

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

Blue Sheet No. 20061436

1. ACTION REQUESTED/PURPOSE: Award B-06-26 CYPRESS LAKE DRIVE LANDSCAPE AND IRRIGATION PROJECT FROM SUMMERLIN ROAD TO MCGREGOR BOULEVARD to the lowest responsive/responsible bidder, Greenwerx Groundskeeping, Inc., in the not-to-exceed amount of \$478,920.96. Also, authorize Chairwoman to execute contract upon receipt. This project was anticipated and funds will be available upon approval of Carryovers.

2. WHAT ACTION ACCOMPLISHES: Provides Lee County with a contractor for the installation of plant material and underground irrigation system, including maintenance of traffic, soil, sod (repairs), pump station, electrical, directional boring and landscape and irrigation maintenance.

3. MANAGEMENT RECOMMENDATION: Approval recommended.

4. Departmental Category: 09 Transportation **C9B**

5. Meeting Date:

NOV 21 2006

6. Agenda:

- Consent
- Administrative
- Appeals
- Public
- Walk-On

7. Requirement/Purpose: (specify)

- Statute
- Ordinance
- Admin. Code **AC-4-4**
- Other

8. Request Initiated:

Commissioner _____
 Department Transportation
 Division _____
 By: Scott Gilbertson, Director

9. Background:

The Department of Transportation submitted a request to Contracts Management to obtain bids for the Cypress Lake Drive Landscape & Irrigation Project From Summerlin Road To McGregor Boulevard project. The anticipated cost of the project required the use of the formal, sealed bid procedure.

On the bidding deadline of August 16, 2006, Contracts received three (3) bids. Upon review of the bids, the bid submitted by Hannula Landscaping, Inc. was declared non-responsive due to additional pricing being provided on a separate sheet. On September 21, 2006, upon receipt of notification that his bid was declared non-responsive, Mr. Dale Hannula, President of Hannula Landscaping, Inc., informed Contracts of his intent to file a protest. The intent was received by Lee County Contracts within the required time frame of 72 hours after notification, along with the "Formal Written Protest" dated October 2, 2006.

- CONTINUED ON PAGE TWO -

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
					Analyst	Risk	Grants	Mgr.	
<i>[Signature]</i>	<i>[Signature]</i>	N/A	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>

11. Commission Action:

- Approved
- Deferred
- Denied
- Other

RECEIVED BY COUNTY ADMIN: *[Signature]*
 11/6/06
 8:45 AM
 COUNTY ADMIN FORWARDED TO: *[Signature]*
 11-7-06
 2pm

Rec. by CoAtty
 Date: 11/3/06
 Time: 10:50 AM
 Forwarded To: 11/3/06 5:00pm

A Bid Protest Committee was formed, consisting of Jim Lavender, Public Works Director, Chairman, Roland Ottolini, Director of Natural Resources and Pete Winton, Assistant County Manager. Following discussions, it was the consensus of the committee to reject the bid protest, as it was decided it would be unfair to accept Mr. Hannula's bid because of the extra sheet with pricing for rock removal. The additional pricing was not a set price and therefore could not be considered comparable to other bids, whose cost for rock removal was included within unit prices. The motion was made by Jim Lavender, seconded by Roland Ottolini and then called and carried with no further questions. Mr. Hannula stated that he would not proceed any further with the Bid Protest.

Funds will be available upon approval of Carryovers in the following account: 40602400100.503490.

- Attachments:
- 1) Bid Tabulation
 - 2) Department/Consultant Recommendation
 - 3) Notice of Intent to File A Protest from Hannula Landscaping, Inc., dated 9/22/06.
 - 4) Formal Written Protest from Hannula Landscaping, Inc., dated 10/2/06.

**LEE COUNTY BID TABULATION SHEET
FOR
CYPRESS LAKE DRIVE LANDSCAPE &
IRRIGATION PROJECT FROM
SUMMERLIN ROAD TO McGREGOR
BOULEVARD**

BID NO.: B-06-26

DATE: 08/16/06

CONTRACTOR	BID BOND	TOTAL NOT-TO- EXCEED AMOUNT
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Greenwerx Groundskeeping
Mr. Kyle Gordon
P.O. Box 3281
N. Ft. Myers, FL 33918
PHONE 239-482-8277
FAX 239-482-8227

\$28,956.00

\$478,920.96

Hannula Landscaping, Inc.
28131 Quails Nest Lane
Bonita Springs, FL 34135
PHONE 239-992-2210
FAX 239-498-6818

\$28,956.00

\$403,105.78**

Tropics North
Ms. Elizabeth Alberto
4155 East Mowry Drive
Homestead, FL 33033
PHONE 305-258-8011
FAX 305-258-0809

\$28,956.00

\$619,746.10

**BID DECLARED NON-RESPONSIVE

gan, Cindy S.

From: Moore, Patrick A.
Sent: Monday, September 11, 2006 9:47 AM
To: Cindy S. Logan
Cc: Simmons, Clay; Jonathan Romine; Racquel M. Benedict
Subject: RE: B-06-26 Cypress Lakes Landscape & Irrigation

Hi Cindy,

Below is our consultants recommendation. We agree with their recommendations as Clay mentioned earlier.

Best regards,

PATRICK A. MOORE, RLA, ASLA, CLARB, ISA
STAFF ENGINEER/LANDSCAPE ARCHITECT, CERTIFIED ARBORIST
LEE COUNTY DEPARTMENT OF TRANSPORTATION
5560 ZIP DRIVE
FT. MYERS, FLORIDA 33905
MOOREPA@LEEGOV.COM
PHONE: (239) 694-3334
FAX: (239) 694-3332

From: Jonathan Romine [mailto:JLR@johnsoneng.com]
Sent: Monday, September 11, 2006 8:46 AM
To: Moore, Patrick A.
Cc: Simmons, Clay
Subject: RE: B-06-26 Cypress Lakes Landscape & Irrigation

Good morning Pat,

We have reviewed the bids and have concluded our recommendation for the Cypress Lake Drive Landscape and Irrigation Project is Greenwerx Groundskeeping. They are the low bidder since Hannula's bid is disqualified.

We feel confident Greenwerx Groundskeeping can complete the work as bid and complete the project based on the schedule spelled out in the contract documents.

If you have any questions please let me know.

Thanks,

Jonathan L. Romine, ASLA
Senior Landscape Designer

Johnson Engineering, Inc.
2158 Johnson Street
Fort Myers, Florida 33901
Phone 239.461.2476
Fax 239.334.3661
jromine@johnsoneng.com

"Peace of Mind by Design"

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October 2, 2006

Mr. Jim Lavender Public Works Director
Lee County, Southwest Florida
P.O. Box 398
Ft. Myers, Florida 33902

Sent Via Fax: 239-335-2335
On 10-02-06

Re: Solicitation No: B-06-26
Cypress Lake Drive Landscape And Irrigation Project From Summerlin Road
To McGregor Boulevard.
" FORMAL WRITTEN PROTEST "

Dear Mr. Lavender,

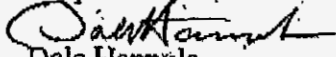
This letter will serve as our "Formal Written Protest" of the decision to declare the above referenced bid non-responsive due to the fact that additional pricing was provided on separate sheets".

In accordance with the directions provided to me by Lee County Contracts Management on 9-29-06 the following is the information as required by the " Administrative Code AC-4-4 Lee County Contract Manual, Volume I Bid protest Procedures."

1. County Bid Identification Number And Title: Bid Number B-06-26: Cypress Lake Drive Landscape And Irrigation Project From Summerlin Road To McGregor Boulevard.
2. Affected Party: Hannula Landscaping, Inc. 28131 Quails Nest Lane, Bonita Springs, Florida. 34135 Dale F. Hannula President; Protest Submitter.
3. Statement Of Disputed Facts, Rules, Regulations: See Attached; " Notice Of Intent To File A Protest" The information and documentation contained in the "Notice Of Intent To File A Protest" shall apply as the documentation for the basis of the Formal Protest. See Attachment "A"
4. Relief Sought: Award the contract to Hannula Landscaping.
5. Bond: Bid Bond submitted with bid shall apply.

Thank you for your review of this matter. I will wait for your response.

Respectfully


Dale Hannula
239-992-2210



September 22, 2006

SEP 25 06 14:35

Mr. Jim Lavender Public Works Director
Lee County, Southwest Florida
P.O. Box 398
Ft. Myers, Florida 33902

Sent Via Fax: 239-335-2335
On 9-22-06
Certified Mail On 9-25-06
(Within 72 Hrs. After weekend)

Re: Solicitation No: B-06-26

Cypress Lake Drive Landscape And Irrigation Project From Summerlin Road
To McGregor Boulevard.

"NOTICE OF INTENT TO FILE A PROTEST"

Dear Mr. Lavender,

This letter will serve as our "Notice Of Intent To File A Protest" for the decision to declare the above referenced bid "non-responsive due to the fact that additional pricing was provided on separate sheets." Referenced by the following "Page C-3, Paragraph 3.5 of the Lee County Bid Documents which states that "Any blank spaces on the Bid Proposal Form (Part D), qualifying notes, exceptions, counter offers, lack of required submittals, signatures or failure to submit a bid on the County form may cause Bidder to be declared non-responsive."

Our response is as follows:

1. See attachment that was submitted with our bid.
2. The intent of the attachment is to provide the County with a cost for rock removal in the event it is encountered while excavating for the landscaping and irrigation work. This pertains to rock over and above the normal size encountered with our typical work. Example: (Rock that would require large backhoes, rock trenchers, and dump trucks to remove. This work would be normally done by a "Site Contractor" not a Landscape and Irrigation Contractor.
3. In speaking with Cindy Logan, while reviewing the pre-bid tapes I inquired as to what the County would do if such rock was encountered by another contractor who did not include a price in his bid as an alternate. She indicated that he would be issued a change order to remove the rock. As there are no line items for rock removal in the bid form, the County would be subject to whatever price the other contractor chose at the time. The only difference between the two situations is that the County has preliminary pricing for such a change order at bid time based on our attachment and would be subject to additional pricing by someone else at a later date who did not submit a cost with their bid. The ultimate decision to

- approve or accept any change order pricing is left up to the County to determine whether it is an acceptable cost or whether they would have to bid out the work if they feel it is over inflated. The attachment we submitted does not have to be accepted but rather evaluated for reasonable costs and either accepted or rejected.
4. Please refer to section 2.1 "Bidder Examination / Investigation of site. (Copy Attached) During the pre bid meeting it was noted that we should go and pot hole the areas to determine the sub soil conditions, and refer to reports of investigation of the subsurface, which are Not guaranteed as to their accuracy or completeness, nor are they part of the contract documents. As a reply to this provision, pot holes with a post hole digger is not sufficient to determine the subsurface conditions. Trenching the length of the medians to a depth which the irrigation would be installed is not feasible prior to the bid and we do not have a Right Of Way Permit as a Bidder to perform such work. The cost of such an investigation would prohibit such work. If we went to that extent we might as well be performing the actual work. Also the reports are not guaranteed so they are of little or no value.
 5. The Letter also stated that the contract was to be awarded to Greenwerx Groundskeeping in the amount of \$478,920.96. I do not understand why the County would choose to spend an additional \$75,815.18 with another contractor who would quote a price for rock removal and be issued a change order in the event it became necessary to remove the rock. Please explain the basis for such additional expenditures?

In closing I would like to state that I understand the provisions of the contract documents. However, I feel that the interpretation of our "attachment" is taken out of context when applying it to provision 3.5. On bids numbered B-06-24 and B-06-23 contracts were awarded to contractors who did not sign and seal the Bid Bonds. Section 3.5 states that "signatures" are required as a condition of the bid. Please explain how exceptions can be made for some contracts and not for others. It would seem that the provisions should be viewed in the "strictest sense" for all contracts to be fair to all bidders.

Thank you for review of this matter. I will wait for your response.

Respectfully



Dale Hannula

239-992-2210

cc Cindy Logan: Contracts Manager

**HANNULA LANDSCAPING, INC.
HANNULA IRRIGATION, INC.
28131 QUAILS NEST LANE
BONITA SPRINGS, FL 34135
239-992-2210
239-498-6818 FAX**

**BID NUMBER B-06-26
CYPRESS LAKE DRIVE LANDSCAPE & IRRIGATION PROJECT
FROM SUMMERLIN ROAD TO MCGREGOR BLVD.**

ROCK EXCAVATION:

**ROCK EXCAVATION FOR THE IRRIGATION SYSTEM,
LANDSCAPE PLANTINGS, DIRECTIONAL BORE, PAVERS, AND
OTHER RELATED WORK SHALL BE AT AN ADDITIONAL RATE
OF \$65.00 PER LINEAR FOOT FOR EXCAVATION AND \$275.00
PER TON FOR LOADING AND HAULING FROM THE SITE.**

LANDSCAPE MATERIALS:

**CONTRACTOR DOES NOT GUARANTEE AVAILABILITY OF MATERIALS
AS SPECIFIED DUE TO THE SHORTAGE OF TREES AND SHRUBS IN THE
STATE OF FLORIDA FROM PAST HURRICANES. OWNER / ARCHITECT TO
PROVIDE ALTERNATES IF MATERIAL IS NOT AVAILABLE AT TIME OF
INSTALLATION.**



**DALE F. HANNULA
PRESIDENT
8-16-06**

2. BIDDER EXAMINATION/INVESTIGATION OF SITE

2.1 Before submitting bids, BIDDER must carefully examine the site of the proposed work and make all necessary investigations to inform itself thoroughly as to all difficulties involved in the completion of all work required pursuant to the requirements of this bid package. No plea of ignorance of conditions or difficulties that may hereafter exist, or of conditions or difficulties that may be encountered in the execution of the work pursuant to this bid package as a result of failure to make the necessary examinations and investigations will be accepted as an excuse for any failure or omission on the part of the successful BIDDER to fulfill, in every detail, all of the requirements of the Contract Documents, nor will they be accepted as a basis for any claims whatsoever for extra compensation or for an extension of time.

2.2 Reference is made to the Supplementary Conditions for the identification of those reports of investigation and test of subsurface and latent physical conditions at the site or otherwise affecting cost, progress or performance of the Work which have been relied upon by the County and/or its Consultant in preparing the Drawings and Specifications. COUNTY will make copies of such reports available to any BIDDER requesting them. These reports are not guaranteed as to their accuracy or completeness, nor are they part of the Contract Documents. Before submitting its Bid, each BIDDER will, at its own expense, make such additional investigations and tests as the BIDDER may deem necessary.

2.3 BIDDER shall not be entitled to compensation beyond its bid price when required to incur expenses because of tolls, weight limits of trucks, access to the site, permanent or temporary power at the job site, delivery of materials, temporary utilities, or compliance with OSHA requirements when examination and/or investigation of the site conditions and access routes would have revealed the extra expense involved. The above list is intended to be illustrative and not all-inclusive.

3. PREPARATION OF BID

3.1 Each BIDDER shall submit the completed Bid Form No.CMO:003 (provided in Part D) and indicate the total lump-sum, or total unit price base bid, and any total price(s) of any alternative(s) requested as part of the bid solicitation. BIDDER must furnish all requested information in the space provided in the Bid Proposal Form (Part D). The BIDDER is solely responsible for reading and completely understanding the requirements and the specifications of the items bid.

3.1.1. **A disk of the bid schedule is provided for BIDDER use.** The completed disk must be submitted back to the Contracts Office along with the submitted bid at the prescribed date and time of bid opening. Once the disk has been completed, the BIDDER shall print out a finished Bid Schedule. Both the printed paper copy and disk shall be submitted with the bid.

3.2 Signatures shall be required as follows:

3.2.1 Bids by a corporation must be manually executed in the corporate name, by the President or Vice President (or other corporate officer, accompanied by written evidence of authority to so sign). The corporate seal must be affixed and attested by the secretary or assistant secretary. The corporate address and State of incorporation must be shown below the signature. Non-resident corporations shall furnish to the COUNTY a duly certified copy of all required authorizations to transact business in the State of Florida along with the bid proposal.

3.2.2 Bids by a partnership must be manually executed in the partnership name and signed by a partner whose title must appear under the signature. The official address of the partnership must be shown below the signature.

3.2.3 Attorneys-in-Fact who sign bonds or other surety instruments must attach with each bond or surety instrument a certified and effectively dated copy of their power of attorney.

3.2.4 All names must be typed or printed below the signature.