications shall remain incomplete after the time limit has expired, including any official extension of time limit, the sum per day given in the following schedule shall be deducted from monies due this vendor, not as a penalty, but as liquidated damages and added expense for supervision.

Amount of Liquidated Damages per day: \$50 per day

Article 6. PURCHASING AGREEMENT DOCUMENTS: The documents hereinafter listed shall form the Purchasing Agreement and they are as fully part of the Purchasing Agreement as if attached hereto:

1. Advertisement for quotes (If Advertising actually performed)
2. Proposal Quote Form
3. Quote Bond (if required)
4. Specifications
5. Insurance Certificate (if required)
6. Vendors Bond (if required)
7. Plans (if applicable)

Article 7. APPLICABLE LAW: Unless Otherwise specified, this Purchasing Agreement shall be governed by the laws, rules, and regulations of the State of Florida, or

the laws, rules and regulations of the United State when providing services funded by the United State Government.

Article 8. ASSIGNMENT AND TRANSFER: The vendor shall not assign or transfer any of its rights, benefits or obligations hereunder, except for transfer that result from transfer or consolidation with a third party, without the prior written approval of the county. The vendor shall have the right to employ other persons and/or firms to serve as subcontractors in connection with the requirements of the Agreement.

Article 9. TERMINATION: This Agreement may be terminated by either party by giving thirty (30) calendar days advance written notice. The County reserves the right to accept or not accept a termination notice submitted by the vendor, and no such termination notice submitted by the vendor shall become effective unless and until the vendor is notified in writing by the County of its acceptance.

However, if the vendor is adjudged bankrupt or insolvent, if it makes a general assignment for the benefit of its creditors, if a trustee or receiver is appointed for the vendor or for any of the property, if it files a petition to take advantage of any debtors act or to reorganize under the bankruptcy or similar laws, if it disregards the authority of the County's designated representatives, if it otherwise violates any provisions of this Agreement, or for any other just cause, the County may, without prejudice to any other right or remedy and after giving the vendor seven (7) calendar days written notice, terminate this Agreement.

Where the vendor's services have been terminated by the County, said termination shall not affect any rights of the County against the vendor then existing or which may thereafter accrue.

In the event of termination of this Agreement, not the fault of the vendor, the County shall compensate the vendor for: (1) all services completed prior to the effective date of termination; (2) reimbursable expenses then due; and (3) reasonable expenses incurred by the vendor in effecting the termination of services and work, and incurred by the submittal to the County of project drawings, plans, data, and other project documents which are the subject of this Agreement.

Article 10. SEVERABILITY: The provisions and scope of work included in this Agreement are severable. The excuse of nonperformance of a portion of this Agreement shall not excuse the vendor from further performance or completion of the Agreement.

Article 11. CONFLICTING PROVISION: Should any provision of this Agreement conflict with any other specifications or provisions included or incorporated by reference, the provisions of this Agreement shall control.

Article 12. WAIVER: Any waiver by the County or the breach of any provision of this Agreement shall not be construed or deemed to be a modification of the terms of this Agreement.

Article 13. **MODIFICATION:** Modification to covenants, terms and provisions of the Agreement shall only be valid when issued in writing as an amendment or change order agreed to by both parties.

Article 14. **ILLEGAL OR UNCONSTITUTIONAL PROVISIONS:** Should a Court of Law determine any provision of this Agreement to be contrary to the law, such a ruling shall not relieve the vendor from fulfilling other responsibilities under the Agreement.

Article 15. **DAMAGE TO PRIVATE PROPERTY:** Should any private property not belonging to the vendor be damaged through the fault of the vendor, while carrying out this Agreement, such damage shall be repaired by the vendor prior to the completion of the project. The County shall withhold final payment until such repairs have been made.

Article 16. **INSURANCE:** The vendor will provide a certificate of insurance, meeting the requirements outlined in the specifications (if required).

Article 17. **HOLD HARMLESS AND INDEMNITY:** The vendor agrees through the signing of this document by an authorized party or agent that he shall hold harmless and defend the County of Lee and its agents and employees from all suits and actions, including attorneys' fees and all costs of litigation and judgments of every name and description arising out of or incidental to the performance of this Agreement or work performed thereunder, whether or not due to or caused by negligence of the County excluding only the sole negligence of the County.

Article 18. **EMPLOYEES:** Persons employed by the vendor in the performance of services pursuant to this Purchasing Agreement shall not be considered employees of the County, shall be independent thereof and shall have no claim against the County as to pension, worker compensation, unemployment compensation, insurance, salary, wages or other employee rights or privileges granted by operation of law or by the County to its officers and employees.

Article 19. **LIABILITY FOR ACTS AND OMISSIONS:** The County shall not be deemed to assume any liability for the acts, omissions or negligence of the vendor, its agents or employees, and the vendor shall indemnify, release and hold the county harmless from and shall defend the County and its officers and employees against any and all claims, demands, liabilities and suits arising from any act or omission of the vendor, his agents or employees performing services and functions pursuant to this Agreement. This Agreement to indemnify shall not apply to any liability for personal injury, property damage, or breach of Agreement caused solely by the negligence of the County.

Article 20. This Agreement embodies the entire understanding of the parties and there are no other agreements or understandings, written or oral, in effect between parties, relating to the subject matter hereof. This instrument may be amended or modified only by an instrument of equal formality signed by the respective parties.

Article 21. ANTI-DISCRIMINATION CLAUSE: The vendor hereby agrees to comply with all applicable provisions of Federal, State and local anti-discrimination laws. A list of all pertinent provisions are attached as an addendum, if applicable. The vendor agrees to hold harmless, defend, and indemnify the County for any losses incurred as a result of its failure to abide by the applicable anti-discrimination laws.

Article 22. SALES AND USE TAX: The Contractor is responsible for complying with the Florida Sales and Use Tax Law as it may apply to any and all of the Services and Work to be provided and performed pursuant to this Contract. The amount(s) of Compensation set forth in the Contract or in any Change Orders or Work Orders authorized pursuant to this Contract shall be understood and agreed to include any and all Florida Sales and Use Tax payment obligations required by Florida Law of the Contractor and of any an all of the Sub-Contractors or material suppliers engaged by the Contractors pursuant thereto.

Article 23. INDEMNIFICATION: The County, to the extent allowed by Section 768.28, Florida Statutes, will be liable for money damages in tort for any injuries to or losses of property, personal injury, or death caused by the negligent or wrongful act(s) or omission(s) of any official or employee of the County while acting within the scope of the official's or employee's office or employment under circumstances in which a private person would be held to be liable in accordance with the general laws of the State of Florida.

Article 24. SHIPMENTS: Buyer shall unload and release all transportation equipment promptly so that no demurrage or other expense resulting from delay shall be incurred. Buyer shall reimburse Seller for any demurrage Seller may incur by reason of any action or inaction of Buyer or its agents.

Article 25. FORCE MAJEURE:

- (a) Performance Excused - Seller shall not be liable for any non-performance or delay in performance caused by or resulting from strike, lockout or other industrial disturbance; war or warlike operations; fire, earthquake, explosion, flood, storm, perils of the sea, act of God, accident; mandatory or voluntary regulations, rules or orders issued or requested by any governmental authority or person purporting to act therefore; inability to obtain any necessary export or import permit; curtailment of or failure to obtain sufficient raw materials, labor or utilities; breakdown of machinery, equipment or terminal facilities; lack of containers; interruption of transportation or distribution facilities or any other cause whatsoever (whether or not of the same kind as those set forth above) beyond its reasonable control (herein called "force majeure"). Seller shall have no obligation to contest any governmental action or regulation or to make any concession or grant any demand in order to bring to an end any strikes or to expend any sums to avoid the effect of force majeure.

- (b) Seller's Suppliers – Buyer acknowledges that Seller is not a producer of the product. If Seller's supplier is designated in this contract or if Seller has notified or informed Buyer of the identity of Seller's supplier, then any force majeure condition affecting such supplier shall be considered to be a force majeure condition affecting Seller.
- (c) Notice – If force majeure shall occur, Seller shall notify Buyer within 15 days after Seller has notice thereof. If Seller estimates that force majeure will continue for more than 90 days, and so notifies Buyer, Seller may in such notice, or Buyer may, within 15 days after giving of such notice, upon notice to Seller, terminate this contract without liability of any kind as to future shipments.
- (d) Shipments After Force Majeure – Seller may, at its option, exercised by notice to Buyer given within a reasonable time, either (i) cancel from this contract the quantities which have not been shipped due to force majeure, without affecting the balance of this contract; or (ii) ship such quantities in one or more lots, after Seller deems the effect of force majeure to have ended, on the same terms as set forth in this contract.
- (e) Allocation of Product – If by reason of force majeure supplies of product from Seller's then existing sources of supply are curtailed or cut off, Seller shall have the option, exercised by notice to Buyer, to allocate in such manner as shall, in Seller's judgment, fairly prorate among its existing or prospective contract or non-contract customers, and/or its affiliates or subsidiaries, such quantities as may then be in Seller's storage and such quantities as may be received by Seller in the ordinary course of business from existing or other sources of supply for Seller's business. Seller shall not be required to increase its taking from such other sources of supply or to purchase additional product to replace the supplies which have been curtailed or cut off.

The **TRANSAMMONIA, INC.** shall indemnify, defend, and hold harmless, the County officers, agents, and employees from all suits, actions, claims, demands, and liabilities of any nature whatsoever arising out of, because of, or due to breach of Transammonia, Inc. due to any act or occurrence of omission or commission of the Transammonia, Inc. its agents or employees.

IN WITNESS WHEREOF the said Lee County, Florida, has caused this Agreement to be executed in its name by the Chairman, attested by the Clerk of Courts to be hereto attached; and the said party of the second part has caused this Agreement to be executed in its name by its Fertilizer Division President, and has caused the seal of said corporation to be hereunto attached, all on the day and year first above written.

Signed, sealed and delivered
in the presence of:

TRANSAMMONIA, INC. _____

(Correct Name of Corporation)

BY: Erzin Atac

ERZIN ATAC
PRESIDENT – FERTILIZER DIVISION



ATTEST: Clerk of Court
COMMISSIONERS

LEE COUNTY BOARD OF COUNTY
OF LEE COUNTY, FLORIDA

BY: _____
Deputy Clerk

BY: _____
Chairman

APPROVED AS TO FORM

BY: _____
County Attorney's Office