

REQUEST FOR BID (RFB) 2022-3382

Martin County Board of County Commissioners
Attn: Purchasing Division
2401 S.E. Monterey Road
Stuart, Florida 34996
pur_div@martin.fl.us
www.martin.fl.us

The Board of County Commissioners, Martin County, Florida, will receive sealed bids for:

FOOD, FOOD SERVICE SUPPLIES & CLEANING PRODUCTS

Martin County is seeking bids from interested vendors to provide food, food service supplies and cleaning products to Sailfish Splash Waterpark, Sand Dune Café at Jensen Beach and Seaside Café. Other delivery locations may be added at any time throughout the duration of this Contract.

Sealed bids will be received by the Information Desk on the 1st Floor at the address above or via DemandStar until **2:30 PM** local time, on **Wednesday, January 19, 2022**. Bids received after the designated time and date will not be considered.

The complete bid document may be downloaded from www.demandstar.com (online bidding site).

Martin County is an equal opportunity/affirmative action employer.

By order of the Board of County Commissioners of Martin County, Florida.

Publish: Stuart News December 27, 2021

This document may be reproduced upon request in an alternative format by contacting the County ADA Coordinator (772) 320-3131, the County Administration Office (772) 288-5400, Florida Relay 711, or by completing our accessibility feedback form at www.martin.fl.us/accessibility-feedback

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Bidders must register with the online bidding site in order to receive all required documents and notification of addenda.

This document includes:

1. Scope of Work
2. Instructions to Bidders
3. Terms & Conditions

The following documents can be downloaded separately.

1. Bid Form
2. Bidder's Qualification Statement
3. Conflict Affidavit
4. Drug Free Workplace Certification
5. Local Vendor Preference Certification
6. Public Entity Crimes Statement

Going Greener!! One original of the following documents must be returned with bid. **Do not return any other pages or documents unless specifically requested in the RFB.** If e-bidding, upload documents as one complete document rather than separately (no paper copy necessary).

- Bid Form
- Bidder's Qualification Statement
- Conflict Affidavit
- Drug Free Workplace Certification
- Local Vendor Preference Certification (only return if you are eligible)
- Public Entity Crimes Statement
- Addenda (if any)

Prohibited Communications: Potential bidders shall not communicate in any way with the Board of Commissioners, County Administrator, or any County staff, other than Purchasing personnel, regarding this Request for Bid (RFB) from the time of bid advertisement through, and including, bid award except during scheduled pre-bid meetings. Such communication shall result in disqualification.

SCOPE OF SERVICES

Continuing services contract for the purchase of food, food service items and cleaning supplies delivered to Sailfish Splash Waterpark (931 SE Ruhnke Street, Stuart, FL 34994), Sand Dune Café at Jensen Beach (4191 S. Ocean Blvd., Jensen Beach, FL 34957) and Seaside Café (891 NE Ocean Blvd, Stuart, FL 34996). These products are for a water park and beach cafés for Martin County.

Facility*	Annual Estimated Food Services Expenditure
Sailfish Splash Waterpark	\$125,000
Sand Dune Café	\$125,000
Seaside Café	\$250,000

*Other delivery locations may be added at a later date.

- The bid form provided includes major items for the purpose of price comparison only. The County reserves the right to add, delete or change products as needed.
- The successful vendor shall provide a catalog or cost price schedule of products available.
- Generally, orders shall be placed once to twice a week.
- Delivery shall be “inside delivery”. The deliverer shall place items in walk-in cooler or on shelves as required. All discounts shall include delivery.
- The vendor shall offer an option for item pick up during limited hours on Sunday.
- A minimum delivery order of \$250.00 shall be allowed if required by the Vendor.
- A customer service representative shall be available 7 days a week from 8:00 AM to 8:00 PM for service related inquiries.
- A substitute product may be provided with prior approval by the Contract Manager. Substitutions shall be the of the same or better grade, quality, etc. Quality of product shall be a factor in determination of the lowest, responsive & responsible bid. The County may request a taste test showing original packaging of product with sales representative present.
- Full credit and pickup within five (5) working days after notification of any rejected product due to incorrect delivery, spoiled, damaged, or with insufficient shelf life to permit safe consumption. The Contractor shall not charge a restocking fee to the County. The facility desiring a credit pick up of items will notify the Contractor within twenty-four (24) hours of discovery, or the next business day, whichever comes first.
- The successful bidder shall provide a packing slip/invoice with all deliveries and require a signature of manager or designee for each delivery. Invoicing will also be provided via email to our accounts payable department or through an online portal to expedite payment and for reconciliation purposes.
- The successful bidder shall provide the following general reports to the Department, as delineated below in an approved format approved by the Contact Manager.

Monthly Summary Detail Report – The Contractor shall provide to the Contract Manager or designee a monthly summary report of all items being invoiced. The report must list by line item amounts of each product delivered for all shipments to all facilities during the monthly billing period. The report shall delineate, but is not limited to the following:

- a. Invoice number
- b. Facility name
- c. Product number
- d. Brand name
- e. Pack size
- f. Product description
- g. Identify product food or non-food
- h. Quantity delivered
- i. Delivery date
- j. Unit price
- k. Delivery charge
- l. Rebates, incentives, or discounts
- m. Extended price

Weekly Cost Report – The Contractor shall provide to the Contract Manager or designee weekly cost report for each facility. The report shall delineate, but is not limited to, the following.

- a. Total sales (cumulative to date) for each facility by value; of food and non-food.
 - b. Aggregate (cumulative to date) sales for each facility showing quantity and value.
- The successful bidder shall provide MSDS sheets for all chemicals upon delivery, if required.
 - All chemical products should carry a Green Seal certification and be biodegradable and phosphate free.

Partial bids will be accepted. However, when considering bids, the County shall award the bid based on the highest overall discount of the most used items that is deemed to be in the County's best interest at our sole discretion including ease of delivery services. The County may opt to choose a lower discount if items can be delivered by one vendor for ease of receipt of deliveries.

The goods and/or services listed in this bid are for the purposes of price comparison and are not intended to be all inclusive. The County may add goods and/or services at any time during the term of this Agreement at a cost to be agreed upon by the Vendor and the County.

CONTRACT

The maximum total value of this contract shall not exceed \$2,500,000.00 over the life of the contract.

The Term of the Contract shall be for a period of three (3) years provided both parties are in agreement and there are no changes to the terms and conditions. Price escalations will be considered at the end of each year and must be documented with written verifications of industry price increases. The County shall reserve the right to terminate the Contract in accordance with the provisions under the Terms & Conditions herein. The contract may be renewed for two additional 1-year terms, at the County's sole

discretion, for a total maximum term of five (5) years. The awardee agrees to this condition by signing their bid.

Martin County will not be held to any minimum/maximum quantities or dollars during the term of Contract.

INSTRUCTIONS TO BIDDERS

1. Each bidder shall furnish the information required on the bid schedule and signed by an authorized representative with full signature authority. Offers submitted on any other form may be disqualified.
2. All bids must be submitted in a sealed envelope, plainly marked on the outside with the bidder's name, request for bid number, due date and time.
3. Submit one original of each bid form. If e-bidding, upload forms as one complete document rather than separately.
4. Delivery of Bids:
Bids may be submitted via hand delivery, mail, or e-bid.

Hand Delivery or Mail:

One (1) copy of the Bid must be submitted in a sealed envelope, plainly marked on the outside with the Bidder's name, RFB number and bid due date. Bids shall be delivered to the address detailed on the cover page of this RFB. If forwarded by regular mail or express mail, the sealed envelope containing the bid and marked as directed above, shall be enclosed in another envelope addressed to the U.S. Mail address indicated on the cover page. If forwarded by overnight courier services (other than United States Postal Service Express Mail), the sealed envelope containing the bid and marked as directed above, shall be enclosed in another envelope addressed to the street address indicated on the cover page. Bids may be hand-delivered. Bids by fax or e-mail will **NOT** be accepted. The County cautions bidders to assure actual delivery of mailed or hand-delivered bids directly to the Martin County Administrative Center (Attn: Purchasing Division), 1st Floor, Information Desk, 2401 S. E. Monterey Road, Stuart, Florida. Confirmation of timely receipt of the bid may be made by e-mailing pur_div@martin.fl.us before bid opening time. Bids received after the established deadline shall **not** be considered.

E-Bidding (via DemandStar) www.demandstar.com *****Preferred Method*****

Upload one (1) electronic copy (single file) in PDF format to DemandStar.

E-bidding through the online bidding site shall be accepted in lieu of a sealed bid as outlined above. However, the bidder shall be responsible for ensuring that the required bid documents are properly uploaded and accepted by the online bidding site. The County shall not be responsible for nor accept bids not properly uploaded by the bid due date and time.

5. Bids will be publicly opened and read aloud at the above appointed date at 2:30 pm or as soon as possible thereafter.
6. A bid tabulation will be posted as soon after the bid opening as possible on the online bidding site.
7. Bids become a "public record" and shall be subject to disclosure consistent with Chapter 119, Florida Statutes, thirty (30) calendar days after the bid opening or upon bid award in accordance with Chapter 119, Fla. Stat.. Marking a proposal "confidential" or "proprietary" does not exclude all

or any part of the proposal from disclosure under public records requirements. To claim the proposal or a portion thereof as exempt or confidential and exempt from disclosure, you must state the basis of the exemption, including the statutory citation to an exemption created or afforded by Florida Statutes; state in writing and with particularity the reasons for the conclusion that the proposal is exempt or confidential and exempt; and if only a portion of the proposal is claimed to be exempt or confidential and exempt, provide a redacted version of the proposal showing those portions claimed to be exempt or confidential and exempt. Proposals submitted with claimed exemptions shall be reviewed and release of these records shall be at the County's discretion. Failure to notify the County of claimed exemptions constitutes a waiver and the submittal will be released as requested.

8. Bids may not be withdrawn for a period of 60 days after the public opening date.
9. Please check prices before submitting as modifications will be not be allowed after opening. All prices and notations must be in ink or typewritten. Modifications will not be accepted or acknowledged. All bids must be signed.
10. Alternate bids will not be considered unless they are specifically called for in this solicitation.
11. Any actual or prospective bidder who protests the reasonableness, necessity or competitiveness of the terms and/or conditions of the request for bid; selection or award recommendation shall file such protest in writing to the Purchasing Manager in accordance with the written protest procedures stated in the Martin County Purchasing Manual available at www.martin.fl.us.
12. Questions relative to interpretation of specifications or the solicitation process, must be in writing and e-mailed to pur_div@martin.fl.us, **no later than 5:00 PM on Monday the week prior to the bid due date**. Any interpretations, clarifications or changes made will be in the form of written addenda issued by the Purchasing Division through the online bidding site. Oral answers will not be authoritative.
13. **Prohibited Communications.** The cone of silence prohibits any communication regarding a RFB, RFP, RFQ or other competitive solicitation between any bidder (or its agents or representatives) or other entity with the potential for a financial interest in the award (or their respective agents or representatives) regarding such competitive solicitation, AND any County Commissioner or County employee, selection committee member or other persons authorized to act on behalf of the Board including the County's Architect, Engineer or their subconsultants, or to provide a recommendation to award a particular contract, other than Purchasing Division staff (pur_div@martin.fl.us). The cone of silence shall be in effect from the time of advertisement until contract award. **Such communication shall result in disqualification.**
14. It will be the responsibility of the bidder to contact the Purchasing Division prior to submitting a bid to ascertain if any addenda have been issued, to obtain all such addenda, and to return executed addenda with their bid.
15. Split Award: Martin County reserves the right to award to the overall lowest, most responsive bidder or to award by line item should that be in the best interest of the County.
16. The County reserves the right to reject any or all bids, without recourse, to waive technicalities or to accept the bid which in its judgement best serves the interests of the County. Cost of submittal of this bid is considered an operational cost of the bidder and shall not be passed on to or borne by the County.

17. Goods, services, supplies or equipment covered in the specifications shall be delivered F.O.B. Destination.
18. Failure to comply with these instructions may result in disqualification of your bid.

TERMS & CONDITIONS

1. **Additional Terms and Conditions:** No additional terms and conditions included with the bid response shall be evaluated or considered and any and all such additional terms and conditions shall have no force and effect and are inapplicable to this bid. If submitted either purposely through intent or design or inadvertently appearing separately in transmitting letters, specifications, literature, price lists, or warranties it is understood and agreed that the general and special conditions in this solicitation are the only conditions applicable to this bid and the bidders authorized signature affixed to the bid signature section attests to this fact.
2. **Award of Contract:** Award will be made to the lowest, most responsive, responsible bidder. The County reserves the right to award contracts to one or more bidders. Notice of bid award shall be posted on the online bidding site. The County does not notify all bidders of award or intent to award.
3. **Bid as Public Domain:** All documents and other materials made or received in conjunction with this project will be subject to public disclosure requirements of chapter 119 Florida Statutes. Vendor shall not submit pages marked "Proprietary" or otherwise restricted.
4. **Bidder/Offeror Qualification:**
 - a. Bids will be considered from firms with adequate personnel and inventory to perform prompt delivery and maintain regular business hours 8 a.m. to 5 p.m., Monday through Friday, excluding County holidays.
 - b. Bids will be considered only from firms regularly engaged in the business as described in this bid package; with a record of performance for a reasonable period of time, with sufficient financial support, equipment, and organization to ensure that they can satisfactorily execute the requirements of the bid under the terms and conditions stated. The terms "equipment and organization: as used herein shall be construed to mean a fully equipped and well-established company in line with accepted business practices in the industry and as determined by the County.
5. **Fund Availability:** Any contract resulting from this solicitation is deemed effective to the extent of appropriations available.
6. **Independent Pricing:** By submission of this bid, the bidder certifies, and in the case of a joint bid, each party thereto certifies that:
 - a. The prices in this bid have been arrived at independently, without consultation, communication, or agreement for the purpose of restricting competition.
 - b. Unless otherwise required by law, the prices which have been quoted in this bid have not knowingly been disclosed by the bidder and will not knowingly be disclosed by the bidder, directly or indirectly, to any offeror or to any competitor prior to opening; and
 - c. No attempt has been made or will be made by the bidder to induce any other person or firm to submit or not to submit any bid for the purpose of restricting competition.

7. Insurance Requirements: The successful bidder shall not commence any work in connection with this contract until all of the following types of insurance has been obtained and such insurance has been approved by the COUNTY, nor shall the successful bidder allow any subcontractor to commence work on its subcontract until all similar insurance required of the subcontractor has been obtained and approved. All insurance policies shall be with insurers qualified and doing business in Florida.

Certificate of Insurance Form will be furnished by the Contractor upon notice of award. These shall be completed by the authorized Resident Agent and returned to the Purchasing Division. This certificate shall be dated and show:

- a. The name of the insured Contractor, the specified job by name and job number, the name of insurer, the number of the policy, its effective date, and its termination date.
 - b. A per project limit must be checked under the General Liability section.
 - c. Statement that the Insurer will mail notice to the COUNTY at least thirty (30) days prior to any material changes in provisions or cancellation of the policy.
 - d. County shall be named as additional named insured on Commercial General Liability and Automobile Liability Insurance of both the Contractor and all Subcontractors.
 - e. Workers Comp, General Liability and Auto Liability policies shall include a waiver of subrogation endorsement.
8. Changes: Martin County reserves the right to order in writing changes to the scope of the contract such as change in quantity or delivery schedule. The Contractor has the right to request an equitable price adjustment in cases where modifications to the contract under the authority of this clause result in increased costs to the Contractor.
9. Conflict of Interest: Section 112.313, Fla. Stat., prohibits contracts with County employees, officers and advisory board members. All bidders must disclose the name of any Martin County officer or employee who is employed by (Section 112.313(7)) or owns, directly or indirectly an interest in the bidder's firm or any of its branches (Section 112.313 (3)). Advisory Board Members, County officers or County employees may qualify for an exemption by submitting Commission on Ethics Form 3A with bid and filing such form with the Supervisor of Elections in accordance with Section 112.313(12)(b), Fla. Stat. Please contact the Purchasing division for additional information.
10. Gift Policy: Vendors or potential vendors shall not offer gifts, gratuities, subsidies or favors of any kind to a Martin County employee. Such action may cause a vendor to be debarred from doing business with Martin County.
11. Contract: The Contract between Bidder and County shall be in the form of the Agreement included herewith. The successful Bidder shall assist and cooperate with the Owner in executing the Contract, and within fourteen (14) calendar days following its presentation shall execute same and return it to the owner along with the Insurance documents and any other documentation that may be required by the Contract documents to be submitted at that time.
12. Debarment: The Bidder certifies to the best of its knowledge and belief, that it and its principals:
- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal, State or local department, government or agency;

- b. Have not within a ten (10) year period preceding this bid been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph b of this certification; and
 - d. Have not within a ten (10) year period preceding this bid had one or more public/government transactions or contract (Federal, State or local) terminated for cause or default.
13. Disadvantaged Business Enterprise: Contractors, consultants, sub-contractors and/or sub-recipients shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of Department of Transportation (DOT) assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of the contract which may result in termination of the contract or such other remedy as the recipient deems appropriate.
14. Discrepancies: The supplier shall coordinate all misidentified items, incorrect shipments, shortages, back orders and any other discrepancies.
15. Firm Prices: Prices shall remain firm for the term of the Contract. Escalations will be considered annually provided documentation is provided and price escalations appear to be reasonable. It should also be noted that in the event of price decreases, Martin County shall be offered the de-escalations.
16. Immigration Reform Act: The successful bidder(s) is required to comply with the Immigration Reform Act of 1986 (IRCA) which requires all individuals hired after November 6, 1986, to provide employers with proof of citizenship or authorization to work in the United States.
17. Laws Governing this Contract: Any contractual arrangement between Martin County and the vendor shall be consistent with, and be governed by, the ordinances of Martin County, the laws of the State of Florida, both procedural and substantive, and applicable federal statutes, rules and regulations. Any and all litigation arising under any contractual arrangement shall be brought in the appropriate court in Martin County, Florida.
18. Liability: The vendor shall act as an independent Contractor and not as an employee of Martin County. The vendor will be required to indemnify, defend, and hold and save harmless Martin County, its officers, agents, and employees, from damages arising from the vendor's performance of, or failure to perform, any task or duty required to be performed by the vendor.
19. Local Vendor Preference: When a responsible and responsive, non-local business submits the lowest price bid and the bid submitted by one or more qualified and responsive local businesses is equal to or within five percent (5%) of the price submitted by the Apparent Low Bidder, then the local business with the apparent next-lowest qualified and responsive bid offer shall have the opportunity to submit an offer that matches the price offered by the Apparent Low Bidder in accordance with Section 135.7, Code of Ordinances, Martin County Code.

20. **Minimum Standard:** Specifications describe the expected minimum standard. These specifications are intended to be descriptive in nature and are not intended to eliminate any vendor from submitting a bid.
21. **Modifications:** In addition to changes made under the changes clause, any contract resulting from this solicitation may be modified within the scope of the contract upon the written and mutual consent of both parties, and approval by appropriate legal bodies in Martin County.
22. **Other Entity Use:** This bid may be expanded to include other governmental agencies. Bidders may agree to allow other public agencies to contract with them for the same items at the same terms and conditions as this bid, during the period of time that this bid is in effect. Each political entity will be responsible for execution of its own requirements with the Bidder.
23. **Payment/Invoicing:** No payment will be made for materials ordered without purchase order authorization. Payment cannot be made until materials, goods or services have been received and accepted by the County in the quality and quantity ordered. Payment will be accomplished by submission of invoice with Purchase Order Number referenced thereon.
24. **Performance During Emergency:** By submitting a bid, bidder agrees and promises that, during and after a public emergency, disaster, hurricane, flood, or acts of God, Martin County shall be given "first priority" for all goods and services under this contract. Bidder agrees to provide all goods and services to Martin County throughout the emergency/disaster at the terms, conditions, and prices as provided in this solicitation, and with a priority above, a preference over, sales to the private sector. Bidder shall furnish a 24-hour phone number to the County in the event of such an emergency. Failure to provide the stated priority/preference during an emergency/disaster shall constitute breach of contract and make the bidder subject to sanctions from further business with the County.
25. **Permits/Licenses/Fees:** Unless otherwise noted in the bid document, any permits, licenses or fees required will be the responsibility of the Contractor as part of the contract, if applicable. No separate payment will be made. Adherence to all applicable code regulations (Federal, State, County, City) are the responsibility of the Contractor.
26. **Precontractual Expenses:** The County shall not, in any event, be liable for any pre-contractual expenses incurred in the preparation of its bid prior to issuance of the project Notice to Proceed. Pre-contractual expenses are defined as expenses incurred by the Contractor(s) in:
 - a. Preparing and submitting bid(s) to the County;
 - b. Negotiations with the County on any matter related to the contract terms, professional fees, and schedule;
 - c. Any other expenses incurred by the Contractor(s) prior to reaching agreement in advance of the date of award of the proposed Contract.
27. **Public Entity Crimes:** Pursuant to Florida Statutes Section 287.133, all Bidders are hereby notified that a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public Work, may not submit bids on leases of real property to a public entity, may not be awarded or perform Work as a Contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in s.287.017 for CATEGORY TWO [currently \$35,000] for a period of 36 months from the date of being placed on the convicted vendor list.

A "Public entity crime" means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any bid or contract for goods or services, any lease for real property, or any contract for the construction or repair of a public building or public Work, involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

28. Quantities: The quantities listed in the RFB, if given, are estimates only and are given only as a guideline for bid preparation. Estimates should not be construed as representing actual quantities to be purchased. Martin County shall not be held to any minimum or maximum purchase quantities.
29. Rejection of Bids: Martin County reserves the right to reject any or all bids with or without cause when such rejection is in the best interest of the County. The County also reserves the right to reject any bid when bidder has previously failed to perform properly or complete, on time, contracts of a similar nature.
30. Responsibility: In determining responsibility, the following qualifications will be considered:
 - a. The bidder's ability, capacity and skill to perform the contract or provide the service within the time specified.
 - b. The reputation, judgment and experience of the bidder.
 - c. The quality of performance of previous contracts or services including previous performance with the County.
 - d. Previous and existing compliance by the bidder with laws and ordinances relating to the contract or service.
 - e. Financial resources of the bidder to perform the contract or provide the service.
31. Subcontracting/Assignment: The Contractor shall not assign the contract or subcontract any requirement without obtaining the prior written approval of Martin County.
32. Taxes: Martin County does not pay Federal excise and State sales taxes. Tax exemption number is available upon notice of award.
33. Termination for Convenience: Martin County reserves the right to terminate the Contract in whole or part by giving the vendor written notice at least thirty (30) days prior to the effective date of the termination. Upon receipt of termination from Martin County, the vendor shall provide only those materials specifically approved or directed by Martin County. All other rights and duties of the parties under the Contract shall continue during such notice period, and Martin County shall continue to be responsible to the vendor for the payment of any obligations to the extent such responsibility has not been excused by breach or default of the vendor.

Upon termination, vendor shall bill Martin County for all amounts not previously billed and due the vendor at that time. The vendor shall not be entitled to payment nor expenses for any work commenced or expenses incurred after the notice of termination was received by the vendor, unless specifically approved or requested by Martin County. The vendor shall however, be entitled to payment for materials ordered or services commenced and approved by Martin County prior to the receipt of notice, or with the express written consent of Martin County, prior to the effective date of termination.

34. Termination for Default: The Contract may be terminated by Martin County in accordance with this clause, in whole or in part, in writing, whenever the County shall determine that the Contractor has failed to meet performance requirement(s) of the Contract. In the event of a determination of default, Martin County reserves the right to award any remaining portion of the agreement to the next lowest, most responsive, responsible bidder without further competition.
35. Unit Prices: Unit prices will govern in the event both unit and total prices are asked for in the solicitation and the unit price carried forward does not mathematically result in the total price for that item.
36. Utilization Of Small Business Concerns: It is the Policy of the united states, the State of Florida, or the county that small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, hubzone small business concerns, small disadvantaged business concerns, and women-owned small business concerns (hereinafter “small business concerns”) shall have the maximum practicable opportunity to participate in performing contracts, including contracts and subcontracts. It is further the policy that its prime Contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns. The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient contract performance. The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the appropriate government agency as may be necessary to determine the extent of the Contractor’s compliance with this clause.
37. E-Verify. In compliance with Section 448.095, Fla. Stat., Contractor and its subcontractors shall, prior to beginning work under this Agreement, register with and use the E-Verify system to verify work authorization status of all employees hired after January 1, 2021.

This document may be reproduced upon request in an alternative format by contacting the County ADA Coordinator (772) 320-3131, the County Administration Office (772) 288-5400, Florida Relay 711, or by completing our accessibility feedback form at www.martin.fl.us/accessibility-feedback

SAMPLE

**AGREEMENT BETWEEN COUNTY AND CONTRACTOR FOR
GOODS AND SERVICES**

THIS AGREEMENT, effective this _____ day of _____ in the year, 2021, between:

MARTIN COUNTY BOARD OF COUNTY COMMISSIONERS, a political subdivision of the State of Florida, (hereinafter COUNTY), located at 2401 S.E. Monterey Road, Stuart, FL 34996

AND the CONTRACTOR:
(hereinafter CONTRACTOR)

Contract Name:

Contract Number:

Contract Term: Three (3) years plus two (2) 1-year renewal options

Not to Exceed Amount: \$

WHEREAS, COUNTY has previously determined that it has a need for goods and/or services more specifically outlined in the Request for Bids (RFB) and the Scope of Services; and

WHEREAS, COUNTY solicited competitive bids for such services pursuant to the Martin County bid number referenced on Page 1 of this Agreement; and

WHEREAS, COUNTY awarded the Bid to CONTRACTOR; and

WHEREAS, CONTRACTOR has represented that it is able to satisfactorily provide the services and or materials according to the terms and conditions of the RFB, which is incorporated herein by reference, and the terms and conditions contained herein; and

NOW THEREFORE, in consideration of the above and mutual covenants contained herein, the parties agree as follows:

1. **Services to be Performed.** The CONTRACTOR hereby agrees to provide the COUNTY with goods and services, as requested and more specifically outlined in the Scope of Services attached hereto and made a part hereof as Exhibit A, this Agreement and all subsequent official documents that form the Contract Documents for this Agreement, including any additional contract terms contained herein.

2. **Time of Service.** Services shall be performed in a timely manner, as specified in the Request for Bid or as set forth herein.

3. **Term of Agreement/Option of Renewal.** This Agreement shall be in effect from the date of execution and for the term and agreed upon renewal options indicated on Page 1 of this Agreement. This Agreement may be extended subject to execution of a written agreement between the COUNTY and CONTRACTOR for up to 90 additional days beyond the term and agreed upon renewal options. This option shall be exercised only if all prices, terms and conditions remain the same, or decrease.

4. **Amendment of the Agreement.** This Agreement may be amended only by mutual written agreement signed by the parties. No statement, representations, warranties, either written or oral, from whatever source arising, except as expressly stated in this Agreement, shall have any legal validity between the parties or is binding upon any of them. The parties acknowledge that this agreement contains the entire understanding and agreement of the parties. No modifications hereof shall be effective unless made in writing and executed by the parties hereto with the same formalities as this Agreement is executed.

5. **Assignment/Subcontracting.** The CONTRACTOR shall perform all services and provide all goods and equipment required by this Agreement. No assignment or subcontracting shall be allowed without the prior written consent of the COUNTY. In the event of a corporate acquisition and/or merger, the CONTRACTOR shall provide written notice to the COUNTY within thirty (30) business days of CONTRACTOR'S notice of such action or upon the occurrence of said action, whichever occurs first. The right to terminate this Agreement, which shall not be unreasonably exercised by the COUNTY, shall include, but not be limited to, instances in which a corporate acquisition and/or merger represent a conflict of interest or are contrary to any local, state or federal laws. Action by the COUNTY awarding a bid to a bidder, which has disclosed its intent to assign or subcontract in its response to the RFB, without exception shall constitute approval for purpose of this Agreement.

6. **Termination.**

6.1 COUNTY shall notify CONTRACTOR of any failure to comply with any requirement in the Scope of Work and shall notify CONTRACTOR in writing of such failure/default. CONTRACTOR shall correct such failure/default within five (5) working days. COUNTY shall have the right to terminate this Agreement if such correction is not made within the time specified above.

6.2 Failure of the CONTRACTOR to comply with any of the provisions of this Agreement shall be considered a material breach of Agreement and shall be cause for immediate termination of the Agreement at the sole discretion of the COUNTY.

6.3 COUNTY reserves the right to cancel this Agreement, without cause, by giving thirty (30) days prior written notice to the CONTRACTOR of the intention to terminate.

7. **Compensation.** COUNTY shall pay CONTRACTOR upon CONTRACTOR's completion of, and COUNTY's acceptance of, the services required herein, in the amounts specified in the Price Schedule attached hereto and made a part hereof as Exhibit A. Price escalations will be considered at the end of each year and must be documented with written verifications of industry price increases. COUNTY shall pay invoices in accordance with the Local Government Prompt Payment Act.

8. **Permit/ Licenses.** CONTRACTOR must secure and maintain any and all permits and licenses required to complete this Agreement.

9. **Public Records.**

9.1 CONTRACTOR shall comply with the provisions of Chapter 119, Fla. Stat. (Public Records Law), in connection with this Agreement and shall provide access to public records in accordance with §119.0701, Fla. Stat. and more specifically Contractor shall:

9.1.1. Keep and maintain public records required by the County to perform the Agreement.

9.1.2. Upon request from the County's custodian of public records, provide the County 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, Fla. Stat. or as otherwise provided by law.

9.1.3. 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 the Agreement term and following completion of the Agreement if the CONTRACTOR does not transfer the records to the County.

9.1.4. Upon completion of the Agreement, transfer, at no cost, to the County all public records in possession of the CONTRACTOR or keep and maintain public records required by the County to perform the Agreement. If the CONTRACTOR transfers all public records to the County upon completion of the Agreement, the CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONTRACTOR keeps and maintains public records upon completion of the Agreement, the CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County, upon request from the County's custodian of public records, in a format that is compatible with the information technology systems of the County.

9.1.5 All blueprints, schematics and design drawings received by the CONTRACTOR from the COUNTY shall not be re-copied or forwarded to another party unless documented permission has been received by COUNTY. Documents shall be documented as retained,

returned, or destroyed by CONTRACTOR accepting said documents. In accordance with the Florida Public Records Act, these documents are exempt from Public Disclosure as described in 119.071, Fla. Stat., general exemptions from inspection or copying of public records.

9.2 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 CUSTODIAN OF PUBLIC RECORDS AT (772) 419-6959, public_records@martin.fl.us, 2401 SE MONTEREY ROAD, STUART, FL 34996.

9.3 Failure to comply with the requirements of this Article shall be deemed a default as defined under the terms of this Agreement and constitute grounds for termination.

10. Minimum Insurance Requirement. The CONTRACTOR must maintain insurance in at least the amounts required throughout the term of this Agreement or any renewals or extensions. The CONTRACTOR must provide a Certificate of Insurance in accordance with the Insurance Requirements and as set forth herein naming the COUNTY as an additional named insured evidencing such coverage prior to issuance of a purchase order or commencement of any work under this Agreement.

- a. Loss Deductible Clause: The COUNTY shall be exempt from, and in no way liable for, any sums of money which may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Contractor and/or subcontractor providing such insurance.
- b. Worker's Compensation Insurance: The Contractor shall take out and maintain during the life of this Agreement, Worker's Compensation Insurance for all of its employees connected with the work of this project and, in case any work is sublet, the Contractor shall require the subcontractor similarly to provide Worker's Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by the Contractor. Such insurance shall comply fully with the Florida Worker's Compensation Law. In case any class of employees engaged in hazardous work under this contract at the site of the project is not protected under the Worker's Compensation statute, the Contractor shall provide, and cause each subcontractor to provide adequate insurance, satisfactory to the COUNTY for the protection of its employees not otherwise protected. Coverage to include Employers Liability \$100,000 each accident, \$100,000 each Disease/Employee and \$500,000 each Disease/Maximum.
- c. Commercial Automobile Liability Insurance: The Contractor shall take out and maintain during the life of this agreement Comprehensive Automobile Liability Insurance for "Any Auto" (owned, hired and non owned) for a minimum of \$1,000,000 Combined Single Limit.
- d. Commercial General Liability Insurance: The Contractor shall take out and maintain during the life of this agreement Commercial General Liability insurance Including coverage for bodily injury, property damage, personal/advertising injury and products/completed operations for negligent acts which may arise from operations under this Agreement whether such operations are alone or by anyone directly or indirectly

employed by it. The policy should include Contractual Liability to cover the hold harmless and indemnity provision as set forth in this agreement. A per project limit of liability is required. The amounts of such insurance shall be the minimum limit as follows:

Each Occurance -	\$1,000,000
Personal/Advertising Injury -	\$1,000,000
Products/Completed Operations Aggregate -	\$2,000,000
General Aggregate -	\$2,000,000
Fire Damage -	\$100,000 and 1 fire
Medical Expense -	\$10,000 any 1 person

- e. Commercial Automobile and General Liability Insurance: The Contractor shall require each of its subcontractors to procure and maintain during the life of this subcontract, insurance of the type specified above or insure the activities of his subcontractors in its policy, as specified above.
- f. Waiver of Subrogation. The CONTRACTOR hereby waives any and all rights of Subrogation against the COUNTY, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then the CONTRACTOR shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of rights of Recovery Against Others, or its equivalent.

11. Indemnification. CONTRACTOR shall indemnify and hold harmless the COUNTY and Federal government from all suits, actions or claims of any character brought on account of any injuries or damages received or sustained by any person, person or property by or from the said CONTRACTOR; or by, or in consequence of any neglect in safeguarding the work; or by the use of unacceptable materials in the construction of improvements; or on account of any act or omission, neglect or misconduct of the said CONTRACTOR; or by, or on account of, any claim or amounts recovered under the "Workers Compensation Law" or of any other laws, by-laws, ordinance, order or decree, except only such injury or damage as shall have been occasioned by the sole negligence of the COUNTY. The first ten dollars (\$10.00) of compensation received by the CONTRACTOR represents specific consideration for this indemnification obligation.

12. Governing Law. The laws of the State of Florida shall govern this Agreement.

13. Independent Contractor Status and Compliance with the Immigration Reform and Control Act of 1986. The CONTRACTOR is and shall remain an independent contractor and is neither agent, employee, partner nor joint venture of COUNTY. CONTRACTOR acknowledges that it is responsible for complying with the provisions of the Immigration Reform and Control act of 1986 located at 8 U.S.C. 1324, et. Seq., and regulations relating thereto, as either may be amended from time to time. Failure to comply with the above provisions shall be considered a material breach and shall be grounds for immediate termination of the Agreement, at the discretion of COUNTY.

14. Severability. The terms and conditions of this Agreement shall be deemed to be severable. Consequently, if any clause, term, or condition hereof shall be held to be illegal or void, such determination shall not affect the validity or legality of the remaining terms and conditions, and notwithstanding any such determination, this Agreement shall continue in full force and effect unless the

particular clause, term, or condition held to be illegal or void renders the balance of the Agreement to be impossible or performance.

15. Conflict of Interest. CONTRACTOR represents that it has no interest and shall acquire no interest(s), which conflict in any manner with the performance of services required hereunder, as provided for in Chapter 112, Part 111, of the Florida Statutes, CONTRACTOR further represents that no person having any interest shall be employed for said performance. CONTRACTOR shall notify COUNTY in writing by certified mail of all potential conflicts of interest for any prospective business association, interest or other circumstance which may influence or appear to influence CONTRACTOR'S judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that CONTRACTOR may undertake and request an opinion from COUNTY, the prospective business association, interest or circumstance would not constitute a conflict of interest by CONTRACTOR, COUNTY shall so state in the notification and CONTRACTOR shall, at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict with respect to services provided to COUNTY by CONTRACTOR under the terms of this Agreement.

16. Documents Comprising Agreement. The Agreement documents shall include this Agreement as well as the following documents, which are incorporated herein by reference.

- a. Martin County's Request for Bid and all of its addenda and attachments which are part of the RFB set forth above.
- b. Contractor's Certificate of Insurance required in the Request for Bid;
- c. Contractor's response to the RFB or soliciting document.

17. Dispute Resolution.

17.1 As a condition precedent to the filing of any legal proceedings, the parties shall endeavor to resolve claim disputes or other matters in question by mediation. Mediation shall be initiated by any party by serving a written request for same on the other party. The party shall, by mutual agreement, select a mediator within 15 days of the date of the request for mediation. If the parties cannot agree on the selection of a mediator then the COUNTY shall select the mediator, who, if selected solely by the COUNTY, shall be a mediator certified by the Supreme Court of Florida. The mediator's fee shall be paid in equal shares by each party to the mediator.

17.2 **Attorney's Fees.** The parties expressly agree that each party will bear its own attorney's fees incurred in connection with this Agreement.

17.3 **Venue.** This Agreement and the terms hereof shall be construed in accordance with the laws of the State of Florida and venue for all actions in a court of competent jurisdiction shall lie in Martin County, Florida.

17.4 **Non-jury trial.** The parties expressly and specifically hereby waive the right to a jury trial as to any issue in any way connected with this Agreement.

17.5 The parties expressly and specifically hereby waive all tort claims and limit their remedies to breach of contract as to any issue in any way connected with this Agreement.

18. Confidential Information.

18.1 Any information such as specifications, drawings, sketches, business information, forecasts, models, samples, data, computer programs and other software, and documentation of one Party (a “Disclosing Party”) that is furnished or made available or otherwise disclosed to the other Party or to such other Party’s employees, contractors, or agents (a “Receiving Party”) pursuant to this Agreement (“Proprietary Information”) shall be deemed the property of the Disclosing Party. Proprietary Information, if written, shall be clearly and conspicuously marked “Proprietary”. Such information may be disclosed to those persons who have a need for it in connection with the provision of services required to fulfill this Agreement and shall be used by those persons only for such purposes; and may be used for other purposes only upon such terms and conditions as may be mutually agreed to in advance of such use in writing by the Parties. Notwithstanding the foregoing sentence, COUNTY shall be entitled to disclose or provide Proprietary Information as required by any governmental authority or applicable law, including but not limited to Section 119, Fla. Stat. Existence and terms of this Agreement shall constitute a public record and shall be subject to Section 119, Fla. Stat.. CONTRACTOR agrees to comply with the requirements of Sec. 119.0701, Fla. Stat.

18.2 If COUNTY receives a public records request for public records received from CONTRACTOR, including any public records request for Proprietary Information or for records that may be or may contain Proprietary Information, COUNTY shall promptly notify CONTRACTOR. The notice shall inform CONTRACTOR that it must promptly inform COUNTY, in writing, whether or not CONTRACTOR claims an exemption to the release of part or all of the requested public record. If CONTRACTOR claims that part or all of a public record is exempt from inspection and copying, that writing shall state the basis of the exemption that it contends is applicable to the record, including the statutory citation to an exemption created or afforded by statute. If CONTRACTOR claims that an exemption applies to part of a requested public record, CONTRACTOR shall, in that writing, identify for redaction the part of that public record to which the exemption is asserted and validly applies, and the remainder of that public record shall be produced for inspection and copying. If CONTRACTOR promptly notifies COUNTY of a claim of exemption, COUNTY shall review the exemption claimed and decide whether to release the public records. If CONTRACTOR fails to promptly notify COUNTY that it claims an exemption to the release of the requested public record, that failure constitutes a waiver of any claim of trade secret or confidentiality, and COUNTY shall release the record as requested.

18.3 CONTRACTOR will indemnify, defend, and hold COUNTY, COUNTY’s elected officials, employees, agents, and attorneys and their successors (each an “Indemnitee”) harmless of and from any claim brought or threatened against any Indemnitee by any person or entity on account of or related to any public records request for public records, as that term is defined in Section 119.011, Fla. Stat., that are or may be or may contain Proprietary Information, each of which may be defended, settled or pursued by COUNTY with counsel of COUNTY’s choice but at the expense of CONTRACTOR, including reasonable attorneys’ fees and costs, including attorneys’ fees and costs in litigation and on appeal incurred by or awarded against any Indemnitee or agreed upon by any Indemnitee as part of any settlement of any claim for attorney’s fees and costs for failure to produce requested public records disclosed to an Indemnitee by CONTRACTOR.

18.4 In the event of the expiration or termination of this Agreement for any reason whatsoever, each Party shall return to the other Party Proprietary Information and other documents, work papers and other material (including all copies thereof) obtained from the other Party in connection with this Agreement, subject to Chapter 119 and other public records retention requirements set forth in Florida law.

19. E-Verify. In compliance with Section 448.095, Fla. Stat., the CONTRACTOR and its

subcontractors shall register with and use the E-Verify system to verify work authorization status of all employees hired after January 1, 2021.

- a. If the CONTRACTOR enters into a contract with a subcontractor, the subcontractor must provide the CONTRACTOR with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. CONTRACTOR shall maintain a copy of the subcontractor's affidavit as part of and pursuant to the records retention requirements of this Agreement.
- b. The COUNTY, the CONTRACTOR, or any subcontractor who has a good faith belief that a person or entity with which it is contracting has knowingly violated Section 448.09(1), Fla. Stat. or the provisions of this Article shall terminate the contract with the person or entity.
- c. The COUNTY, upon good faith belief that a subcontractor knowingly violated the provisions of Article 32, but the CONTRACTOR otherwise complied, shall promptly notify the CONTRACTOR and order the CONTRACTOR to immediately terminate the contract with the subcontractor.
- d. A contract terminated under the provisions of Article 32 is not a breach of contract and may not be considered such.
- e. Subcontracts. The CONTRACTOR or subcontractor shall insert in any subcontracts the clauses set forth in Article 18 and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The CONTRACTOR shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in Article 18.

If there is a conflict between the terms of this Agreement and the above referenced documents, then the conflict shall resolved as follows: the terms of this Agreement shall prevail over the other documents, and the terms of the remaining documents shall be given preference in their above listed order.

IN WITNESS WHEREOF, the COUNTY and the CONTRACTOR have executed this Agreement as of the date first above written.

ADDENDUM #1

REQUEST FOR BID (RFB) 2022-3382

FOOD, FOOD SERVICE SUPPLIES & CLEANING PRODUCTS

BID DUE DATE: JANUARY 19, 2022 @ 2:30 PM

The following information shall become part of this bid and shall be binding as if originally contained therein.

QUESTIONS

1. Will this Contract be awarded to all bidders, no bidders or based on line items?

RESPONSE: Contract could be awarded to more than 1 bidder based on availability of products; bid will be awarded as we need products to operate our facilities. Bid will not be awarded based on line items.

2. Can you provide the award pricing per item and winning vendor from the previous bid and the date of the previous award? Can you also provide the pricing that the awarded vendor put for subsequent years?

RESPONSE: Contract RFB2018-3035 was awarded to Cheney Brothers on February 13, 2018. This Contract has been uploaded to Demanded Star as part of this Addendum.

3. Based on previous ordering history and purchase orders, about how often are the Trash Can Liners ordered? Monthly? Quarterly? Or other? And what is an appropriate case order?

RESPONSE: These items are ordered on an as needed basis as inventory drops. The facilities have limited storage, so gloves and trash bags are ordered 3-5 cases per order on average. The Waterpark orders are separate from the Café orders. Orders require delivery at each facility. Ordering is seasonal with the Waterpark with the majority of its orders from March - August.

4. Based on previous ordering history and purchase orders, about how often are the gloves ordered? Monthly? Quarterly? Or other? And what is an appropriate case order?

RESPONSE: These items are ordered on an as needed basis as inventory drops. The facilities have limited storage, so gloves and trash bags are ordered 3-5 cases per order on average. The waterpark orders are separate from the café orders. Orders require delivery at each facility. Ordering is seasonal with the waterpark with the majority of its orders from March - August.

5. Is it acceptable to get notarizations online to avoid COVID exposure?

RESPONSE: All forms that require Notarization must be manually Notarized. We will not accept forms with Electronic Notarization.

RECEIPT OF ADDENDUM #1 IS HEREBY ACKNOWLEDGED

Firm Name

Signature