Collier County
Administrative Services Department
Procurement Services Division

October 1, 2018

Mr. Robert V. Rogers
Prolime Corporation
58610 Van Dyke Road
Washington, MI 48094
Via Email: email@prolime.net

RE: Contract # 18-7416 "Public Utilities Lime Sludge Pond Cleaning"

Dear Mr. Rogers:

We are pleased to enclose your copy of the fully executed agreement for the above-referenced services which was approved by the Board of County Commissioners on September 25, 2018, Agenda Item **16.C.2.**

We anticipate a successful relationship, and in order to meet that goal, we want to convey our expectations regarding your role as a contractor as follows:

1. Flexibility in making changes, including resource allocation as the need arises;
2. Creativity in finding cost-effective solutions to unanticipated problems;
3. Cooperation and timely communication with County Project Manager and staff;
4. Proper documentation of costs and expenses associated with this contract.

Congratulations on the award of this contract; should you have any questions, please do not hesitate to contact me at 239-252-8950.

Regards,

Ana Reynoso
Procurement Technician

C: Randy Lewis, Project Manager/Sue Zimmerman/Steve Messner, Water Director Division

Enclosure

FIXED TERM SERVICE AGREEMENT

#18-7416

for

PUBLIC UTILITIES LIME SLUDGE POND CLEANING

THIS AGREEMENT, made and entered into on this 25th day of September 2018, by and between Prolime Corporation, authorized to do business in the State of Florida, whose business address is 58610 Van Dyke Road, Washington, MI 48094, (the "Contractor") and Collier County, a political subdivision of the State of Florida, (the "County"):

WITNESSETH:

1. **AGREEMENT TERM.** The Agreement shall be for a three (3) year period, commencing ■ upon the date of Board approval ~~or~~ ☐ ~~on~~ _____ and terminating on three (3) year(s) from that date or until all outstanding Purchase Order(s) issued prior to the expiration of the Agreement period have been completed or terminated.

   The County may, at its discretion and with the consent of the Contractor, renew the Agreement under all of the terms and conditions contained in this Agreement for one (1) additional three (3) year(s) periods. The County shall give the Contractor written notice of the County's intention to renew the Agreement term prior to the end of the Agreement term then in effect.

   The County Manager, or his designee, may, at his discretion, extend the Agreement under all of the terms and conditions contained in this Agreement for up to one hundred and eighty (180) days. The County Manager, or his designee, shall give the Contractor written notice of the County's intention to extend the Agreement term prior to the end of the Agreement term then in effect.

2. **COMMENCEMENT OF SERVICES**. The Contractor shall commence the work upon issuance of a ■ Purchase Order ☐ Notice to Proceed.

3. **STATEMENT OF WORK**. The Contractor shall provide services in accordance with the terms and conditions of ☐ ~~Request for Proposal (RFP)~~ ■ Invitation to Bid (ITB) ☐ ~~Other~~ _____ (_____) # 18-7416, including all Attachment(s), Exhibit(s) and Addenda and the Contractor's proposal referred to herein and made an integral part of this Agreement.

   ■ The Contractor shall also provide services in accordance with **Exhibit A – Scope of Services** attached hereto.

3.1 This Agreement contains the entire understanding between the parties and any modifications to this Agreement shall be mutually agreed upon in writing by the Parties, in compliance with the County's Procurement Ordinance, as amended, and Procurement Procedures in effect at the time such services are authorized.

4. **THE AGREEMENT SUM**. The County shall pay the Contractor for the performance of this Agreement based on **Exhibit B- Fee Schedule**, attached hereto and the price methodology as defined in Section 4.1. Payment will be made upon receipt of a proper invoice and upon approval by the County's Contract Administrative Agent/Project Manager, and in compliance with Chapter 218, Fla. Stats., otherwise known as the "Local Government Prompt Payment Act".

4.1 **Price Methodology (as selected below):**

☐ ~~**Lump Sum** (Fixed Price): A firm fixed total price offering for a project; the risks are transferred from the County to the contractor; and, as a business practice there are no hourly or material invoices presented, rather, the contractor must perform to the satisfaction of the County's project manager before payment for the fixed price contract is authorized.~~

☐ ~~**Time and Materials**: The County agrees to pay the contractor for the amount of labor time spent by the contractor's employees and subcontractors to perform the work (number of hours times hourly rate), and for materials and equipment used in the project (cost of materials plus the contractor's markup). This methodology is generally used in projects in which it is not possible to accurately estimate the size of the project, or when it is expected that the project requirements would most likely change. As a general business practice, these contracts include back-up documentation of costs; invoices would include number of hours worked and billing rate by position (and not company (or subcontractor) timekeeping or payroll records), material or equipment invoices, and other reimbursable documentation for the project.~~

■ **Unit Price**: The County agrees to pay a firm total fixed price (inclusive of all costs, including labor, materials, equipment, overhead, etc.) for a repetitive product or service delivered (i.e. installation price per ton, delivery price per package or carton, etc.). The invoice must identify the unit price and the number of units received (no contractor inventory or cost verification).

4.2 Any County agency may obtain services under this Agreement, provided sufficient funds are included in their budget(s).

4.3 Payments will be made for services furnished, delivered, and accepted, upon receipt and approval of invoices submitted on the date of services or within six (6) months after completion of the Agreement. Any untimely submission of invoices beyond the specified deadline period is subject to non-payment under the legal doctrine of "laches" as untimely submitted. Time shall be deemed of the essence with respect to the timely submission of invoices under this Agreement.

4.4 ☐ ~~(check if applicable)~~ ~~**Travel and Reimbursable Expenses:**~~ ~~Travel and Reimbursable Expenses must be approved in advance in writing by the County. Travel expenses shall be reimbursed as per Section 112.061 Fla. Stats.~~

~~Reimbursements shall be at the following rates:~~

~~Mileage~~	~~$0.44.5 per mile~~
~~Breakfast~~	~~$6.00~~
~~Lunch~~	~~$11.00~~
~~Dinner~~	~~$19.00~~
~~Airfare~~	~~Actual ticket cost limited to tourist or coach class fare~~
~~Rental car~~	~~Actual rental cost limited to compact or standard size vehicles~~
~~Lodging~~	~~Actual cost of lodging at single occupancy rate with a cap of no more than $150.00 per night~~
~~Parking~~	~~Actual cost of parking~~
~~Taxi or Airport Limousine~~	~~Actual cost of either taxi or airport limousine~~

~~Reimbursable items other than travel expenses shall be limited to the following: telephone long distance charges, fax charges, photocopying charges and postage. Reimbursable items will be paid only after Contractor has provided all receipts. Contractor shall be responsible for all other costs and expenses associated with activities and solicitations undertaken pursuant to this Agreement.~~

5. **SALES TAX.** Contractor shall pay all sales, consumer, use and other similar taxes associated with the Work or portions thereof, which are applicable during the performance of the Work. Collier County, Florida as a political subdivision of the State of Florida, is exempt from the payment of Florida sales tax to its vendors under Chapter 212, Florida Statutes, Certificate of Exemption # 85-8015966531C.

6. **NOTICES.** All notices from the County to the Contractor shall be deemed duly served if mailed or emailed to the Contractor at the following:

Company Name:	Prolime Corporation
Address:	58610 Van Dyke Road
	Washington, MI 48094
Authorized Agent:	Robert V. Rogers, President
Attention Name & Title:	
Telephone:	586-781-7070
E-Mail(s):	email@prolime.net

All Notices from the Contractor to the County shall be deemed duly served if mailed or emailed to the County to:

Board of County Commissioners for Collier County, Florida

Division Name:	WATER
Division Director:	STEVE MESSNER
Address:	3851 City Gate Dr.
	Naples, FL 34117
Administrative Agent/PM:	RANDY LEWIS (copies to Sue Zimmerman, Contract Specialist)
Telephone:	239-252-6111
E-Mail(s):	Randy.Lewis@Colliercountyfl.gov (Sue.Zimmerman@Colliercountyfl.gov)

The Contractor and the County may change the above mailing address at any time upon giving the other party written notification. All notices under this Agreement must be in writing.

7. **NO PARTNERSHIP**. Nothing herein contained shall create or be construed as creating a partnership between the County and the Contractor or to constitute the Contractor as an agent of the County.

8. **PERMITS: LICENSES: TAXES**. In compliance with Section 218.80, F.S., all permits necessary for the prosecution of the Work shall be obtained by the Contractor. The County will not be obligated to pay for any permits obtained by Subcontractors.

   Payment for all such permits issued by the County shall be processed internally by the County. All non-County permits necessary for the prosecution of the Work shall be procured and paid for by the Contractor. The Contractor shall also be solely responsible for payment of any and all taxes levied on the Contractor. In addition, the Contractor shall comply with all rules, regulations and laws of Collier County, the State of Florida, or the U. S. Government now in force or hereafter adopted. The Contractor agrees to comply with all laws governing the responsibility of an employer with respect to persons employed by the Contractor.

9. **NO IMPROPER USE.** The Contractor will not use, nor suffer or permit any person to use in any manner whatsoever, County facilities for any improper, immoral or offensive purpose, or for any purpose in violation of any federal, state, county or municipal ordinance, rule, order or regulation, or of any governmental rule or regulation now in effect or hereafter enacted or adopted. In the event of such violation by the Contractor or if the County or its authorized representative shall deem any conduct on the part of the Contractor to be objectionable or improper, the County shall have the right to suspend the Agreement of the Contractor. Should the Contractor fail to correct any such violation, conduct, or practice to the satisfaction of the County within twenty-four (24) hours after receiving notice of such violation, conduct, or practice, such suspension to continue until the violation is cured. The Contractor further agrees not to commence operation during the suspension period until the violation has been corrected to the satisfaction of the County.

10. **TERMINATION.** Should the Contractor be found to have failed to perform his services in a manner satisfactory to the County as per this Agreement, the County may terminate said Agreement for cause; further the County may terminate this Agreement for convenience with a thirty (30) day written notice. The County shall be sole judge of the non-performance.

    In the event that the County terminates this Agreement, Contractor's recovery against the County shall be limited to that portion of the Agreement Amount earned through the date of termination. The Contractor shall not be entitled to any other or further recovery against the County, including, but not limited to, any damages or any anticipated profit on portions of the services not performed.

11. **NO DISCRIMINATION.** The Contractor agrees that there shall be no discrimination as to race, sex, color, creed or national origin.

12. **INSURANCE.** The Contractor shall provide insurance as follows:

    A. ■ **Commercial General Liability:** Coverage shall have minimum limits of $1,000,000 Per Occurrence, $2,000,000 aggregate for Bodily Injury Liability and Property Damage Liability. This shall include Premises and Operations; Independent Contractors; Products and Completed Operations and Contractual Liability.

    B. ■ **Business Auto Liability:** Coverage shall have minimum limits of $1,000,000 Per Occurrence, Combined Single Limit for Bodily Injury Liability and Property Damage Liability. This shall include: Owned Vehicles, Hired and Non-Owned Vehicles and Employee Non-Ownership.

    C. ■ **Workers' Compensation:** Insurance covering all employees meeting Statutory Limits in compliance with the applicable state and federal laws.

    The coverage must include Employers' Liability with a minimum limit of $1,000,000 for each accident.

    D. ☐ ~~**Professional Liability:** Shall be maintained by the Contractor to ensure its legal liability for claims arising out of the performance of professional services under this Agreement. Contractor waives its right of recovery against County as to any claims under this insurance. Such insurance shall have limits of not less than $_____ each claim and aggregate.~~

    E. ☐ ~~**Cyber Liability:** Coverage shall have minimum limits of $_____ per claim.~~

    F. ☐ _____ : ~~Coverage shall have minimum limits of $_____ per claim.~~

CAO

Special Requirements: Collier County Board of County Commissioners, OR, Board of County Commissioners in Collier County, OR, Collier County Government shall be listed as the Certificate Holder and included as an **"Additional Insured"** on the Insurance Certificate for Commercial General Liability where required. This insurance shall be primary and non-contributory with respect to any other insurance maintained by, or available for the benefit of, the Additional Insured and the Contractor's policy shall be endorsed accordingly.

Current, valid insurance policies meeting the requirement herein identified shall be maintained by Contractor during the duration of this Agreement. The Contractor shall provide County with certificates of insurance meeting the required insurance provisions. Renewal certificates shall be sent to the County thirty (30) days prior to any expiration date. Coverage afforded under the policies will not be canceled or allowed to expire until the greater of: thirty (30) days prior written notice, or in accordance with policy provisions. Contractor shall also notify County, in a like manner, within twenty-four (24) hours after receipt, of any notices of expiration, cancellation, non-renewal or material change in coverage or limits received by Contractor from its insurer, and nothing contained herein shall relieve Contractor of this requirement to provide notice.

Contractor shall ensure that all subcontractors comply with the same insurance requirements that the Contractor is required to meet.

13. **INDEMNIFICATION.** To the maximum extent permitted by Florida law, the Contractor shall defend, indemnify and hold harmless Collier County, its officers and employees from any and all liabilities, damages, losses and costs, including, but not limited to, reasonable attorneys' fees and paralegals' fees, whether resulting from any claimed breach of this Agreement by Contractor, any statutory or regulatory violations, or from personal injury, property damage, direct or consequential damages, or economic loss, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the Contractor or anyone employed or utilized by the Contractor in the performance of this Agreement. This indemnification obligation shall not be construed to negate, abridge or reduce any other rights or remedies which otherwise may be available to an indemnified party or person described in this paragraph.

This section does not pertain to any incident arising from the sole negligence of Collier County.

13.1 The duty to defend under this Article 13 is independent and separate from the duty to indemnify, and the duty to defend exists regardless of any ultimate liability of the Contractor, County and any indemnified party. The duty to defend arises immediately upon presentation of a claim by any party and written notice of such claim being provided to Contractor. Contractor's obligation to indemnify and defend under this Article 13 will survive the expiration or earlier termination of this Agreement until it is determined by final judgment that an action against the County or an indemnified party for the matter indemnified hereunder is fully and finally barred by the applicable statute of limitations.

14. **AGREEMENT ADMINISTRATION.** This Agreement shall be administered on behalf of the County by the Water Division.

15. **CONFLICT OF INTEREST.** Contractor represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder. Contractor further represents that no persons having any such interest shall be employed to perform those services.

16. **COMPONENT PARTS OF THIS AGREEMENT.** This Agreement consists of the following component parts, all of which are as fully a part of the Agreement as if herein set out verbatim: Contractor's Proposal, Insurance Certificate(s), ■ Exhibit A Scope of Services, Exhibit B Fee Schedule, ☐ RFP/ ☐ ITB/■ ~~Other~~ #18-7416, including Exhibits, Attachments and Addenda/Addendum, ☐ ~~subsequent quotes, and~~ ☐ ~~Other Exhibit/Attachment:~~.

17. **APPLICABILITY.** Sections corresponding to any checked box (■) expressly apply to the terms of this Agreement.

18. **SUBJECT TO APPROPRIATION.** It is further understood and agreed by and between the parties herein that this Agreement is subject to appropriation by the Board of County Commissioners.

19. **PROHIBITION OF GIFTS TO COUNTY EMPLOYEES.** No organization or individual shall offer or give, either directly or indirectly, any favor, gift, loan, fee, service or other item of value to any County employee, as set forth in Chapter 112, Part III, Florida Statutes, Collier County Ethics Ordinance No. 2004-05, as amended, and County Administrative Procedure 5311. Violation of this provision may result in one or more of the following consequences: a. Prohibition by the individual, firm, and/or any employee of the firm from contact with County staff for a specified period of time; b. Prohibition by the individual and/or firm from doing business with the County for a specified period of time, including but not limited to: submitting bids, RFP, and/or quotes; and, c. immediate termination of any Agreement held by the individual and/or firm for cause.

20. **COMPLIANCE WITH LAWS.** By executing and entering into this Agreement, the Contractor is formally acknowledging without exception or stipulation that it agrees to comply, at its own expense, with all federal, state and local laws, codes, statutes, ordinances, rules, regulations and requirements applicable to this Agreement, including but not limited to those dealing with the Immigration Reform and Control Act of 1986 as located at 8 U.S.C. 1324, et seq. and regulations relating thereto, as either may be amended; taxation, workers' compensation, equal employment and safety including, but not limited to, the Trench Safety Act, Chapter 553, Florida Statutes, and the Florida Public Records Law Chapter 119, including specifically those contractual requirements at F.S. § 119.0701(2)(a)-(b) as stated as follows:

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:

Communication and Customer Relations Division
3299 Tamiami Trail East, Suite 102
Naples, FL 34112-5746
Telephone: (239) 252-8383

The Contractor must specifically comply with the Florida Public Records Law to:

1. Keep and maintain public records required by the public agency to perform the service.
2. Upon request from the public agency's custodian of public records, provide the public agency 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 this chapter 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 the contract term and following completion of the contract if the Contractor does not transfer the records to the public agency.
4. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the Contractor or keep and maintain public records required by the public agency to perform the service. If the Contractor transfers all public records to the public agency upon completion of the contract, 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 contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

If Contractor observes that the Contract Documents are at variance therewith, it shall promptly notify the County in writing. Failure by the Contractor to comply with the laws referenced herein shall constitute a breach of this Agreement and the County shall have the discretion to unilaterally terminate this Agreement immediately.

21. **OFFER EXTENDED TO OTHER GOVERNMENTAL ENTITIES.** Collier County encourages and agrees to the successful Contractor extending the pricing, terms and conditions of this solicitation or resultant Agreement to other governmental entities at the discretion of the successful Contractor.

22. **PAYMENTS WITHHELD**. The County may decline to approve any application for payment, or portions thereof, because of defective or incomplete work, subsequently discovered evidence or subsequent inspections. The County may nullify the whole or any part of any approval for payment previously issued and the County may withhold any payments otherwise due Contractor under this Agreement or any other Agreement between the County and Contractor, to such extent as may be necessary in the County's opinion to protect it from loss because of: (a) defective Work not remedied; (b) third party claims failed or reasonable evidence indicating probable fling of such claims; (c) failure of Contractor to make payment properly to subcontractors or for labor, materials or equipment; (d) reasonable doubt that the Work can be completed for the unpaid balance of the Contract Amount; (e) reasonable indication that the Work will not be completed within the Contract Time; (f) unsatisfactory prosecution of the Work by the Contractor; or (g) any other material breach of the Contract Documents.

    If any conditions described above are not remedied or removed, the County may, after three (3) days written notice, rectify the same at Contractor's expense. The County also may offset against any sums due Contractor the amount of any liquidated or unliquidated obligations of Contractor to the County, whether relating to or arising out of this Agreement or any other Agreement between Contractor and the County.

23. ☒ **CLEAN UP**. Contractor agrees to keep the Project site clean at all times of debris, rubbish and waste materials arising out of the Work. At the completion of the Work, Contractor shall remove all debris, rubbish and waste materials from and about the Project site, as well as all tools, appliances, construction equipment and machinery and surplus materials, and shall leave the Project site clean.

24. **STANDARDS OF CONDUCT: PROJECT MANAGER, SUPERVISOR, EMPLOYEES.** The Contractor shall employ people to work on County projects who are neat, clean, well-groomed and courteous. Subject to the American with Disabilities Act, Contractor shall supply competent employees who are physically capable of performing their employment duties. The County may require the Contractor to remove an employee it deems careless, incompetent, insubordinate or otherwise objectionable and whose continued employment on Collier County projects is not in the best interest of the County.

25. ☒ **WARRANTY**. Contractor expressly warrants that the goods, materials and/or equipment covered by this Agreement will conform to the requirements as specified, and will be of satisfactory material and quality production, free from defects, and sufficient for the purpose intended. Goods shall be delivered free from any security interest or other lien, encumbrance or claim of any third party. Any services provided under this Agreement shall be provided in accordance with generally accepted professional standards for the particular service. These warranties shall survive inspection, acceptance, passage of title and payment by the County.

    Contractor further warrants to the County that all materials and equipment furnished under the Contract Documents shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable manufacturers,

fabricators, suppliers or processors except as otherwise provided for in the Contract Documents.

If, within one (1) year after final completion, any Work is found to be defective or not in conformance with the Contract Documents, Contractor shall correct it promptly after receipt of written notice from the County. Contractor shall also be responsible for and pay for replacement or repair of adjacent materials or Work which may be damaged as a result of such replacement or repair. These warranties are in addition to those implied warranties to which the County is entitled as a matter of law.

26. ■ **TESTS AND INSPECTIONS**. If the Contract Documents or any codes, laws, ordinances, rules or regulations of any public authority having jurisdiction over the Project requires any portion of the Work to be specifically inspected, tested or approved, Contractor shall assume full responsibility therefore, pay all costs in connection therewith and furnish to the County the required certificates of inspection, testing or approval. All inspections, tests or approvals shall be performed in a manner and by organizations acceptable to the County.

27. ■ **PROTECTION OF WORK**.

    A. Contractor shall fully protect the Work from loss or damage and shall bear the cost of any such loss or damage until final payment has been made. If Contractor or anyone for whom Contractor is legally liable is responsible for any loss or damage to the Work, or other work or materials of the County or County's separate contractors, Contractor shall be charged with the same, and any monies necessary to replace such loss or damage shall be deducted from any amounts due Contractor.
    B. Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent property to stresses or pressures that will endanger it.
    C. Contractor shall not disturb any benchmark established by the County with respect to the Project. If Contractor, or its subcontractors, agents or anyone, for whom Contractor is legally liable, disturbs the County's benchmarks, Contractor shall immediately notify the County. The County shall re-establish the benchmarks and Contractor shall be liable for all costs incurred by the County associated therewith.

28. **SUBMITTALS AND SUBSTITUTIONS.** Any substitution of products/materials form specifications shall be approved in writing by the County in advance.

29. **CHANGES IN THE WORK.** The County shall have the right at any time during the progress of the Work to increase or decrease the Work. Promptly after being notified of a change, Contractor shall submit an estimate of any cost or time increases or savings it foresees as a result of the change. Except in an emergency endangering life or property, or as expressly set forth herein, no addition or changes to the Work shall be made except upon modification of the Purchase Order by the County, and the County shall not be liable to the Contractor for any increased compensation without such modification. No officer, employee or agent of the County is authorized to direct any extra or changed work orally. Any modifications to this Agreement shall be in compliance with the County Procurement Ordinance and Procedures in effect at the time such modifications are authorized.

30. **AGREEMENT TERMS.** If any portion of this Agreement is held to be void, invalid, or otherwise unenforceable, in whole or in part, the remaining portion of this Agreement shall remain in effect.

31. **ADDITIONAL ITEMS/SERVICES.** Additional items and/or services may be added to this Agreement in compliance with the Procurement Ordinance, as amended, and Procurement Procedures.

32. **DISPUTE RESOLUTION.** Prior to the initiation of any action or proceeding permitted by this Agreement to resolve disputes between the parties, the parties shall make a good faith effort to resolve any such disputes by negotiation. The negotiation shall be attended by representatives of Contractor with full decision-making authority and by County's staff person who would make the presentation of any settlement reached during negotiations to County for approval. Failing resolution, and prior to the commencement of depositions in any litigation between the parties arising out of this Agreement, the parties shall attempt to resolve the dispute through Mediation before an agreed-upon Circuit Court Mediator certified by the State of Florida. The mediation shall be attended by representatives of Contractor with full decision-making authority and by County's staff person who would make the presentation of any settlement reached at mediation to County's board for approval. Should either party fail to submit to mediation as required hereunder, the other party may obtain a court order requiring mediation under section 44.102, Fla. Stat.

33. **VENUE.** Any suit or action brought by either party to this Agreement against the other party relating to or arising out of this Agreement must be brought in the appropriate federal or state courts in Collier County, Florida, which courts have sole and exclusive jurisdiction on all such matters.

34. ☐ ~~**KEY PERSONNEL**. The Contractor's personnel and management to be utilized for this project shall be knowledgeable in their areas of expertise. The County reserves the right to perform investigations as may be deemed necessary to ensure that competent persons will be utilized in the performance of the Agreement. The Contractor shall assign as many people as necessary to complete the services on a timely basis, and each person assigned shall be available for an amount of time adequate to meet the required service dates. The Contractor shall not change Key Personnel unless the following conditions are met: (1) Proposed replacements have substantially the same or better qualifications and/or experience. (2) that the County is notified in writing as far in advance as possible. The Contractor shall make commercially reasonable efforts to notify Collier County within seven (7) days of the change. The County retains final approval of proposed replacement personnel.~~

■ **AGREEMENT STAFFING.** The Contractor's personnel and management to be utilized for this Agreement shall be knowledgeable in their areas of expertise. The County reserves the right to perform investigations as may be deemed necessary to ensure that competent persons will be utilized in the performance of the Agreement. The Contractor shall assign as many people as necessary to complete required services on a timely basis, and each person assigned shall be available for an amount of time adequate to meet required services.

35. ■ **ORDER OF PRECEDENCE.** In the event of any conflict between or among the terms of any of the Contract Documents, the terms of solicitation the Contractor's Proposal, and/or the County's Board approved Executive Summary, the Contract Documents shall take precedence.

☐ ~~**ORDER OF PRECEDENCE (Grant Funded).** In the event of any conflict between or among the terms of any of the Contract Documents and/or the County's Board approved Executive Summary, the terms of the Agreement shall take precedence over the terms of all other Contract Documents, except the terms of any Supplemental Conditions shall take precedence over the Agreement. To the extent any conflict in the terms of the Contract Documents cannot be resolved by application of the Supplemental Conditions, if any, or the Agreement, the conflict shall be resolved by imposing the more strict or costly obligation under the Contract Documents upon the Contractor at County's discretion.~~

36. **ASSIGNMENT**. Contractor shall not assign this Agreement or any part thereof, without the prior consent in writing of the County. Any attempt to assign or otherwise transfer this Agreement, or any part herein, without the County's consent, shall be void. If Contractor does, with approval, assign this Agreement or any part thereof, it shall require that its assignee be bound to it and to assume toward Contractor all of the obligations and responsibilities that Contractor has assumed toward the County.

37. **SECURITY**. The Contractor is required to comply with County Ordinance 2004-52, as amended. Background checks are valid for five (5) years and the Contractor shall be responsible for all associated costs. If required, Contractor shall be responsible for the costs of providing background checks by the Collier County Facilities Management Division for all employees that shall provide services to the County under this Agreement. This may include, but not be limited to, checking federal, state and local law enforcement records, including a state and FBI fingerprint check, credit reports, education, residence and employment verifications and other related records. Contractor shall be required to maintain records on each employee and make them available to the County for at least four (4) years. All of Contractor's employees and subcontractors must wear Collier County Government Identification badges at all times while performing services on County facilities and properties. Contractor ID badges are valid for one (1) year from the date of issuance and can be renewed each year at no cost to the Contractor during the time period in which their background check is valid, as discussed below. All technicians shall have on their shirts the name of the contractor's business.

The Contractor shall immediately notify the Collier County Facilities Management Division via e-mail (DL-FMOPS@colliergov.net) whenever an employee assigned to Collier County separates from their employment. This notification is critical to ensure the continued security of Collier County facilities and systems. Failure to notify within four (4) hours of separation may result in a deduction of $500 per incident.

38. ■ **SAFETY**. All Contractors and subcontractors performing service for Collier County are required and shall comply with all Occupational Safety and Health Administration (OSHA), State and County Safety and Occupational Health Standards and any other applicable rules and regulations. Also, all Contractors and subcontractors shall be responsible for the safety of their employees and any unsafe acts or conditions that may cause injury or damage to any persons or property within and around the work site.

Collier County Government has authorized the Occupational Safety and Health Administration (OSHA) to enter any Collier County Facility, property and/or right-of-way for the purpose of inspection of any Contractor's work operations. This provision is non-negotiable by any division/department and/or Contractor. All applicable OSHA inspection criteria apply as well as all Contractor rights, with one exception. Contractors do not have the right to refuse to allow OSHA onto a project that is being performed on Collier County Property. Collier County, as the owner of the property where the project is taking place shall be the only entity allowed to refuse access to the project. However, this decision shall only be made by Collier County's Risk Management Division Safety Manager and/or Safety Engineer.

(Intentionally left blank -signature page to follow)

IN WITNESS WHEREOF, the parties hereto, have each, respectively, by an authorized person or agent, have executed this Agreement on the date and year first written above.

ATTEST:

Crystal Kinzel, Clerk of Courts

By: Luisa Cannon

Dated: 9/28/18

(SEAL) Attest as to Chairman's signature only.

Contractor's Witnesses:

Carol A. Hurley

Contractor's First Witness

CAROL A. HURLEY

↑Type/print witness name↑

Contractor's Second Witness

Amanda M. Rodgers

↑Type/print witness name↑

Approved as to Form and Legality:

Scott R. Teach

Deputy County Attorney

Scott R. Teach

Print Name

BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA

By: _____

ANDY SOLIS, Chairman

Prolime Corporation

Contractor

By: _____

Signature ROBERT V. ROGERS
PRESIDENT & CEO

↑Type/print signature and title↑

Exhibit A

Scope of Services

☒ following this page (containing 1 pages)

☐ this exhibit is not applicable

CAO

DETAILED SCOPE OF WORK

The work performed under this agreement consists of the hauling and disposal of diverted lime sludge from the holding pond located at the Collier County South Regional Water Treatment Plant, to a legally approved location determined by the Contractor and includes the modification and restoration of the pond berm as required.

Currently, the holding pond measures 250' by 250' by 6'-7' deep. The estimated amount of sludge is 5' deep and covers approximately 70% of the pond volume. This calculates to approximately 8,100 cubic yards; with an estimated 25 cubic yards per load; there is approximately 325 truckloads to be removed. These measurements are subject to change for future work depending on the volume of diverted lime sludge produced by the plant.

The County will conduct a preliminary measurement of the sludge pond and estimate cubic yards of sludge prior to the start of each service. Then the County will verify each truck load is full and record each truck load.

This scope of work includes the following:

1. Provide pumps and dewatering services
2. Provide all equipment to load and remove the sludge; excavator or loader and/or dozer for site prep and removal of sludge
3. Removal of berm, building of roadway into the pond utilizing lime rock as needed
4. Provide trucks with sealed tailgates and safety winders to prevent any spillage on the plant property or Public Roadways
5. Provide a legal disposal site and or process for all removed sludge
6. Provide equipment and material to replace pond berm to existing slope specifications
7. Provide sod to repair any damage to the pond berm after returning to original specifications
8. Note: a preliminary meeting prior to start with the County and Contractor to determine and agree on the definition of "clean" and on the amount of lime to be removed

The Contractor identified and addressed in the bid to ITB#18-7416, the following components, in their cost per cubic yard:

1. Mobilization and demobilization of equipment
2. Site preparation and site restoration
3. Conditioning, loading, transport and disposal of lime residuals
4. Use of legal disposal site(s), and its location.

Exhibit B

Fee Schedule

following this page (containing __1__ pages)

#18-7416

Fee Schedule

Summary Description	Per Cubic Yard
Provide a price per cubic yard, based on the scope of services assessment, for the hauling and disposal of diverted lime sludge from the holding pond located at the Collier County South Regional Water Treatment Plant, to a legally approved location determined by the Contractor and includes the modification and restoration of the pond berm as required.	$17.29

070

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 9/7/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
VTC Insurance Group
37000 Grand River Ste. 150
Farmington Hills MI 48335

CONTACT NAME: Marlene Miller
PHONE (A/C, No, Ext): (248) 888-0371 FAX (A/C, No): (248) 471-0641
E-MAIL ADDRESS: marlenemiller@vtcins.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: Amerisure Insurance Company	19488
INSURER B: Continental Casualty Co	20443
INSURER C:	
INSURER D:	
INSURER E:	
INSURER F:	

INSURED
Prolime Corporation
58610 Van Dyke
Washington MI 48094

COVERAGES CERTIFICATE NUMBER: 18/19 Pkg/Auto/Umb REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE / X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY / PRO-JECT / LOC OTHER:	X		CPP210214300	7/21/2018	7/21/2019	EACH OCCURRENCE	$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 300,000
							MED EXP (Any one person)	$ 5,000
							PERSONAL & ADV INJURY	$ 1,000,000
							GENERAL AGGREGATE	$ 2,000,000
							PRODUCTS - COMP/OP AGG	$ 2,000,000
								$
A	AUTOMOBILE LIABILITY X ANY AUTO ALL OWNED AUTOS / SCHEDULED AUTOS X HIRED AUTOS / X NON-OWNED AUTOS			CA210214200	7/21/2018	7/21/2019	COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
							Uninsured motorist combined	$ 1,000,000
A	X UMBRELLA LIAB / X OCCUR EXCESS LIAB / CLAIMS-MADE DED / X RETENTION $ 0			CU210214401	7/21/2018	7/21/2019	EACH OCCURRENCE	$ 2,000,000
							AGGREGATE	$ 2,000,000
								$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		WC210214100	7/21/2018	7/21/2019	X PER STATUTE / OTH-ER	
							E.L. EACH ACCIDENT	$ 500,000
							E.L. DISEASE - EA EMPLOYEE	$ 500,000
							E.L. DISEASE - POLICY LIMIT	$ 1,000,000
B	EPLI			287285560	7/21/2018	7/21/2020	Limit	$1,000,000
							Deductible	$5,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Solicitation #18-7416 Public Utilities Li

Where required by written contract, Collier County Government is Additional Insured on the General Liability policy with respect to liability arising out of ongoing and completed operations performed by the named insured. Insurer will endeavor to mail 30 days written notice of cancellation to the certificate holder; however, failure to do so will impose no liability of any kind upon the insurer or its agents or representatives.

CERTIFICATE HOLDER

Collier County Government
Procurement Services Division
3327 Tamiami Trail E
Naples, FL 34112

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Mark Provo/MEAA

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