

## CONTRACTOR'S AGREEMENT

Clerk's Contract Tracking No. 2022-14913

**REGARDING: ITB 22-040 Gulf Shore Boulevard North Outlot "E" Seawall Replacement**

**THIS INDEPENDENT CONTRACTOR'S AGREEMENT** (hereinafter this "Agreement") is made and entered into this 7th day of September 2022 by and between the City of Naples (the "CITY") and Kelly Brothers Inc., a Florida Limited Liability Company authorized to do business in the State of Florida (hereinafter "CONTRACTOR").

### WITNESSETH

**WHEREAS**, the CITY is a Florida municipal corporation in the State of Florida, having a responsibility to provide certain services to benefit the citizens of the City of Naples; and

**WHEREAS**, the CITY has the full power and authority to enter into the transactions contemplated by this Agreement; and

**WHEREAS**, CONTRACTOR is in the business of providing said services in the City of Naples and elsewhere in the State of Florida; and

**WHEREAS**, CONTRACTOR is competent and has sufficient manpower, training, and technical expertise to perform the services contemplated by this Agreement in a timely and professional manner consistent with the standards of the industry in which CONTRACTOR operates; and

**WHEREAS**, Section 448.095, Fla. Stat., imposes certain obligations on public agencies with regard to the use of the E-Verify system by their contractors and subcontractors; and

**WHEREAS**, CONTRACTOR was the successful bidder for an advertised Invitation to Bid identified as ITB 22-040 titled Gulf Shore Boulevard North Outlot "E" Seawall Replacement which satisfies the CITY's Procurement Policy Sec. 2-663; and

**WHEREAS**, CONTRACTOR agrees to provide such goods and services as more particularly described in this Agreement, as well as in any bid documents (ITB 22-040) issued in connection with this project.

**NOW THEREFORE** in consideration of the premises, and in consideration of the mutual conditions, covenants, and obligations hereafter expressed, the parties agree as follows:

1. **Recitals.** The foregoing recitals are true and correct, constitute a material inducement to the parties to enter into this Agreement, and are hereby ratified and made a part of this Agreement.
2. **Description of Work.**
  - a. The CITY hereby retains CONTRACTOR to furnish goods and services as described in the **Scope of Services**, which are attached hereto as **Exhibit "A"** and

incorporated herein by reference. Any conflict between the terms and conditions in the body of this Agreement and the terms and conditions set forth in Exhibit "A" will be resolved in favor of the body of this Agreement.

- b. CONTRACTOR must provide all permits, labor, materials, equipment, and supervision necessary for the completion of the Scope of Services, unless specifically excluded.
  - c. CONTRACTOR must also comply with, and abide by, all requirements as contained in invitation to Bid (ITB), bid specifications, engineering plans, shop drawings, material lists, or other similar documents issued for this project by the CITY, together with any addenda, including all hereinafter the "Bid Documents, as applicable." The Bid Documents, if applicable, are hereby incorporated into this Agreement by reference and are declared to be material part of this Agreement.
3. **Commencement and completion/Term.**
- a. CONTRACTOR will commence work under this Agreement upon receipt of a Notice to Proceed (hereinafter "NTP").
  - b. Liquidated damages will be assessed against CONTRACTOR in an amount consistent with the current Section 8-10.2 Florida Department of Transportation Standard Specifications for each day after that the work contemplated by this Agreement is incomplete based on a NTP and its stated time frame of completion.
  - c. This Agreement will commence on award and be in effect until completion of the project. Services to be rendered by the CONTRACTOR shall be commenced subsequent to the execution of this Agreement upon written Notice to Proceed (NTP) from the CITY for all or any designated portion of the Project and must be completed by no later than one hundred twenty-five (125) days from the issued NTP.
4. **Payment.**
- a. The CITY agrees to compensate CONTRACTOR, for work actually performed under this Agreement, at the rate or basis described in Exhibit "B", which is attached hereto and incorporated herein by reference. The amount of the Agreement is \$2,099,995.31 that includes a \$50,000.00 City-Controlled Contingency (Allowance). CONTRACTOR must perform all work required by the Scope of Services stated, but in no event will CONTRACTOR be paid more than the negotiated amount set forth in an agreed upon Change Order in writing signed by both Parties.
  - b. Progress payments, if any, will be made as set forth in an NTP.
  - c. The CITY reserves the right to withhold amounts in the event of the nonperformance of all or part of CONTRACTOR's obligations. CONTRACTOR must, without additional compensation, correct and revise any errors, omissions, or other deficiencies in its work product, services, or materials arising from the error or omission or negligent act of CONTRACTOR.
5. **Acceptance of work product, payment, and warranty.** Each final invoice will be processed, upon completion of the CITY's final inspection and the CONTRACTOR'S

submission of a completed CITY OF NAPLES RELEASE AND AFFIDAVIT FORM as identified in ITB 22-040.

**a. Quality Guarantee/Warranty**

a.1 CONTRACTOR will guarantee its work without disclaimers, unless otherwise specifically approved by the CITY, for a minimum of twelve (12) month from the final completion date.

a.2 Unless otherwise specifically provided in the specifications, all equipment and materials and articles incorporated in the work covered by this contract shall be new, unused and the most suitable grade for the purpose intended. Refurbished parts or equipment are not acceptable unless otherwise specified in the specifications. All warranties will begin from the date of the final completion.

a.3 Unless otherwise specifically provided in the specifications, the equipment must be warranted for twelve (12) months, including shipping, parts and labor. Should the equipment be taken out of service for more than forty-eight (48) hours to have warranty work performed, a loaner machine of equal capability or better shall be provided for use until the repaired equipment is returned to service at no additional charge to the CITY.

a.4 If any product does not meet performance representation or other quality assurance representations as published by manufacturers, producers or distributors of such products or the specifications listed, the CONTRACTOR shall pick up the product from the CITY at no expense to the CITY. The CITY reserves the right to reject any or all materials, if in its judgment the items reflect unsatisfactory workmanship or manufacturing or shipping damage. The CONTRACTOR shall refund, to the CITY, any money which has been paid for same.

**b. Acceptance of work product, payment, and warranty.** When the CITY receives an invoice sufficiently itemized to permit audit, the CITY will diligently review the invoice. When the CITY finds the invoice acceptable and finds the products and services acceptable, the installment payment will be paid to CONTRACTOR within thirty (30) days after the date of receipt of the invoice, unless another payment schedule is provided in Exhibit "A." CONTRACTOR guarantees the successful performance of the work for the products and services intended. If the CITY deems it inexpedient to require CONTRACTOR to correct deficient or defective work, the CITY may make an equitable deduction from the contract price, or, in the alternative, the CITY may seek damages. CONTRACTOR warrants that the data utilized by CONTRACTOR (other than as provided by the CITY) is from a source, and collected using methodologies, which are generally recognized in CONTRACTOR's industry or profession to be a reliable basis and foundation for CONTRACTOR's work product. CONTRACTOR must notify the CITY in writing if it appears, in CONTRACTOR's professional judgment that the data or information provided by the CITY for use in CONTRACTOR's work product is incomplete, defective, or unreliable. CONTRACTOR guarantees to amend, revise, or correct to the satisfaction of the CITY any error appearing in the work as a result of CONTRACTOR's failure to comply with the warranties and representations contained herein. Neither inspection nor payment, including final payment, by the CITY will relieve CONTRACTOR from its obligations to do and complete the work product in accordance with this Agreement.

**6. Termination.**

a. **Termination at Will:** This Agreement may be terminated by the CITY in whole or in part at any time without cause by the CITY giving written notice to CONTRACTOR not less

than 30 days prior to the date of termination; provided, however, that in such event, neither party will be relieved from its rights or obligations of this Agreement through the date of the actual termination. Notice must be delivered by certified mail, return receipt requested, or in person with proof of delivery.

- b. **Termination for Cause:** This Agreement may be terminated by either party for cause by the CITY or CONTRACTOR giving written notice to the other party not less than 10 days prior to the date of termination; provided, however, that in such event, neither party will be relieved from its rights or obligations of this Agreement through the date of the actual termination. Notice must be delivered by certified mail, return receipt requested, or in person with proof of delivery.

**7. Project management.**

- a. The Project Managers for this project are as follows: Any subsequent changes to the Project Manager for either party must be provided by notice as described in paragraph eight (8) below and does not require an amendment to this Agreement.
- b. CITY's Project Manager assigned is the Streets, and Stormwater Director and/or his authorized representative will serve as the City's Project Manager.
- c. CONTRACTOR's Project Manager assigned is: Dane Kelly, President and/or his authorized representative.

**8. Notices.** All notices required or made pursuant to this Agreement to be given by the CONTRACTOR or the CITY shall be in writing and shall be delivered by hand or by United States Postal Service Department, first class mail service, postage prepaid, return receipt requested, addressed to the following addresses of record:

- a. **To CITY:** City of Naples, Attention: City Manager's Purchasing Division, 735 8<sup>th</sup> Street South; Naples, Florida 34102.
- b. **To CONTRACTOR:** Kelly Brothers Inc., Attention: Dane Kelly, President; 15775 Pine Ridge Rd. Fort Myers, FL 33908.

**9. Insurance.**

- a. CONTRACTOR must maintain such insurance as will fully protect both CONTRACTOR and the CITY from any and all claims under any Workers Compensation Act or Employers Liability Laws, and from any and all other claims of whatsoever kind or nature to the damage or property, or for personal injury, including death, made by anyone whomsoever, that may arise from operations carried on under this Agreement, either by CONTRACTOR, any subcontractor, or by anyone directly or indirectly engaged or employed by either of them.
- b. The City's General Insurance Requirements (attached as **Exhibit C**) apply. In addition to the City's General Insurance Requirements, the specialized insurances listed below are required:

1. U.S.L. & H. and Jones Act (If applicable) Workers Compensation, as

required by law for work performed in, on, or near navigable water shall be maintained by the Contractor.

2. Watercraft Liability coverage shall be maintained by the Contractor in an amount no less than the General Liability limits referenced in the General Insurance Requirements.

3. Protection and Indemnity insurance (P&I) may be accepted in lieu of or in addition to any of the coverages listed above.

- c. The insurance coverages procured by CONTRACTOR as required herein will be considered as primary insurance over and above any other insurance, or self-insurance, available to CONTRACTOR, and any other insurance, or self-insurance available to CONTRACTOR will be considered secondary to, or in excess of, the insurance coverage(s) procured by CONTRACTOR as required herein.

10. **General Provisions.** CONTRACTOR must comply with the following general provisions:

- a. **Bond.** A Payment & Performance Bond shall be obtained by the CONTRACTOR and shall be issued by a surety insurer authorized to do business in the State of Florida as a surety and will be in the amount equal to 100 (%) percent of the price specified in the Agreement. CONTRACTOR prior to commencement of work, will record the Payment & Performance Bond in the public records of Collier County and furnish a copy of the original recorded bonds to the CITY Purchasing Department. If a surety bond has been required for the CONTRACTOR's faithful performance and payment, and if at any time the surety is no longer acceptable to the CITY, CONTRACTOR must, at its expense, within five (5) days after the receipt of notice from the CITY to do so, furnish an additional bond or bonds in such form and with such Surety or Sureties as are satisfactory to the CITY. The CITY will not make any further payment to CONTRACTOR, nor will any further payment be deemed to be due to CONTRACTOR, until such new or additional security for the faithful performance of the work is furnished in a manner and form satisfactory to the CITY.
- b. This Agreement is a non-exclusive contract; the CITY is not prohibited, or deemed to be prohibited, from bidding similar services either as an independent job or a component of a larger project.
- c. **Retainage.** As a method to assure completion of all project/work orders over the total amount of \$100,000.00, retainage in the amount of five percent (5%) of all work completed may be withheld from the payment. The retainage will be released upon completion of the CITY's final inspection and submission of a completed CITY OF NAPLES RELEASE AND AFFIDAVIT FORM as identified in ITB 22-040.
- d. **Compliance with Laws.** In providing the Scope of Services, CONTRACTOR must comply with all federal, state, and local laws, statutes, ordinances, rules, and regulations pertaining to or regulating the provision of such services, including those now in effect and hereafter adopted.
- e. **Personal nature of Agreement; Assignment.**

- i. The parties acknowledge that the CITY places great reliance and emphasis upon the knowledge, expertise, training, and personal abilities of CONTRACTOR. Accordingly, this Agreement is personal and CONTRACTOR is prohibited from assigning or delegating any rights or duties hereunder without the specific written consent of the CITY.
  - ii. If CONTRACTOR requires the services of any subcontractor or professional associate in connection with the work to be performed under this Agreement, CONTRACTOR must obtain the written approval of the CITY Project Manager prior to engaging such subcontractor or professional associate. CONTRACTOR will remain fully responsible for the services of any subcontractors or professional associates.
- f. Discrimination.**
- i. CONTRACTOR shall not discriminate against any employee employed in the performance of this Agreement, or against any applicant for employment because of age, ethnicity, race, religious belief, disability, national origin, or sex. CONTRACTOR shall not exclude any person, on the grounds of age, ethnicity, race, religious belief, disability, national origin, or sex, from participation in, denied the benefits of, or be otherwise subjected to discrimination in any activity under, this Agreement.
  - ii. CONTRACTOR shall provide a harassment-free workplace, with any allegation of harassment given priority attention and action by management.
- g. Independent contractor.**
- i. CONTRACTOR is, and will be deemed to be, an independent contractor and not a servant, employee, joint adventurer, or partner of the CITY. None of CONTRACTOR's agents, employees, or servants are, or will be deemed to be, the agent, employee, or servant of the CITY. None of the benefits, if any, provided by the CITY to its employees, including but not limited to, compensation insurance and unemployment insurance, are available from the CITY to the employees, agents, or servants of CONTRACTOR. CONTRACTOR will be solely and entirely responsible for its acts and for the acts of its agents, employees, servants, and subcontractors during the performance of this Agreement. Although CONTRACTOR is an independent contractor, the work contemplated herein must meet the approval of the CITY and is subject to the CITY's general right of inspection to secure the satisfactory completion thereof. CONTRACTOR must comply with all Federal, State and municipal laws, rules and regulations that are now or may in the future become applicable to CONTRACTOR, or to CONTRACTOR's business, equipment, or personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations. The CITY will not be held responsible for the collection of or the payment of taxes or contributions of any nature on behalf of CONTRACTOR.
  - ii. CONTRACTOR will bear all losses resulting to it on account of the amount or character of the work, or because of bad weather, or because of errors or omissions in its contract price.
  - iii. CONTRACTOR must utilize, and must expressly require all subcontractors to utilize, the U.S. Department of Homeland Security's E-Verify system to verify

the employment eligibility of all new employees hired by CONTRACTOR and any subcontractors during the Term of this Agreement.

**h. Indemnification:**

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

- i. **Compliance/Consistency with Section 768.28, Fla. Stat.** Any indemnification or agreement to defend or hold harmless by CITY specified in the Agreement shall not be construed as a waiver of CITY's sovereign immunity and shall be limited to such indemnification and liability limits consistent with the requirements of Section 768.28, Fla. Stat. and subject to the procedural requirements set forth therein. Any other

purported indemnification by CITY in the Agreement in derogation hereof shall be void and of no force or effect.

- j. **Sovereign Immunity.** Nothing in this Agreement extends, or will be construed waive or to extend, the CITY's liability beyond that provided in section 768.28, Florida Statutes. Nothing in this Agreement is a consent, or will be construed as waiver or consent, by the CITY to be sued by third parties in any matter arising out of this Agreement.
- k. **Public records.**
- i. CONTRACTOR is a "Contractor" as defined by Section 119.0701(1)(a), Florida Statutes, and must comply with the public records provisions of Chapter 119, Florida Statutes, including the following:
    1. Keep and maintain public records required by the CITY to perform the service.
    2. Upon request from the CITY's custodian of public records, provide the CITY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 or as otherwise provided by law.
    3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement term and following completion of the Agreement if CONTRACTOR does not transfer the records to the CITY.
    4. Upon completion of this Agreement, transfer, at no cost, to the CITY all public records in possession of CONTRACTOR or keep and maintain public records required by the CITY to perform the service. If CONTRACTOR transfers all public records to the CITY upon completion of this Agreement, CONTRACTOR must destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If CONTRACTOR keeps and maintains public records upon completion of this Agreement, CONTRACTOR must meet all applicable requirements for retaining public records. All records stored electronically must be provided to the CITY, upon request from the CITY's custodian of public records, in a format that is compatible with the information technology systems of the CITY.
  - ii. "Public records" is defined in Section 119.011(12), Florida Statutes, as may, from time to time, be amended.
  - iii. If CONTRACTOR asserts any exemptions to the requirements of Chapter 119 and related law, CONTRACTOR will have the burden of establishing such exemption, by way of injunctive or other relief as provided by law.
  - iv. CONTRACTOR consents to the CITY's enforcement of CONTRACTOR's Chapter 119 requirements, by all legal means, including, but not limited to, a mandatory injunction, whereupon CONTRACTOR must pay all court costs and reasonable attorney's fees incurred by CITY.
  - v. CONTRACTOR's failure to provide public records within a reasonable time may be subject to penalties under Section 119.10, Florida Statutes. Further, such failure by CONTRACTOR will be grounds for immediate unilateral cancellation of this Agreement by the CITY.



- vi. **Public Records Compliance Indemnification.** CONTRACTOR agrees to indemnify and hold the CITY harmless against any and all claims, damage awards, and causes of action arising from the CONTRACTOR'S failure to comply with the public records disclosure requirements of Section 119.07(1), Florida Statutes, or by CONTRACTOR'S failure to maintain public records that are exempt or confidential and exempt from the public records disclosure requirements, including, but not limited to, any third party claims or awards for attorneys' fees and costs arising therefrom. CONTRACTOR authorizes the public agency to seek declaratory, injunctive, or other appropriate relief against CONTRACTOR in Collier County Circuit Court on an expedited basis to enforce the requirements of this section.
- vii. **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119 FLORIDA STATUTES TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CITY CLERK AS CITY OF NAPLES CUSTODIAN OF PUBLIC RECORDS, AT TELEPHONE: 239-213-1015, OR EMAIL AT: [PUBLICRECORDSREQUEST@NAPLESGOV.COM](mailto:PUBLICRECORDSREQUEST@NAPLESGOV.COM); PHYSICAL ADDRESS: 735 8TH STREET SOUTH; NAPLES, FLORIDA 34102. MAILING ADDRESS: 735 8TH STREET SOUTH; NAPLES, FLORIDA 34102.**

i. **Ethics. Compliance with Ethics Code.** CONTRACTOR agrees to comply with the City of Naples Code of Ethics, as applicable, and as it may be amended from time to time. Any conflict between the City's Ethics Code and the contractual terms which follow shall be resolved in favor of the City's Ethics Code, as it may be amended from time to time. As provided in Section 2-976 of the City Code of Ordinances:

1. The CONTRACTOR agrees and covenants to not employ or offer to employ any elected officer or city managerial employee who in any way deals with, coordinates on, or assists with the construction or professional services provided, for a period of two years after termination of all provisions of the construction or professional services contract.
2. The CONTRACTOR agrees and covenants to not provide services for compensation to another party other than the city on the same subject matter, same project, or scope of services without city council approval.
3. The CONTRACTOR agrees and covenants to not disclose or use information not available to members of the general public and gained by reason of such person or business entity's contractual relationship with the CITY for the special gain or benefit of the contracting person or entity, or for the special gain or benefit of any other person or business entity, except as specifically contemplated or authorized by the contract.
4. In the event of any violations of subsections 1-3 above, the CONTRACTOR agrees to pay damages in an amount equal to any and all compensation which is received by the former elected officer or city managerial employee from the contracting person or entity, or an amount equal to the former employee's last two years of gross compensation from the city, whichever is greater.

5 In addition, the CITY retains the right to impose a penalty as provided in Section 1-15 of its Code of Ordinances for violation of subsection 1-3 above.

- m. **Federal or State Funding** - If any portion of the funding for this Agreement is derived from the State of Florida, or any department of the State of Florida, or from federal funding through the State of Florida, the provisions of this sub-paragraph shall apply, provisions elsewhere in this Agreement to the contrary notwithstanding. CONTRACTOR shall make inquiry from the CITY's Project Manager to determine whether Federal or State funding is applicable to this Agreement.
- i. **E-Verify.** CONTRACTOR must utilize, and must expressly require all subcontractors to utilize, the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by CONTRACTOR during the Term of this Agreement.
  - ii. **Agency.** CONTRACTOR agrees and acknowledges that it, its employees, and its subcontractors are not agents or employees of the Federal Government, of the State of Florida, or of any department of the Federal Government or the State of Florida.
  - iii. **Indemnification.** To the fullest extent permitted by law, CONTRACTOR shall indemnify and hold harmless the CITY, the Federal Government, the State of Florida, any department of the Federal Government or the State of Florida, and all officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of CONTRACTOR and persons employed or utilized by CONTRACTOR in the performance of this Agreement. This indemnification shall survive the termination of this Agreement. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the State of Florida and the CITY's sovereign immunity.
  - iv. **Workers' Compensation Insurance.** CONTRACTOR must provide Workers' Compensation Insurance in accordance with Florida's Workers' Compensation law for all employees. If subletting any of the work, CONTRACTOR must ensure that the subcontractor(s) have Workers' Compensation Insurance for their employees in accordance with Florida's Workers' Compensation law. If using "leased employees" or employees obtained through professional employer organizations ("PEO's"), CONTRACTOR must ensure that such employees are covered by Workers' Compensation insurance through the PEO's or other leasing entities. CONTRACTOR must ensure that any equipment rental agreements that include operators or other personnel who are employees of independent contractors, sole proprietorships or partners are covered by insurance required under Florida's Workers' Compensation law.
  - v. **Liability Insurance.** CONTRACTOR shall carry Commercial General Liability insurance providing continuous coverage for all work or operations performed under the Agreement. Such insurance shall be no more restrictive than that provided by the latest occurrence form edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida. CONTRACTOR shall cause the State of Florida to be made an Additional Insured as to such insurance. Such coverage shall be on an "occurrence" basis and shall include Products/Completed Operations coverage. The coverage afforded to the State of Florida as an Additional Insured shall be primary as to any other available insurance and shall not be more restrictive

than the coverage afforded to the Named Insured. The limits of coverage shall not be less than \$1,000,000 for each occurrence and not less than a \$5,000,000 annual general aggregate, inclusive of amounts provided by an umbrella or excess policy. The limits of coverage described herein shall apply fully to the work or operations performed under the Contract, and may not be shared with or diminished by claims unrelated to this Agreement. The policy/ies and coverage described herein may be subject to a deductible. CONTRACTOR shall pay all deductibles as required by the policy. No policy/ies or coverage described herein may contain or be subject to a Retention or a Self-Insured Retention. At all renewal periods which occur prior to final acceptance of the work, the CITY and the State of Florida shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The CITY and the State of Florida shall be notified in writing within ten days of any cancellation, notice of cancellation, lapse, renewal, or proposed change to any policy or coverage described herein. The CITY's or the State of Florida's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights or defenses the CITY or the State of Florida may have.

- vi. **Inspections.** CONTRACTOR shall permit, and require its subcontractors to permit, the CITY's and the State of Florida's authorized representatives to inspect all work, materials, payrolls, and records, to audit the books, records, and accounts pertaining to the financing and development of the Services described in the Contract Documents.
- vii. **Auditor General Cooperation.** CONTRACTOR shall comply with §20.055 (5), Florida Statutes, and shall incorporate in all subcontracts the obligation to comply with §20.055 (5), Florida Statutes.

- n. **E-Verify Compliance.** CONTRACTOR affirmatively states, under penalty of perjury, that in accordance with Section 448.095, Fla. Stat., CONTRACTOR is registered with and uses the E-Verify system to verify the work authorization status of all newly hired employees, that in accordance with such statute, CONTRACTOR requires from each of its subcontractors an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien, and that Contractor is otherwise in compliance with Sections 448.09 and 448.095, Fla. Stat. The **E-VERIFY AFFIDAVIT** which is attached hereto as **Exhibit "D"** and is hereby incorporated into this Agreement by reference.

**11. Miscellaneous Provisions.** The following miscellaneous provisions apply to this Agreement:

- a. **Binding Nature of Agreement.** This Agreement is binding upon the successors and assigns of the parties hereto.
- b. **Entire Agreement.** This Agreement states the entire understanding between the parties and supersedes any written or oral representations, statements, negotiations, or agreements to the contrary. CONTRACTOR recognizes that any representations, statements, or negotiations made by the CITY'S staff do not suffice to legally bind the CITY in a contractual relationship unless they have been reduced to writing, authorized, and signed by the authorized CITY representatives.

- c. **Amendment.** No modification, amendment, or alteration in the terms or conditions of this Agreement will be effective unless contained in a written document executed with the same formality as this Agreement.
- d. **Severability.** If any term or provision of this Agreement is held, to any extent, invalid or unenforceable, as against any person, entity, or circumstance during the Term hereof, by force of any statute, law, or ruling of any forum of competent jurisdiction, such invalidity will not affect any other term or provision of this Agreement, to the extent that the Agreement will remain operable, enforceable, and in full force and effect to the extent permitted by law.
- e. **Construction.** If any provision of this Agreement becomes subject to judicial interpretation, the court interpreting or considering such provision should not apply the presumption or rule of construction that the terms of this Agreement be more strictly construed against the party which itself or through its counsel or other agent prepared it. All parties hereto have participated in the preparation of the final form of this Agreement through review by their respective counsel, if any, or the negotiation of specific language, or both, and, therefore, the application of such presumption or rule of construction would be inappropriate and contrary to the intent of the parties.
- f. **Headings.** All headings in this Agreement are for convenience only and are not to be used in any judicial construction or interpretation of this Agreement or any paragraph.
- g. **Waiver.** The indulgence of either party with regard to any breach or failure to perform any provision of this Agreement does not constitute a waiver of the provision or any portion of this Agreement, either at the time the breach or failure occurs or at any time throughout the term of this Agreement. The review of, approval of, or payment for any of CONTRACTOR's work product, services, or materials does not operate as a waiver, and should not be construed as a waiver, of any of the CITY's rights under this Agreement, or of any cause of action the CITY may have arising out of the performance of this Agreement.
- h. **Force Majeure.** Notwithstanding any provisions of this Agreement to the contrary, the parties will not be held liable if failure or delay in the performance of this Agreement arises from fires, floods, strikes, embargos, acts of the public enemy, unusually severe weather, outbreak of war, restraint of government, riots, civil commotion, force majeure, act of God, or for any other cause of the same character which is unavoidable through the exercise of due care and beyond the control of the parties. This provision does not apply if the "Scope of Services" of this Agreement specifies that performance by CONTRACTOR is specifically required during the occurrence of any of the events herein mentioned.
- i. **Compliance/Consistency with Scrutinized Companies Provisions of Florida Statutes.** Section 287.135(2)(a), Florida Statutes, prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services of any amount if, at the time of contracting or renewal, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes, or is engaged in a boycott of Israel. Section 287.135(2)(b), Florida Statutes, further prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services over one million dollars (\$1,000,000) if, at the time of contracting or renewal, the company is on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with

Activities in the Iran Petroleum Energy Sector List, both created pursuant to section 215.473, Florida Statutes, or the company is engaged in business operations in Cuba or Syria. CONTRACTOR hereby certifies that CONTRACTOR is not listed on any of the following: (i) the Scrutinized Companies that Boycott Israel List, (ii) Scrutinized Companies with Activities in Sudan List, or (iii) the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. CONTRACTOR further hereby certifies that CONTRACTOR is not engaged in a boycott of Israel or engaged in business operations in Cuba or Syria. CONTRACTOR understands that pursuant to Section 287.135, Florida Statutes, the submission of a false certification may subject CONTRACTOR to civil penalties, attorney's fees, and/or costs. CONTRACTOR further understands that any contract with CITY for goods or services of any amount may be terminated at the option of CITY if CONTRACTOR (i) is found to have submitted a false certification, (ii) has been placed on the Scrutinized Companies that Boycott Israel List, or (iii) is engaged in a boycott of Israel. And, in addition to the foregoing, if the amount of the contract is one million dollars (\$1,000,000) or more, the contract may be terminated at the option of CITY if the company is found to have submitted a false certification, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria.

- j. **Venue and Jurisdiction.** Notwithstanding any of other provision to the contrary, this Agreement and the parties' actions under this Agreement shall be governed by and construed under the laws of the state of Florida, without reference to conflict of law principles. As a material condition of this Agreement, each Party hereby irrevocably and unconditionally: i) consents to submit and does submit to the jurisdiction of the Circuit Court in and for Collier County, Florida for any actions, suits or proceedings arising out of or relating to this Agreement.
- k. **Non-appropriation.** CITY's performance and obligation to pay under this Agreement is contingent upon an appropriation during the CITY's annual budget approval process. If funds are not appropriated for a fiscal year, then the CONTRACTOR shall be notified as soon as is practical by memorandum from the City Manager or designee that funds have not been appropriated for continuation of the Agreement, and the Agreement shall expire at the end of the fiscal year for which funding has been appropriated. The termination of the Agreement at fiscal year-end shall be without penalty or expense to the CITY subject to the CITY paying all invoices for services rendered during the period the Agreement was funded by appropriations.

## 12. Special Provisions.

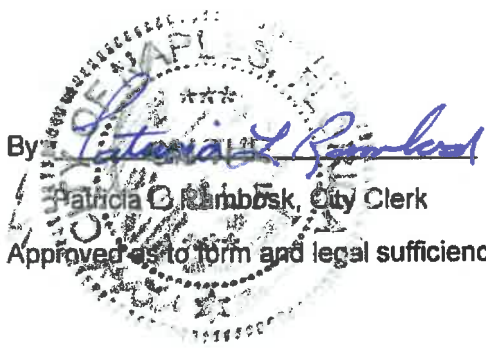
- a. None.

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any part whose signature appears thereon and all of which shall together constitute one and the same instrument.

**IN WITNESS WHEREOF**, the parties hereto have signed and sealed this Agreement effective the date first written above.

**ATTEST:**

**CITY OF NAPLES, FLORIDA**



By: Patricia O. Rambosk  
Patricia O. Rambosk, City Clerk

By: Jay Boodheshwar  
Jay Boodheshwar, City Manager

Approved as to form and legal sufficiency:

By: Mary Brooke  
City Attorney Vose Law Firm

**Kelly Brothers Inc.**  
15775 Pine Ridge Rd.  
Fort Myers, Florida 33908  
Attention: Dane Kelly, President

by Dane Kelly  
as its President and Authorized Agent

(CORPORATE SEAL)

ATTEST:  
[Signature]

Printed Name: Robert S. Demco Title Controller

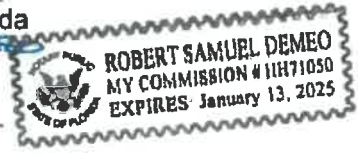
STATE OF FLORIDA

CITY OF FORT MYERS

The foregoing instrument was acknowledged before me by means of  physical presence or

online notarization, this 2<sup>ND</sup> day of SEPTEMBER, 2022, by DAVE KELLY of Kelly Brothers Inc. a Florida LLC, on behalf of the company, and he/she is personally known to me or has produced \_\_\_\_\_ as identification.

[Signature]  
Signature of Notary Public - State of Florida



Printed/Typed/Stamped Name of Notary

My commission expires: 1/15/2025

**City of Naples, FL  
ITB No. 22-040  
Gulf Shore Boulevard North Outlot "E" Seawall Replacement**

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# City of Naples, FL

## Gulf Shore Boulevard North Outlot "E" Seawall Replacement

### ITB No. 22-040

#### PROJECT REQUIREMENTS AND SPECIFICATIONS

##### A. PROJECT SCOPE/DESCRIPTION

The following Invitation to Bid (ITB) has been developed to solicit pricing from vendors qualified and experienced in Seawall Construction for the replacement and upland restoration per the Contract Plans and Specifications of 700 LF of seawall located between 4500 and 4700 Gulf Shore Boulevard North, on the east side of Gulf Shore Boulevard North.

A Non-Mandatory Pre-Bid will be held at the Project site to review the Project.

##### B. AWARD OF BID

The City reserves the right to award the bid in a manner that best serves the interests of the City of Naples.

##### C. CONTRACT MANAGEMENT

The Streets and Stormwater Director and/or his authorized representative will serve as the City's Project Manager.

##### D. LICENSES AND PERMITS

All equipment operated by the successful Contractor will be properly licensed and permitted.

Licenses may be required by the State of Florida, Collier County, or the City of Naples to perform all or part of this work. Contractors should investigate and determine if they hold the necessary License(s) prior to bid submittal. Permitting may be required for all or part of the requested work. The contractor will be responsible for investigating and determining if permitting is necessary. The contractor will also be responsible for obtaining permits.

At a minimum, vendors must submit the following:

1. An active certified Florida General Contractor license and be certified and or qualified to complete the project per project specifications or a Building Contractors License plus an Underground and Excavation Licenses as long as the contractor can demonstrate how the licenses, equipment, and staff enabled the company to successfully accomplish similar projects.

2. Prospective vendors, whether residents or nonresidents of Florida, must provide evidence of proper licensure with their Bids submittal. Such evidence must be in the form of copies of their Florida license which authorizes Bidder to perform the work.
3. Prospective vendors must hold the required license for the type of work to be performed at the time their bid response is submitted and for the duration of the contract.
4. Prospective vendors must provide a list of the permit(s) they determined are necessary to perform the requested work.

#### **E. INSURANCE**

The City's General Insurance Requirements on page 12 apply. In addition to the City's General Insurance Requirements, the specialized insurances listed below are required:

1. U.S.L. & H. and Jones Act (If applicable) Workers Compensation, as required by law for work performed in, on, or near navigable water shall be maintained by the Contractor.
2. Watercraft Liability coverage shall be maintained by the Contractor in an amount no less than the General Liability limits referenced in the General Insurance Requirements.
3. Protection and Indemnity insurance (P&I) may be accepted in lieu of or in addition to any of the coverages listed above.

#### **F. SUB-CONTRACTORS AND MATERIAL SUPPLIERS**

If the prospective contractor contemplates the use of sub-contractors, as a further condition of award of a contract, the prospective contractor must certify in writing that all of its sub-contractors are appropriately licensed and are registered with the State of Florida in accordance Florida Statutes Chapters 607 or 620, and such statement will include any sub-contractors' corporate charter numbers. For additional information on registering, the prospective contractor should contact the Florida Secretary of State's Office. Each prospective contractor must submit a list of all proposed sub-contractors and material suppliers intended for this project. No changes to this list shall be made without the express written consent of the City. Any request for changes shall be made in writing, to the City, clearly stating the reasons for the change. The City reserves the exclusive right to either approve or reject such request for change. Contractor agrees that the City's or its consultant's decision is final and binding. Contractor understands and agrees that he/she is solely responsible to the City for all work specified herein; and, that subsequent review of sub-contractors and/or material suppliers by the City or its consultants does not relieve the contractor and/or his surety of any liability or obligation stipulated herein. Failure to comply with the above may result in termination of this contract. All bidders must provide requested information in the attached forms provided.

**G. CONDUCT**

The contractor and his employees will conduct themselves in such a manner as to avoid embarrassment to the City of Naples and shall at all times be courteous to the public. Although uniforms are not required, proper clothing shall be worn at all times to include shirts, necessary safety equipment, pants, short or long, and proper footwear. Proper safety equipment shall be worn at all times.

**H. CONTRACTORS EQUIPMENT**

All vehicles and equipment must be maintained in good repair, appearance and sanitary condition at all times. Vehicles must be clearly identified with the name of the company and phone number clearly visible. In addition, the contractor will be responsible for using the necessary safety equipment according to State standards while working on City, County, or State roads as a sub-contractor of the City.

**I. DISPOSAL OF DEBRIS**

The awarded vendor(s) shall dispose of all debris and other materials gathered from the described work in compliance with City and County Laws.

**J. PRE-CONSTRUCTION CONFERENCE**

Schedule a pre-construction meeting with the Owner's Representative at least 14 days before beginning work to review any questions the Contractor may have regarding the work, administrative procedures during construction and project work schedule.

**K. SCHEDULING OF WORK**

1. All work will be performed Monday through Saturday no earlier than 7 a.m. or later than 6 p.m., Monday through Saturday per City Code.
2. The awarded vendor(s) will correct work deficiencies and/or problems pointed out by the Contract Manager within 3 days of notification or sooner depending on the nature of the deficiency.

**L. PAYMENT REQUESTS, INVOICES AND WORK REPORTS**

1. Invoices must be submitted after work is completed with a detailed description of the work performed.
2. The awarded vendor(s) will meet with Project Manager and set up procedures prior to the start of work.

**M. NON-PERFORMANCE**

The City reserves the right to cancel the contract with a seven (7) day notice should the

Contractor fail to perform up to the requirements and standards identified in the specifications. The City may withhold part or all payments due to the awarded vendor(s) until correction is made.

#### **N. QUALIFICATIONS**

Prospective vendor(s) must have experience within the previous five (5) years on similar Projects, specifically working within the influence of tidal currents. The Bidder's construction project manager/superintendent that will be working on this project must have at least five (5) years of construction experience in seawall construction. Two of the three projects must be within the State of Florida. Provide a listing of completed specific projects and send the attached reference questionnaire to the client who will submit the completed form directly to the City.

#### **O. INSPECTION**

The City reserves the right to make inspections and tests, when deemed advisable, to ascertain that the requirements of the contract are being fulfilled. Should it be found that the standards specified are not being satisfactorily maintained, the City will immediately demand that the contractor complies with the Invitation to Bid to meet these requirements.

The Project Manager will make visits to the site at intervals appropriate to the various stages to observe the progress and quality of the executed work and determine if the work is proceeding in accordance with the Contract Documents. Project Manager may authorize minor variations from the requirements by written notification of the Contract Documents.

#### **P. REJECTING DEFECTIVE WORK**

The City and/or his/her authorized representative will have the authority to disapprove or reject work, which he believes to be unacceptable work and not in accordance with Contract Documents. The City Arborist and/or his/her authorized representative will be the final interpreter of the requirements of the Contract Documents and judge of the acceptability of the work performed. City will notify the contractor immediately of unacceptable work. If work has been rejected; contractor must correct all defective work within 2 days of notification. The contractor will bear all costs to correct the defective work. If the contractor fails to correct the defective work, or if the contractor fails to perform the work in accordance with the Contract Documents, the City may correct and remedy any such deficiency, with the contractor to bear all costs to correct the defective work.

#### **Q. PROTECTION OF FACILITIES, PUBLIC AND PRIVATE PROPERTY**

1. From the time the awarded contractor commences and until final acceptance by the City of any work specified on the Invitation to Bid, awarded contractor is required to initiate and maintain measures which must be proper and adequate to protect the building, its contents and any surrounding areas against damage by the elements. The contractor will

assume full responsibility for any damage to any property including but not limited to walls, floors, tables, chairs, trees, shrubs, lawns, walks, pavements, roadways, structures, utilities, and underground facilities, resulting from the performance of the work.

2. Further, the awarded contractor must at all times guard against damage or loss to the property of the City or of other vendors or contractors and will be held responsible for replacing or repairing any such loss or damage. The City may withhold payment or make such deductions from payments as it deems necessary to ensure reimbursement or replacement for loss or damage to property through negligence of the awarded contractor or his agents.

3. Further, provide adequate protection for both curbs/sidewalks/grass areas over which trucks and equipment pass to reach the project site and repair/replace all damaged areas, at no cost to the owner.

4. The contractor upon receipt of either written or oral notice must immediately discontinue any practice obviously hazardous in the opinion of the Project Manager. The contractor must comply with all OSHA and other Federal and State safety standards. Blocking of the public street, except under extreme emergency conditions, will not be permitted unless prior arrangements have been made with the Project Manager and the City Police and Fire Departments and other agencies having jurisdiction over the street to be closed.

#### **R. PROTECTION OF OVERHEAD UTILITIES**

The operations will be conducted in many areas where overhead electric, telephone, and cable television facilities exist. The contractor must protect all utilities from damage, will immediately contact the appropriate utility if damage has occurred, and will be responsible for all claims for damage due to his operations. The contractor must make arrangements with the utility for the removal of necessary limbs and branches, which may conflict with, or create a personal injury hazard in the removal of the tree. Delays encountered by the contractor in waiting for the utility to complete its work will not be the responsibility of the contractor.

#### **S. PROTECTION OF UNDERGROUND UTILITIES**

The Contractor will be responsible for following the Florida Underground Facility Damage Prevention & Safety Act (556), OSHA Standard 1926.651, Florida Trench and Safety Act (Chapter 90-96) and obtaining utility locations by calling Sunshine State One-Call of Florida Inc. at 1-800-432-4700. Contractor will have full responsibility for reviewing and checking all information and data for locating all underground facilities.

**T. TRAFFIC CONTROL**

1. Contractor will be required to furnish traffic control and/or barricades as needed or as required by the State of Florida. Barricading and detouring of the traffic shall be accomplished in conformance with the Manual on Uniform Traffic Control Devices for Highway Construction and Maintenance Operations, latest edition.

2. Contractor will be responsible for adequate barricades, warning devices, and the necessary safety equipment according to State FDOT Standard Plans while working on City, County or State roads as a sub-Contractor of the City.

**CITY OF NAPLES  
PURCHASING DIVISION  
CITY HALL, 735 8<sup>TH</sup> STREET SOUTH  
NAPLES, FLORIDA 34102  
PH: 239-213-7100 FX: 239-213-7105**

**ADDENDUM NUMBER 1**

NOTIFICATION DATE:	SOLICITATION TITLE:	SOLICITATION NUMBER:	BID OPENING DATE & TIME:
<b>7/20/2022</b>	<b>Gulf Shore Boulevard North Outlot "E" Seawall Replacement - ITB</b>	<b>22-040</b>	<b>7/29/2022 2:00PM</b>

**THE FOLLOWING INFORMATION IS HEREBY INCORPORATED INTO,  
AND MADE AN OFFICIAL PART OF THE ABOVE REFERENCED BID.**

The following clarifications are issued as an addendum identifying the following changes for the referenced solicitation.

1. Attached Exhibit A is a REVISED Sheet #6 of the bid document.
2. Attached Exhibit B is the Venetian Yacht Club North electrical and water plan.
3. For bids to be deemed responsive a complete bid schedule inclusive of the Optional Bid Items 7.1 through 7.4 must be submitted. Please reference Optional Bid Item Notes on Plan Sheet 3 for additional information. Bidders must complete the bid schedule inclusive of the Optional Bid Items 7.1 through 7.4 or the bid submittal will be rejected.

**The following answers to written submitted questions:**

1. When is the anticipated start date?

**ANSWER: Anticipate issuance of Purchase Order and Preliminary Notice to Proceed mid-September 2022. Please reference Pages 51 and 76 of the Contract Documents for additional information.**

2. Is the start of the seawall project dependent on the start of the dock removal project?

**ANSWER: No.**

3. Is the dock project a separate city of Naples bid or a private contract?

**ANSWER: Private Contract.**

4. Are there liquidated damages for this project?

**ANSWER: Yes, per page 16 of the bid documents.**

**IMPORTANT MESSAGE**

**PLEASE ACKNOWLEDGE RECEIPT OF THIS ADDENDUM ON THE BID COVER SHEET.**

5. As the time to complete will be dependent upon FPL and other utilities contractors to complete required scopes of work, will the city work with the selected contractor on time extensions due to logistical considerations?

**ANSWER: Time extensions will be considered for delays outside of the Contractor's control.**

6. Does the City have a single contact point with FPL (in our experience, FPL can be difficult to work with or plan around.)

**ANSWER: Yes.**

7. Do you have a contingency plan for the sections of failed seawall if the intended repositions of seawall panels is not possible or damage to existing failed seawall sections is more extensive than anticipated??

**ANSWER: By design there will be a surplus of existing panels. No issues are anticipated with use of existing panels in the approximately 150 ft of seawall rotated waterward. These panels are intact but rotated. If a few panels are not serviceable for the intended use, there will be more than sufficient replacements. At a minimum, every fourth panel is to be extracted along the entire project length.**

8. What is the intent in cutting existing seawall at MHWL and leaving in place?

**ANSWER: Intent is for water quality to save the existing marine growth, provide additional area for marine growth and to provide habitat for small marine life.**

9. Would the city consider an option to remove existing seawall in its entirety?

**ANSWER: No.**

10. Would helical anchors or earth anchors be acceptable as alternative to traditional deadmen?

**ANSWER: Yes.**

11. Can the pre-bid meeting minutes be recorded and made public?

**ANSWER: Pre-bid meetings are not recorded. All questions that require an official answer are answered by way of an addendum and posted to the City website.**

12. Contractor will apply for local permits. Please confirm what local permit fees will be paid by owner and what permit fees will be paid by contractor?

**ANSWER: Contractor will be required to apply for applicable permits with permit fees paid by The City of Naples.**

13. Please confirm where landscaping is disturbed on the project it will be replace with sod only by contractor? No trees, plants or bushes to be re-planted by contractor?

**ANSWER: Confirmed. Sod paid by SY and irrigation repair paid through T&M Allowance. Contractor will make every effort to save existing mature trees. Determination of which trees can be removed that are in conflict with the panel installation will be made at the Pre-Construction meeting. Trees that are only in conflict with the poured in place deadman will remain and Helical Anchors will used.**

14. Can seawall concrete panels be pre-cast on site? This will allow for less expensive panel and savings on trucking panels from pre-cast manufacturer to site.

**IMPORTANT MESSAGE**

**PLEASE ACKNOWLEDGE RECEIPT OF THIS ADDENDUM ON THE BID COVER SHEET .**



**ANSWER:** Seawall panels may be cast on-site in the one of the parking areas, but not both. Timeframe for the use of the area will be limited to no more than 30 days prior to Construction Notice to Proceed/Start of Contract Time.

15. Please confirm reference questionnaires only have to be submitted before the bid date?

**ANSWER:** Pursuant pages 14 & 15 of the bid document the reference form must be emailed to [Purchasing@naplesgov.com](mailto:Purchasing@naplesgov.com) by the company who is providing the reference on or before **BID OPENING DATE & TIME** indicated on the Cover Sheet. Please add Solicitation Number to your E-mail subject line.

16. Substantial completion in 105 days is shorter than usual for the project of this size. In our opinion it is only possible if marine contractor and upland contractor can work at the same time. Unfortunately on this project upland contractor can do only demo and then will have to wait for marine contractor to finish seawall including tiebacks. Our estimate for seawall and tiebacks themselves is around 95-100 days. Please allow 180 days for substantial completion?

**ANSWER:** Substantial completion time remains at 105 days and contractor shall schedule the work and number of crews accordingly. The City expects this to be a moving operation and once seawall is 100% complete in one parking area and progressing in the second parking area upland contractor will be mobilized to begin reconstruction and restoration

17. Are there any borings or geotechnical information available for this project?

**ANSWER:** No geotechnical data was collected for this project. Panel lengths of the existing seawall were verified using jet probe techniques. No refusal was observed at the 12 locations probed to 15.6 +/- feet below the top of the cap beam. The toe of the existing panels is 14.6 +/- feet below the cap beam.

18. What are the liquidated damages associated with this project?

**ANSWER:** Construction Special Conditions, Paragraph A, states "Should contractor fail to complete the project within this timeframe, daily LIQUIDATED DAMAGES in an amount consistent with the current Sec. 8-10.2 Florida Department of Transportation Standard Specifications will be assessed."

19. Note 18 sheet 5 says seawall tiebacks should be at 10' centers. Note 2 on "Deadman detail" sheet 4 says at 8' centers. Please confirm concrete tie backs should be at 10' centers and helical tiebacks should be at 8' centers

**ANSWER:** Correct, 10 ft spacing for conventional concrete deadmen and 8 ft spacing for helical anchors.

20. Sheet 5, note 21 mentions additional imported fill to the top elevation of the new seawall. Please confirm this is only additional imported fill and excavated material during construction can be used as a backfill material. Surplus material from either seawall construction or parking area construction may be used as long as it meets the requirements listed in the last sentence of note 21, Sheet 5 inserted below.

**ANSWER:** Surplus material from either seawall construction or parking area construction may be used as long as it meets the requirements listed in the last sentence of note 21, Sheet 5 inserted below.

**"MATERIAL SHALL BE FREE FROM DIRT, CLAY BALLS, MUCK, ROOTS, AND ORGANIC MATTER AND CONTAIN LESS THAN 15 PERCENT BY WEIGHT PASSING NO. 200 SIEVE."**

**IMPORTANT MESSAGE**

**PLEASE ACKNOWLEDGE RECEIPT OF THIS ADDENDUM ON THE BID COVER SHEET.**

**Exhibit A - REVISED Sheet #6**

**Exhibit B - Venetian Yacht Club North Electrical & Water Plan**

**###**

**IMPORTANT MESSAGE**

**PLEASE ACKNOWLEDGE RECEIPT OF THIS ADDENDUM ON THE BID COVER SHEET.**







**CITY OF NAPLES  
GULF SHORE BOULEVARD NORTH  
OUTLOT "E" SEAWALL REPLACEMENT  
SPECIAL PROVISIONS**

**SP-1.0 TIME OF COMPLETION**

Upon award of the CONTRACT and issuance of a PO, it is the intent of the CITY to issue a preliminary Notice to Proceed (NTP) to the CONTRACTOR for submittal submissions and procurement of materials that may have a long lead time. Upon a mutually agreed to date, a construction NTP will be issued with substantial completion in **one hundred and five (105)** calendar days and final completion **twenty (20)** calendar days after substantial completion.

**SP-2.0 SURVEYS**

The ENGINEER has established three (3) temporary benchmarks as depicted on the CONTRACT Plans. The CONTRACTOR shall be responsible for all measurements that may be required for the execution of the WORK to the location and limit marks prescribed in the specifications or on the CONTRACT Plans, subject to such modifications as the CITY or ENGINEER may require to meet changed conditions or as a result of necessary modifications to the CONTRACT WORK.

The CONTRACTOR shall furnish, at his own expense, such stakes, templates, platforms, equipment, tools and material, and all labor as may be required to maintain the ENGINEER's layout of the WORK from the control data. It shall be the responsibility of the CONTRACTOR to maintain and preserve all stakes and other marks established by the ENGINEER until authorized to remove them, and if such marks are destroyed by the CONTRACTOR or through his negligence, prior to their authorized removal, they may be replaced by the CITY and ENGINEER, at their discretion, and the expense of replacement and re-staking will be deducted from any amounts due or to become due the CONTRACTOR. The CITY or ENGINEER may require that WORK be suspended at any time when the location and limit marks established by the CONTRACTOR are not reasonably adequate to permit checking of the WORK.

**SP-3.0 RECORD DRAWINGS**

During the course of the WORK, the CONTRACTOR shall record all information required to complete a set of as-built Record Drawings. Actual dimensions and elevations shall be recorded by red-line process on one set of the CONTRACT Plans during the course of the WORK. If field changes are made to modify the WORK in any way, such field changes shall be documented on the Record Drawings by dimension, detail and date. This set shall be kept at the WORK area at all time and be available for review by CITY and ENGINEER. Prior to Substantial Completion, the CONTRACTOR shall prepare and submit three (3) copies of final Record Drawings to the CITY, along with a certification as to the accuracy and completeness of the Record Drawings. Prior to final payment, the Record Drawings shall be revised by the CONTRACTOR to reflect any changes which have occurred since the submittal for Substantial Completion.

#### SP-4.0 VARIATIONS IN ESTIMATED QUANTITIES

Where the quantity of a pay item in this CONTRACT is an estimated quantity, and where the actual quantity of material placed by CONTRACTOR varies by more than twenty-five percent (25%) for each separate Bid Item, whether due to site conditions in the WORK area as determined by a pre-construction survey, or at the discretion of CITY, as set forth in the CONTRACT Documents, an equitable adjustment in the CONTRACT unit price may be made upon demand of either party.

The equitable adjustment will be applied based upon increase or decrease in costs due solely to the variations above one hundred twenty-five percent (125%) or below seventy-five percent (75%) of the estimated quantity individually for each segment of WORK.

#### SP-5.0 CONTRACTOR'S RESPONSIBILITY AND DAILY REPORTS

The CONTRACTOR's resident superintendent, in addition to his responsibilities as set forth in the General Provisions, shall provide to the CITY, on a daily basis, "Daily Construction" and "Turbidity" Quality Control Reports. These reports shall be completed and submitted to the CITY by 1:00 p.m. on the day after the WORK covered by the report.

In the event that the environmental monitoring reveals a violation of standards set forth in the Permit conditions and CONTRACT Documents, the CONTRACTOR shall describe the violation in the daily report in the usual manner and notify the CITY immediately upon detection of the violation.

The CONTRACTOR has the sole responsibility for quality control and shall provide and maintain such an effective program. The CONTRACTOR shall be solely responsible for providing survey equipment for layout of the WORK. The CONTRACTOR shall establish and implement a quality control program to inspect and test the CONTRACTOR's and any Subcontractor's equipment used in completing the WORK.

The CONTRACTOR shall attend routine construction meetings with the CITY and ENGINEER to be held at the WORK area.

The CONTRACTOR shall furnish to the CITY within five (5) calendar days after receiving the "Notice to Proceed" a quality control plan outlining the procedures, instructions and reports that will be used. This document shall include, at a minimum, the following:

- (a) Structure of the quality control organization.
- (b) Number and qualifications of the responsible personnel.
- (c) Methods and documentation to assure quality control.
- (d) Health and Safety Plan and daily inspection procedures.
- (e) Copy of daily quality control report forms and inspection documents that will be submitted to the CITY daily.
- (f) Storm Emergency Plan

No WORK shall commence until the CONTRACTOR's quality control program is approved by the CITY. If, during the WORK process the quality control system is deemed by the CITY to be inadequate, the CITY may require corrective actions to rectify said deficiencies. The CONTRACTOR's quality control program shall be part of control supervision as field overhead costs and shall not be allowed to be submitted for separate payment.

The CITY may have a representative on site at different times to observe operations of CONTRACTOR. The presence of the CITY or his designated representative shall not relieve the CONTRACTOR of responsibility for the proper execution of the WORK in accordance with the specifications or permits applicable to the WORK.

#### SP-6.0 HEALTH AND SAFETY PLAN

The CONTRACTOR shall develop and maintain a written Health and Safety Plan which allows the WORK to be performed in compliance with all applicable laws, ordinances, rules, and regulations of any government agency having jurisdiction over the safety of personnel or property. This includes maintaining compliance with the Code of Federal Regulations, Title 29, Occupational Safety and Health Administration, all applicable Health and Safety Provisions of the State of Florida, and all applicable Health and Safety Provisions of EM 385-1-1 (2003) U.S. Army Corps of Engineers Safety and Health Requirements Manual.

The CONTRACTOR shall conduct a daily inspection program to assure that the requirements of the Health and Safety Plan are being fulfilled. Inspections shall include the nature of deficiencies observed, corrective action taken or to be taken, location of inspection, date, and signature of the person responsible for its contents. The results of the inspections shall be recorded on Daily Reports and kept at the WORK Area at all times. The CITY and ENGINEER are not responsible for the adequacy of the CONTRACTOR's Health and Safety Plan.

#### SP-7.0 PERMITS

The State of Florida Department of Environmental Protection permit for the WORK to be performed is attached hereto and includes federal authorization through the State Programmatic General Permit VI-R1. The CONTRACTOR is responsible for applying for and receiving other local permits that may be required or necessary for all WORK on the project. By execution of the Agreement, the CONTRACTOR acknowledges receipt of the Permits, accepting full responsibility for compliance with these Permits and all stipulations attached, for all WORK. The CONTRACTOR shall keep at the WORK Area all Permits or copies thereof, complete with all conditions, attachments, CONTRACT Plans and Specifications, modifications, and time extensions.

The CONTRACTOR shall immediately notify the CITY in writing of any observed non-compliance with the aforementioned Federal, State or local laws or regulations. The CONTRACTOR shall, after such notice, immediately inform the CITY of proposed corrective action and take such action as may be approved. If the CONTRACTOR fails or refuses to comply promptly, the CITY may notify appropriate Permit agencies and issue an order stopping all or part of the WORK until satisfactory corrective action has been taken. No part of the time lost due to any such stop orders shall be made the subject of a claim for extension of time or for excess costs or damages by the



CONTRACTOR. Any costs incurred by the CITY as a result of such actions may be deducted from the CONTRACT amount due the CONTRACTOR.

The CONTRACTOR, by accepting this Permit, specifically agrees to allow authorized agency personnel with proper identification and at reasonable times, access to the WORK Area for the purpose of ascertaining compliance with the terms of the Permits and to have access to copies of any records that must be kept under conditions of the Permits; to inspect the facility, Equipment, practices, or operations regulated or required under the Permits; and to sample or monitor any substances or parameters at any location reasonably necessary to assure compliance with the Permits. Reasonable time may depend on the nature of the concern being investigated.

#### SP-8.0 SITE CONDITIONS

No reports of explorations or tests of subsurface conditions at or adjacent to the site, or drawings of physical conditions relating to existing surface or subsurface structures at the site, are known to CITY.

#### SP-9.0 PHYSICAL DATA

##### SP-9.1 Location

The project site is located on the west coast of Florida, Venetian Bay, Collier County. The climate of the area is subtropical. Temperatures below freezing are rare. The wet season in the project area is from May through October. The hurricane season is from June through November. Water levels in the project area are mainly affected by tidal fluctuations in the Gulf of Mexico. The project area is also subject to storm surges from hurricanes, tropical storms, and extra tropical storms.

##### SP-9.2 Local Climatological Data

The following publications, which include information on waves, winds, and tides, are available from the named agencies.

- (a) Gulf of Mexico Hindcast Wave Information, Wave Information Studies of U.S. Coastlines, WIS Report, Waterways Experiment Station, C.E.R.C. May 1989. This report presents 20-year wave hindcast summaries at various stations located along the U.S. Gulf of Mexico shoreline. The report includes wave height, period, and direction tables for the 20-year period 1956-1975, summary wave and wind roses, summary tables of mean wave heights by month and year, largest wave heights by month and year, a statistical summary of wave data, and a table of extreme wave events.
- (b) East Coast of North and South America Tide Tables. U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Ocean Service. This publication provides daily tidal predictions at locations along the Atlantic and gulf coastlines of North and South America, including several locations on the Collier County shoreline. It also provides mean and spring tide ranges and mean tide level.

Some astronomical data such as time of sunrise, sunset, moonrise, and moonset is also included.

- (c) Hubertz, J.M., 1992: User's Guide to the Wave Information Studies (WIS) Wave Model, Version 2.0. WIS Report 27(AD A254 313), U.S. Army Engineer Waterways Experiment Station, Vicksburg, MS.
- (d) Tracy, B. A. 2002: Directional characteristics of the 1990-1999 Wave Information Studies Gulf of Mexico Hindcast, Proceedings 7th International Workshop on Wave Hindcasting and Forecasting, October 21-25, Banff, Canada.

#### SP-10.0 OWNER AND ENGINEER'S APPROVAL OF WORK

By approving any payment, the CITY and ENGINEER shall not thereby be deemed to have represented that they made exhaustive or continuous on-site inspection to check the quality or the quantity of the WORK, or that they have reviewed the means, methods and techniques, sequences, and procedures of construction, or that they have made any examination to ascertain how or for what purpose the CONTRACTOR has used the money paid or to be paid to them on account of the Agreement price. The CITY and ENGINEER may have a representative on site at different times to observe operations of CONTRACTOR. The presence of the CITY and ENGINEER or its designated representative(s) shall not relieve the CONTRACTOR of responsibility for the proper execution of the WORK in accordance with the specifications or permits applicable to the WORK. In case of any doubt or difference of opinion as to the items to be furnished hereunder, the decision of CITY shall be final and binding on all parties.

#### SP-11.0 HISTORIC AND ARCHEOLOGICAL RESOURCES

If, during the WORK, there are archeological/cultural materials unearthed (which shall include but not be limited to: pottery, modified shell, flora, fauna, human remains, ceramics, stone tool or metal implements, dugout canoes, arrow heads, or any other physical remains that could be associated with Native American cultures or early colonial or American settlement), the CONTRACTOR shall immediately stop all WORK in the vicinity and notify the State Archaeologist, USACE Regulatory Project Manager in Fort Myers, FDEP ERP Compliance Officer in Fort Myers, and CITY to assess the significance of the discovery and devise appropriate actions, including salvage operations. If human remains are identified, they will be treated in accordance with Section 872, F.S. All WORK in the vicinity shall immediately cease, the CONTRACTOR shall notify the State Archaeologist, USACE Regulatory Project Manager in Fort Myers, FDEP ERP Compliance Officer in Fort Myers, and CITY immediately and stop WORK until directed to restart. The WORK shall not resume without verbal and/or written authorization from the State Archaeologist or the USACE.

#### SP-12.0 SALVAGED EQUIPMENT AND MATERIALS

Salvaged materials, equipment or supplies are the property of the CITY, and shall be cleaned and stored as directed by the CITY. Should the CITY choose not to accept these materials, they shall be removed from the WORK Area as soon as practical by the CONTRACTOR. The CONTRACTOR

shall dispose of surplus materials, which are not accepted by the CITY, in accordance with State and local laws in a legal manner at no additional cost to the CITY.

#### SP-13.0 PRIVATE PROPERTY

The CONTRACTOR shall not occupy private land outside of any easements or rights of way unless the CONTRACTOR obtains expressed consent by the property owner. In the event that the CONTRACTOR uses private property for any purpose without first having obtained the necessary approvals from the property owner or provided the necessary agreement(s) to the CITY, the CITY will direct the CONTRACTOR in writing to immediately cease using such property. The CITY reserves the right to require that any agreement between the CONTRACTOR and the property owner for the use of private lands be furnished in writing.

At a minimum, the written agreement should contain the lot legal description and street address and the names, addresses, and telephone numbers for both the legal lot owner and the CONTRACTOR. The written agreement must also provide times for completion, erosion control measures, and how the CONTRACTOR will completely restore to the owner's satisfaction and how the owner will approve of the WORK. This written agreement shall be submitted to and approved by the CITY prior to construction.

The CONTRACTOR shall restore all damages to surface and underground facilities resulting from its construction operations to a condition equal to, or better than, the original condition. Prior to application for final payment, the CONTRACTOR shall provide documentation from the property owner of each piece of private property that was utilized by the CONTRACTOR, stating that each property owner is satisfied with the manner in which the CONTRACTOR has restored the property. Final payment or reduction in retainage shall not be paid until such documentation is received by the CITY.

#### SP-14.0 DIFFERING SITE CONDITIONS

The CONTRACTOR shall promptly, and before the conditions are disturbed, give written notice to the CITY and ENGINEER of (1) subsurface or latent physical conditions at the site which differ materially from those indicated in this CONTRACT, or (2) unknown physical conditions at the site, of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inherent in WORK of the character provided for in the CONTRACT.

The CITY and ENGINEER shall investigate the site conditions promptly after receiving the notice. If the conditions do materially so differ and cause an increase or decrease in the CONTRACTOR's cost of, or the time required for, performing any part of the WORK under this CONTRACT, whether or not changed as a result of the conditions, an equitable adjustment of CONTRACT price or CONTRACT time or both may be made under this clause and the CONTRACT modified in writing accordingly. Under no circumstances, however, shall an adjustment in CONTRACT price be made for delay caused by materially differing or unknown site conditions.

No request by the CONTRACTOR for an equitable adjustment to the CONTRACT under this clause shall be allowed, unless the CONTRACTOR has given the written notice required. No request by the CONTRACTOR for an equitable adjustment to the CONTRACT for differing site

conditions shall be allowed if made after final payment under this CONTRACT.

Should differing subsurface or physical condition be encountered, the CONTRACTOR will move to an alternate WORK area within the limits of the Project to continue the WORK. This discovery does not allow the CONTRACTOR to suspend WORK or may not justify an extension of CONTRACT Time. The CONTRACTOR is required to pursue the WORK in a continuous manner and is advised of the CONTRACT Time within the CONTRACT documents.

#### SP-15.0 ACCESS TO THE WORK

The CONTRACTOR shall provide access for the CITY and their representatives access to the WORK including but not limited to floating equipment for the purpose of observing construction activities and environmental monitoring tests. The CONTRACTOR shall furnish the use of their Plant and Equipment including but not limited to such boats, boatmen, laborers, and material forming a part of the ordinary equipment and crew as may be reasonably necessary in observing the WORK. Should the CONTRACTOR refuse, neglect, or delay compliance with these requirements, the specific facilities may be furnished and maintained by the CITY, and the cost thereof will be deducted from any amounts due or to become due the CONTRACTOR.

#### SP-16.0 OBSTRUCTION OF WATERWAYS

Marine traffic in the project area consists of commercial, pleasure, and small recreational vessels of all types and sizes, which can be accommodated by existing depths. The CITY shall not undertake to keep the navigation channels and waterways within and adjacent to the WORK area free from vessels or other obstructions. The CONTRACTOR shall be required to conduct the WORK in such manner as to maintain navigation in these channels. Upon completion of the WORK, the CONTRACTOR shall promptly remove their Plant and Equipment, including ranges, buoys, piles, and other marks placed by them under the CONTRACT in navigable waters or on shore.

#### SP-17.0 MARINE VESSELS AND MARINE ACTIVITIES

All marine vessels shall follow the Inland Navigation Rules which are contained in the following Federal Laws or Regulation: International Navigational Rules Act of 1977 (Public Law 95-75, 91 Stat. 308, or 33 U.S.C. 1601-1608), and, the Inland Navigation Rules Act of 1980 (Public Law 96-591, 94 Stat. 3415, 33 U.S.C. 2001-2038). These rules can be found on the Internet at [www.navcen.uscg.gov/mwv/navrules/rotronline.htm](http://www.navcen.uscg.gov/mwv/navrules/rotronline.htm). All marine vessels shall display the lights and day shapes required by Part C- Lights and Shapes of the Inland Navigation Rules. The location, type, color, and size of the lights and day shape shall be in accordance with Annex I - Positioning and Technical Details of Lights and Shapes. Any vessel engaged in dredging is considered a "Vessel Restricted in Her Ability to Maneuver" and shall display all the lights and shapes required in Rule 27: Vessel Not Under Control.

In order that radio communication may be made with passing vessels, the CONTRACTOR's marine vessels engaged in WORK under this CONTRACT shall monitor very high frequency (VHF) Channel #16 (156.8 MHz) at all times.

**SCHEDULE OF VALUES**  
**ITB 22-030**  
**Gulf Shore Boulevard North Outlot "E" Seawall Replacement**

BASE BID					
ID	DESCRIPTION	QTY	UNIT TYPE	UNIT PRICE	TOTAL PRICE
<b>1.0 MOBILIZATION AND DEMOBILIZATION</b>					
1.1	SEAWALL	1	LS	\$ 23,444.85	\$ 23,444.85
1.2	UPLAND SITE WORK	1	LS	\$225,368.78	\$ 225,368.78
<b>MOBILIZATION AND DEMOBILIZATION SUBTOTAL = \$</b>					<b>248,813.63</b>
<b>2.0 SEAWALL</b>					
2.1	PARTIAL DEMOLITION AND DISPOSAL (STA. 0+00 TO 6+92)	692	LF	\$ 374.89	\$ 259,423.88
2.2	PLUMB PANELS (STA. 2+00 TO 3+80)	180	LF	\$ 102.92	\$ 18,525.60
2.3	PRE-CAST PANEL FABRICATION	692	LF	\$ 693.02	\$ 479,569.84
2.4	PRE-CAST PANEL INSTALLATION	692	LF	\$ 262.45	\$ 181,615.40
2.5	CAP BEAM / TIE BACK SYSTEM	692	LF	\$ 438.51	\$ 303,448.92
2.6	GRAVEL DRAIN	692	LF	\$ 36.18	\$ 25,036.56
<b>SEAWALL SUBTOTAL = \$</b>					<b>1,267,620.20</b>
<b>3.0 EARTHWORK</b>					
3.1	MAINTENANCE OF TRAFFIC	1	LS	\$ 13,124.30	\$ 13,124.30
3.2	SURVEY STAKE-OUT	1	LS	\$ 17,975.99	\$ 17,975.99
3.3	GEOTECHNICAL TESTING	1	LS	\$ 6,425.99	\$ 6,425.99
3.4	MILL EXISTING ASPHALT (FULL DEPTH)	2,205	SY	\$ 6.81	\$ 15,016.05
3.5	REMOVE EXISTING CONCRETE SIDEWALK (6" THICKNESS)	436	SY	\$ 61.54	\$ 26,831.44
3.6	REMOVE EXISTING F-CURB	689	LF	\$ 24.33	\$ 16,763.37
3.7	REMOVE EXISTING LANDSCAPE	1	LS	\$ 5,962.99	\$ 5,962.99
3.8	REMOVE EXISTING STRIPING (ROW)	1	LS	\$ 1,742.60	\$ 1,742.60
3.9	ROUGH / FINAL GRADING	4,110	SY	\$ 12.99	\$ 53,388.90
3.10	FLORITAM SOD	473	SY	\$ 7.27	\$ 3,438.71
3.11	INLET PROTECTION	1	LS	\$ 468.74	\$ 468.74
3.12	RESTORE IRRIGATION	1	T&M*	\$ 5,000.00	\$ 5,000.00
<b>EARTHWORK SUBTOTAL = \$</b>					<b>166,139.08</b>
<b>4.0 PAVEMENT</b>					
4.1	1.5 INCH ASPHALTIC CONCRETE (TYPE SP_9 5 TRAFFIC B)	2,205	SY	\$ 27.24	\$ 60,064.20
4.2	6" LIMEROCK BASE (GROUP B)	2,205	SY	\$ 21.74	\$ 47,936.70
4.3	REWORK EXISTING LIMEROCK STABILIZED SUBGRADE (GROUP B)	2,205	SY	\$ 17.34	\$ 38,234.70
4.4	6" CONCRETE SIDEWALK	515	SY	\$ 84.30	\$ 43,414.50
4.5	FDOT TYPE F-CURB	685	LF	\$ 36.55	\$ 25,036.75
4.6	CONCRETE FLUME W/8" - 12" RIP RAP ON FILTER FABRIC	5	EA	\$ 1,670.20	\$ 8,351.00
4.7	ADA TACTILE SURFACE MATS	95	SF	\$ 33.00	\$ 3,135.00
<b>SIGNAGE</b>					
4.8	ADA PARKING SIGN (FTP-20-06)	2	EA	\$ 440.26	\$ 880.52
4.9	MULTI-SIGN POST, STOP / DO NOT ENTER (R1-1 / R5-1)	2	EA	\$ 561.02	\$ 1,122.04
<b>STRIPING</b>					
4.10	PAINT, WHITE, SOLID, 6"	1,147	LF	\$ 3.70	\$ 4,243.90
4.11	PAINT, STANDARD, ARROW	4	EA	\$ 353.15	\$ 1,412.60
4.12	ADA PARKING STRIPING - PAINT, BLUE, SOLID, 6" HC SYMBOL	2	EA	\$ 266.30	\$ 532.60
<b>PAVEMENT SUBTOTAL = \$</b>					<b>234,364.51</b>

6.0 DRAINAGE					
5 1	36" RCP W/ CONCRETE COLLARS AT EXISTING PIPE CONNECTIONS	32	LF	\$ 592.01	\$ 18,944.32
5 2	FDOT TYPE-C GRATE INLET WITH SIDE SLOTS (6" ADS)	1	EA	\$ 7,802.10	\$ 7,802.10
5 3	MODIFY EXISTING STRUCTURE (HOLE KNOCK-OUT)	1	EA	\$ 1,454.99	\$ 1,454.99
5 4	CONNECT TO EXISTING STRUCTURE (6" ADS)	1	LS	\$ 1,151.24	\$ 1,151.24
5 5	6" TYPE II UNDERDRAIN IN FILTER FABRIC WRAPPED TRENCH	43	LF	\$ 67.33	\$ 2,895.19
				DRAINAGE SUBTOTAL = \$ 32,247.84	
6.0 ENVIRONMENTAL PROTECTION MEASURES					
6 1	ENVIRONMENTAL PROTECTION MEASURES	1	LS	\$ 24,864.08	\$ 24,864.08
				ENVIRONMENTAL PROTECTION MEASURES SUBTOTAL = \$ 24,864.08	

BASE BID TOTAL = \$1,974,049.34

OPTIONAL BID					
7.0 OPTIONAL ITEMS					
7 1	DOCKS	1	LS	\$ 24,599.70	\$ 24,599.70
7 2	FPL TRANSFORMER FEED	1	LS	\$ 4,373.39	\$ 4,373.39
7 3	DOCK ELECTRIC SERVICE	1	LS	\$ 28,198.29	\$ 28,198.29
7 4	POTABLE WATER	1	LS	\$ 18,774.59	\$ 18,774.59
				OPTIONAL ITEMS SUBTOTAL = \$ 75,945.97	

BASE BID SUBTOTAL = \$1,974,049.34

OPTIONAL BID ITEMS SUBTOTAL = \$ 75,945.97

OPTIONAL BID TOTAL = \$2,049,995.31

\* ALLOWANCE REMBURSED COST WILL BE BASED ON ACTUAL HOURS WORKED AND MATERIALS PURCHASED BY RECEIPT

This solicitation has potential for P-Card Payment. Does your company accept credit card payment? YES \_\_\_ NO

If "yes" please indicate payment options on the below chart.

Payment Options	YES	NO	PERCENT AND/OR TERMS FOR EARLY PAYMENT
Is there a discount for a credit card payment?			
Is there an additional charge for credit card payment?			
Discount for early payment?			
Prompt payment terms: % Days; Net 30 Days			

Company Name: Kelly Brothers, Inc.

EIN: 59-2069592

Email: estimating@kellybros.net

Name and Title of individual completing this schedule:

Dane Kelly President  
(Printed Name) (Title)

X [Signature] 7/28/2022  
(Signature) (Date)

## GENERAL INSURANCE REQUIREMENTS

The Contractor shall not commence work until he has obtained all the insurance required under this heading, and until such insurance has been approved by the Owner, nor shall the Contractor allow any subcontractor to commence work until all similar insurance required of the subcontractor has also been obtained and approved by the Owner.

Certificates of insurance must be issued by an authorized representative of the insurance company at the request and direction of the policyholder and must include sufficient information so as to identify the coverage and the contract for Owner's improvements for which they are issued. Certificates of insurance must be issued by a nationally recognized insurance company with a Best's Rating of no less than B+VII, satisfactory to the Owner, and duly licensed to do business in the state of said Contract.

The Contractor shall procure and maintain, during the life of this Contract, Workmen's Compensation Insurance for all of his employees to be engaged in work under this Contract, and he shall require any subcontractor similarly to provide Workmen's Compensation Insurance for all of the latter's employees to be engaged in such work, unless such employees are covered by the protection afforded by the Contractor's insurance. In case any employees are to be engaged in hazardous work under this Contract, and are not protected under this Workmen's Compensation statute, the Contractor shall provide, and shall cause each subcontractor to provide, adequate coverage for the protection of such employees. It is acceptable to use a State-approved Workmen's Compensation Self-Insurance fund.

The Contractor shall take out and maintain during the life of this Contract, Public Liability and Property Damage and shall include Contractual Liability, pursuant to ISO Form CG001, Personal Injury, Libel, Slander, False Arrest, Malicious Prosecution, Wrongful Entry or Eviction, Broad Form Property Damage, Products, Completed Operations and XCU Coverage to be included on an occurrence basis, and to the full extent of the Contract to protect him, the Owner, and any subcontractor performing work covered by this Contract from damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from operations under this contract, whether such operations be by himself or by a subcontractor, or by anyone directly or indirectly employed by either of them. The Contractor shall also maintain automobile liability insurance including "non-owned and hired" coverage. The entire cost of this insurance shall be borne by the Contractor.

The amount of such insurance shall be no less than \$1,000,000 annual aggregate for bodily injury and property damage combined per occurrence.

The City of Naples must be named as Additional Insured on all policies except workers' compensation and professional liability on the insurance certificate and the following must also be stated on the certificate. "These coverage's are primary to all other coverage's the City possesses for this contract only." The City of Naples shall be named as the Certificate Holder. The Certificate Holder shall read as follows:

The City of Naples  
735 Eighth Street South  
Naples, Florida 34102

No City Division, Department, or individual name should appear on the Certificate.

No other format will be acceptable.

The Certificate must state the bid number and title.

When using the ACORD 25 – Certificate of Insurance only the most current version will be accepted. The City of Naples requires a copy of a cancellation notice in the event the policy is cancelled. The City of Naples shall be expressly endorsed onto the policy as a cancellation notice recipient.

**Note: Certificates of Insurance reflecting evidence of the required insurance shall be submitted with the response to the solicitation.**





AGENCY CUSTOMER ID: KELLBRO-01

SE05BSANDERS

LOC #: 1



**ADDITIONAL REMARKS SCHEDULE**

Page 1 of 1

AGENCY AssuredPartners of Florida, Tampa	License # L077730	NAMED INSURED Kelly Brothers, Inc. 15775 Pine Ridge Rd. Fort Myers, FL 33908 Lee
POLICY NUMBER SEE PAGE 1		
CARRIER SEE PAGE 1	NAIC CODE SEE P 1	EFFECTIVE DATE: SEE PAGE 1

**ADDITIONAL REMARKS**

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,  
FORM NUMBER: ACORD 25 FORM TITLE: Certificate of Liability Insurance

**COVERAGES CONTINUED:**

General Liability is Marine General Liability form. Umbrella is Bumbershoot form extending over MGL, P&I, Auto and Employers Liability. RE Marine General Liability certificate holder is additional insured with waiver of subrogation regarding work performed by the named insured and only to the extent per written contract and subject to policy terms conditions, and exclusions. Bumbershoot follows form subject to policy terms conditions, and exclusions.

United States Longshore and Harbor Workers Compensation Coverage EFF 10/01/2021-10/01/2022 Signal Indemnity Mutual Policy #51400

Protection & indemnity - Mitsui Sumitomo Insurance Policy #OHM4510184 10/01/2021- 10/01/2022 Includes Crews coverage satisfying the "Jones Act" requirement.

MEL - Lloyd's of London policy# F10M1M16140421 10/1/2021 - 10/01/2022

USL&H Employers Liability Scottsdale Insurance Co policy # 71015 10/01/2021-10/01/2022



Mitsui Sumitomo Marine Management (USA), Inc.

Endorsement No: 6

Policy Number: OHM4510184

Insurance Company: Mitsui Sumitomo Insurance USA, Inc.

First Named Assured: Kelly Brothers Inc.

Endorsement Issue Date: 18/Nov/2021

Endorsement Effective Date: 01/Oct/2021

**ADDITIONAL ASSURED AND WAIVER SUBROGATION ENDORSEMENT (BLANKET)**

This endorsement modifies insurance provided under the COMMERCIAL GENERAL LIABILITY COVERAGE FORM.

- A. WHO IS AN ASSURED (Section II) is amended to include any person or organization as an Insured under this policy to the extent you are obligated by an "insured contract" to include them as Additional Assureds, but only with respect to "your work".
- B. The TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US Loss Condition in the Common Conditions is amended by the addition of the following:

We waive any right of recovery we may have against any person or organization because of payments we make for "bodily injury" or "property damage" arising out of "your work" with that person or organization, but only to the extent that you are obligated by an "insured contract" to provide such waiver of rights of recovery and only with respect to "your work" or to your premises or the premises you use.

A and B above are only valid where the "insured contract" is executed prior to any occurrence which may lead to a claim hereunder.

All other Terms, Conditions, Limitations Definitions and Exclusions remain unchanged.

58504 (1-15)

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **DESIGNATED INSURED FOR COVERED AUTOS LIABILITY COVERAGE - BLANKET COVERAGE**

This endorsement modifies insurance provided under the following:

### **COMMERCIAL AUTO POLICY**

**SECTION II - COVERED AUTOS LIABILITY COVERAGE** is amended. The following provision is added. Any person or organization is an insured for Covered Autos Liability Coverage, but only to the extent that

person or organization qualifies as an Insured under **SECTION II - COVERED AUTOS LIABILITY COVERAGE, A. COVERAGE, 1. Who Is An Insured.**

All other policy terms and conditions apply.

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58583 (1-15)

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **WAIVER OF OUR RIGHT TO RECOVER PAYMENTS (WAIVER OF SUBROGATION) - BLANKET**

This endorsement modifies insurance provided under the following:

### **COMMERCIAL AUTO POLICY**

**SECTION V CONDITIONS, A. LOSS CONDITIONS** is amended. **5. Our Right to Recover Payments** is deleted and replaced by the following condition.

#### **5. Our Right to Recover Payments**

If we make a payment under this policy and the person to or for whom payment is made has a right to recover damages from another, we will be entitled to that right. That person shall do everything necessary to transfer that right to us and do nothing to prejudice it.

However, we waive our right to recover payments made for **bodily injury or property damage:**

- a. Covered by the policy; and
- b. Arising out of the operation of autos covered by the policy, in accordance with the terms and conditions of a written contract between you and such person or entity

only if such rights have been waived by the written contract prior to the accident or loss which caused the **bodily injury or property damage.**

All other policy terms and conditions apply.

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58524 (1-15)

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **AMENDMENT OF DEFINITIONS**

This endorsement modifies insurance provided under the following:

### **COMMERCIAL AUTO POLICY**

**SECTION VI - DEFINITIONS** is amended.

1. **B.** is deleted and replaced by the following definition.

**B. Auto means:**

1. A land motor vehicle;
2. A trailer; or
3. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

However, auto does not include mobile equipment. As it applies to this endorsement only,

mobile equipment does not include a snowmobile.

2. **U.** is deleted and replaced by the following definition.

- U. Trailer** means a vehicle which is designed to be connected to and towed by a power unit. Trailer does not include non-motorized farm machinery or farm wagons. A trailer is not equipment or custom furnishings.

All other policy terms and conditions apply.

58524 (1-15)

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Page 1 of 1

58540 (12-19)

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **PRIMARY AND NONCONTRIBUTORY - BLANKET COVERAGE**

This endorsement modifies insurance provided under the following:

### **COMMERCIAL AUTO POLICY**

**SECTION V - CONDITIONS, B. GENERAL CONDITIONS, 2. Other Insurance** is amended. The following provision is added as it applies to this endorsement only. When this insurance is primary and there is other insurance for any person or organization, other than a Named Insured, which covers liability for your operations, contribution from such other insurance shall not be sought by us when:

- (1) There is a written agreement between you and such person or organization that this insurance shall be primary and without the right of contribution; and
- (2) Such written agreement was in force prior to any bodily injury or property damage.

All other policy terms and conditions apply.

58540 (12-19)

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Page 1 of 1

WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY

WC 00 03 13

(Ed. 4-84)

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

Blanket Waiver of Subrogation as required by written contract

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective Date: 10/01/2021 Policy No. WCSIG35019903 Endorsement No.

Policy Effective Date: 10/01/2021 to 10/01/2022 Premium \$

Insured: Kelly Brothers, Inc.

DBA:

Carrier Name / Code: National Casualty Company

WC 00 03 13

(Ed. 4-84)

Countersigned by





Mitsui Sumitomo Marine Management (USA), Inc.

Endorsement No: 36

Policy Number: OHM4510184

Insurance Company: Mitsui Sumitomo Insurance USA, Inc.

First Named Assured: Kelly Brothers Inc.

Endorsement Issue Date: 18/Nov/2021

Endorsement Effective Date: 01/Oct/2021

**NOTICE OF CANCELLATION – 30 DAY (BLANKET)**

In the event of cancellation of this Policy by Underwriters hereon, up to thirty (30) days written notice will be provided to any person or entity where required by written contract executed prior to any accident, illness or occurrence covered hereunder and evidenced to Underwriters hereon by receipt of a certificate of insurance. In the event of cancellation for non-payment of premium by the Insured, no more than ten (10) days written notice of cancellation will be given.

The number of notice days shall be the lesser of that required by the written contract or that shown on the certificate of insurance provided to Underwriters hereon, but in no case more than thirty (30) days (ten (10) days for non-payment of premium).

Cancellation by the Insured or by a Premium Finance Company shall require no notice.

All other Terms, Conditions, Limitations Definitions and Exclusions remain unchanged

Attachment: Immigration Law Affidavit Certification

This Affidavit is required and should be signed by an authorized principal of the firm, notarized and submitted with formal Invitations to Bid (ITB's) and Request for Proposals (RFP) submittals. Further, Vendors / Bidders are required to enroll in the E-Verify program, and provide acceptable evidence of their enrollment, at the time of the submission of the vendor's/bidder's proposal. Acceptable evidence consists of a copy of the properly completed E-Verify Company Profile page or a copy of the fully executed E-Verify Memorandum of Understanding for the company. Failure to include this Affidavit and acceptable evidence of enrollment in the E-Verify program, may deem the (Vendor / Bidder) being a Contractor, Firm, Consultant, etc., and their Submittal of a Bid (ITB, RFP, RFQ, etc.) as non-responsive.

City of Naples will not intentionally award CITY contracts to any vendor who knowingly employs unauthorized alien workers, constituting a violation of the employment provision contained in 8 U.S.C. Section 1324 a(e) Section 274A(e) of the Immigration and Nationality Act ("INA").

City of Naples may consider the employment by any vendor of unauthorized aliens a violation of Section 274A (e) of the INA. Such Violation by the recipient of the Employment Provisions contained in Section 274A (e) of the INA shall be grounds for unilateral termination of the contract by City of Naples.

Vendor attests that they are fully compliant with all applicable Immigration laws (specifically to the 1986 Immigration Act and subsequent Amendment(s)) and agrees to comply with the provisions of the Memorandum of Understanding with E-Verify and to provide proof of enrollment in The Employment Eligibility Verification System (E-Verify), operated by the Department of Homeland Security in partnership with the Social Security Administration at the time of submission of the Vendor's / Bidder's proposal.

Company Name Kelly Brothers, Inc.

Print Name Dane Kelly Title President

Signature [Handwritten Signature] Date 7/28/2022

State of Florida

County of Lee

The foregoing instrument was signed and acknowledged before me this 28th day of July, 2022, by

Dane Kelly who has produced Personally known to me as identification. (Print or Type Name) (Type of Identification and Number)

[Handwritten Signature] Notary Public Signature

Ann Marie Aeschliman Printed Name of Notary Public

GG 300275 2/11/2023 Notary Commission Number/Expiration



ANN MARIE AESCHLIMAN Commission # GG 300275 Expires February 11, 2023 Bonded thru Budget Notary Services

The signee of these Affidavit guarantees, as evidenced by the sworn affidavit required herein, the truth and accuracy of this affidavit to interrogatories hereinafter made.