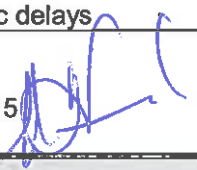


# MANATEE COUNTY GOVERNMENT NON COMPETITIVE / INTENT TO AWARD

<b>SUBJECT</b>	Fiber Optic Repairs at SR684, Cortez Rd., Bradenton, FL	<b>DATE POSTED</b>	MC <u>8/11/15</u> <i>sg</i>
<b>PURCHASING REPRESENTATIVE</b>	Olga Valcich, Ext 3055	<b>DATE CONTRACT SHALL BE AWARDED</b>	August 17, 2015
<b>DEPARTMENT</b>	Public Works Department, Traffic Operations	<b>CONSEQUENCES IF DEFERRED</b>	Delays will impact Traffic's ability to monitor the traffic system, respond to traffic related incidents and congestion management which create undue traffic delays
<b>SOLICITATION</b>	Task No. 20152662, Requisition No. R061590, (Non-Competitive No.: LC#201500329)	<b>AUTHORIZED BY DATE</b>	Melissa Wendel August <u>11</u> 2015 

### NOTICE OF INTENT TO AWARD

Non-Competitive Award to Mastec North America, Inc, Tampa, FL to repair damage to fiber optics at SR684, Cortez Road.

### ENABLING/REGULATING AUTHORITY

Federal/State law(s), administrative ruling(s), Manatee County Comp Plan/Land Development Code, ordinances, resolutions, policy.

Manatee County Code of Laws, Section 2-26-40 and 2-26-45

### BACKGROUND/DISCUSSION

Mastec North America, Inc. has installed the majority of the fiber network throughout the County and has the best working knowledge of the Traffic ITS Network. The fiber optic repair at SR684, Cortez Road is required due to damage caused by others. Mastec will remove, replace damaged conduit, fiber, and restore connectivity between splice points. Delay in performing this would impact Traffic Department's ability to monitor the traffic system, respond to traffic related incidents and congestion management which would create undue traffic delays. This repair is a piggy-back of the IT Blanket Purchase Order with Mastec North America, Inc. for Emergency Repairs (REF: T1100051 and P1500580).

<b>ATTACHMENTS</b> (List in order of attached)		<b>FUNDING SOURCE</b> (Acct Number & Name)	Funds Verified / Traffic Operations: 1010020707-534000-0255001-0004
<b>COST</b>	\$25,061.00	<b>AMT/FREQ OF RECURRING COSTS</b> (Attach Fiscal Impact Statement)	N/A



R061590

LC# 201500329  
PO# - P

**Sole Source/Noncompetitive Purchasing Request**

Department: Public Works Contact: Cory Miles Ext: 7262

Purchase Request (PR) Number: R061590 Date: 8-6-15

Description: (Explain request in detail) SR 684 Cortez Rd Fiber and Conduit Replacement

Vendor: Mastec Inc. V013469 Phone: 813.415.8564 Cost: \$25,061.00

**PART I – SOLE SOURCE PURCHASING** (*Sole source purchasing* is defined as the acquisition of commodities or services where there is only one available source for the required commodity or service. Ex: proprietary software or equipment, copyright)

1. Are these commodities or services only available from one single source?  Yes  No
  
2. Explain why the commodity/service being requested is the only commodity/service that can meet your needs and why alternatives are unacceptable. Be specific regarding specifications, features, capability, compatibility, etc.
  
3. Why is this vendor the only source from which to make this purchase? Describe efforts made to verify this information. (Attach sole source letter from vendor as documentation)
  
4. Explain the consequence to the County or its taxpayers, including a dollar amount of the financial impact, if the sole source purchase is not approved.

**NOTE:** In any case where the County seeks to purchase from a sole source materials for the construction, modification, alteration or repair of any county-owned facility, the Board of County Commission must first make the written findings required by Florida Statutes, Section 255.04.

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**PART II – NONCOMPETITIVE PURCHASING** (*Noncompetitive purchasing* is defined as the acquisition of commodities or services from a unique source or provider based upon particular skills and expertise (Ex: standardization, warranty, compatibility) where other competitive sources may be available; or upon a determination that the likely, non-speculative cost of obtaining competitive quotes would exceed any potential savings and benefit to the County.)

- 1. Explain why the commodity/service being requested is the only commodity/service that can meet your needs and why alternatives are unacceptable. Be specific regarding specifications, features, capability, compatibility, etc.**

Mastec Incorporated is currently the provider of fiber repair services for both Manatee County Information Technology Department, Manatee County School Board and Traffic Operation, we have utilized Mastec in the past to accomplish all emergency repairs to our fiber network utilizing IT's contract T110051 with Mastec.

- 2. Explain the advantages of this noncompetitive purchase on the basis that only one practical source exists. Describe the efforts made to verify this information. (Attach manufacturers or distributorships letter as documentation)**

The advantages of utilizing Mastec would be they have worked on our fiber network recently and would have the best working knowledge of our ITS network, standards, and requirements. They are the current provider for other departments repair services and are equipped to expedite repairs.

- 3. Will this purchase obligate us to a particular vendor for future purchases, either in terms of maintenance or compatibility should the need arise to purchase a 'like' item in the future?**

No utilizing Mastec for this repair will not obligate us to them for any future repairs.

- 4. Describe your efforts to obtain the best price from the vendor and provide any documentation to substantiate your findings. Give the result of the initial offer versus the final offer.**

Pricing based on current contract noted above

- 5. Would you prefer Purchasing to contact vendor for the best price?  Yes  No**

Although you are welcome to contact Mastec for pricing if thought to be necessary.

- 6. Explain the consequence to the County or its taxpayers, including a dollar amount of the financial impact, if the noncompetitive purchase is not approved.**

Further delays to repairs will impact our ability to monitor the traffic system, respond to traffic related incidents, and congestion management. Creating undue traffic delays.

I hereby request that a sole source/noncompetitive request be approved for the purchase of the above statement of work, material, equipment, commodity, or service.

  
Division Manager's Signature  
(up to \$25,000)

Aaron Burkett  
Print Name

8/7/2015  
Date

  
Department Director's Signature  
(Greater than \$25,000)

Ron Schuihofer  
Print Name

8-10-15  
Date

**FOR PURCHASING DIVISION USE:**

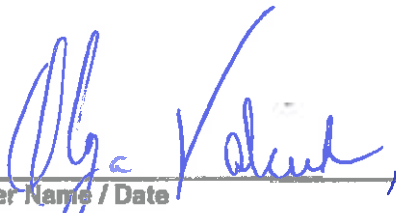
**Posting:** Categories Three and Four require an electronic posting for a minimum of five (5) business days. Category Five requires BCC approval and will be posted via board agenda for a minimum of seven (7) calendar days prior to board meeting.

\_\_\_\_\_ **Sole Source:**

**Posting:** Category Three requires an electronic posting for a minimum of five (5) business days prior to award. Categories Four and Five require BCC approval and will be posted via board agenda for a minimum of seven (7) calendar days prior to board meeting.

\_\_\_\_\_ **Noncompetitive:**

**Reviewed and Approved by:**

  
Buyer Name / Date  
(up to \$100,000)

Contracts/Buyer Manager / Date  
(up to \$250,000)

  
Purchasing Official / Date  
(Greater than \$250,000)

# Manatee County, BCC PURCHASE ORDER STATUS INQUIRY

## PURCHASE ORDER INFORMATION

Vendor: V013469 MASTEC NORTH AMERICA INC PO Number: Not Received  
 7221 DR MARTIN LUTHER KING JR BL E PR Number: R061590  
 TAMPA, FL 33619 See Code: 2535  
 Dept: PUBLIC WORKS TRANSPORTATION  
 Confirm: Requested by: BURKETT/RF Req. Dt: 8/3/2015 Blanket Number:  
 Account: Approved by: Apr Dt: Blanket Amount: 0.00  
 Bid: Printed by: Prnt Dt: Blanket Remaining: 0.00  
 Contract: End Use: SR684 CORTEZ RD Buyer:  
 Ship To: S0315 Req. Codes:       
 Bill To:      WF

### ITEMS

PR Number	Item	Qty Ordered	Unit	Unit Price	Key	Object	Discount Charges	Extended	Catalog	Whse
R061590	0001	32.00	HR	40.00	GL 1010020707	534000	0.00	1,280.00		
					JL 0255001	0004	0.00			

EQUIPMENT OPERATION/FORMAN

Qty Received      Qty Paid      Qty Damaged      Receipt Date      Packing Slip

Receiver's User ID

*Tr Office Operations*

**ITEM TOTALS:**      0.00      0.00

Not Received

### ITEMS

PR Number	Item	Qty Ordered	Unit	Unit Price	Key	Object	Discount Charges	Extended	Catalog	Whse
R061590	0002	96.00	HR	30.00	GL 1010020707	534000	0.00	2,880.00		
					JL 0255001	0004	0.00			

LABORER

Qty Received      Qty Paid      Qty Damaged      Receipt Date      Packing Slip

Receiver's User ID

**ITEM TOTALS:**      0.00      0.00

Not Received

### ITEMS

PR Number	Item	Qty Ordered	Unit	Unit Price	Key	Object	Discount Charges	Extended	Catalog	Whse
R061590	0003	32.00	HR	42.00	GL 1010020707	534000	0.00	1,344.00		
					JL 0255001	0004	0.00			

SUPERVISOR

Qty Received      Qty Paid      Qty Damaged      Receipt Date      Packing Slip

Receiver's User ID

**ITEM TOTALS:**      0.00      0.00

Not Received

### ITEMS

PR Number	Item	Qty Ordered	Unit	Unit Price	Key	Object	Discount Charges	Extended	Catalog	Whse
R061590	0004	15.00	HR	97.50	GL 1010020707	534000	0.00	1,462.50		
					JL 0255001	0004	0.00			

FIBER OPTIC FOREMAN

Qty Received      Qty Paid      Qty Damaged      Receipt Date      Packing Slip

Receiver's User ID

**ITEM TOTALS:**      0.00      0.00

Not Received

### ITEMS

PR Number	Item	Qty Ordered	Unit	Unit Price	Key	Object	Discount Charges	Extended	Catalog	Whse
R061590	0005	15.00	HR	84.30	GL 1010020707	534000	0.00	1,264.50		
					JL 0255001	0004	0.00			

*RF*

**Manatee County, BCC  
PURCHASE ORDER STATUS INQUIRY**

**FIBER OPTIC TECH**

Qty Received      Qty Paid      Qty Damaged      Receipt Date      Packing Slip

Receiver's User ID

**ITEM TOTALS:**                      0.00                      0.00

Not Received

ITEMS

PR Number	Item	Qty Ordered	Unit	Unit Price	Key	Object	Discount Charges	Extended	Catalog	Whse
R061590	0006	30.00	HR	45.00	GL 1010020707	534000	0.00	1,350.00		
					JL 0255001	0004	0.00			

**FINER OPTIC SPLICING VAN AND TOOLS**

Qty Received      Qty Paid      Qty Damaged      Receipt Date      Packing Slip

Receiver's User ID

**ITEM TOTALS:**                      0.00                      0.00

Not Received

ITEMS

PR Number	Item	Qty Ordered	Unit	Unit Price	Key	Object	Discount Charges	Extended	Catalog	Whse
R061590	0007	10.00	HR	12.00	GL 1010020707	534000	0.00	120.00		
					JL 0255001	0004	0.00			

**AIR COMPRESSOR**

Qty Received      Qty Paid      Qty Damaged      Receipt Date      Packing Slip

Receiver's User ID

**ITEM TOTALS:**                      0.00                      0.00

Not Received

ITEMS

PR Number	Item	Qty Ordered	Unit	Unit Price	Key	Object	Discount Charges	Extended	Catalog	Whse
R061590	0008	32.00	HR	12.00	GL 1010020707	534000	0.00	384.00		
					JL 0255001	0004	0.00			

**CABLE REEL TRAILER**

Qty Received      Qty Paid      Qty Damaged      Receipt Date      Packing Slip

Receiver's User ID

**ITEM TOTALS:**                      0.00                      0.00

Not Received

ITEMS

PR Number	Item	Qty Ordered	Unit	Unit Price	Key	Object	Discount Charges	Extended	Catalog	Whse
R061590	0009	64.00	HR	15.00	GL 1010020707	534000	0.00	960.00		
					JL 0255001	0004	0.00			

**BACKHOE/EXCAVATOR/DIRECTIONAL DRILL**

**TRAILER**

Qty Received      Qty Paid      Qty Damaged      Receipt Date      Packing Slip

Receiver's User ID

**ITEM TOTALS:**                      0.00                      0.00

Not Received

ITEMS

PR Number	Item	Qty Ordered	Unit	Unit Price	Key	Object	Discount Charges	Extended	Catalog	Whse
R061590	0010	32.00	HR	20.00	GL 1010020707	534000	0.00	640.00		
					JL 0255001	0004	0.00			

**MEDIUM VEHICLE (W/O TRAILER/TOOLS)**

Qty Received      Qty Paid      Qty Damaged      Receipt Date      Packing Slip

Receiver's User ID

**ITEM TOTALS:**                      0.00                      0.00

Not Received

ITEMS

PR Number	Item	Qty Ordered	Unit	Unit Price	Key	Object	Discount Charges	Extended	Catalog	Whse
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**Manatee County, BCC  
PURCHASE ORDER STATUS INQUIRY**

R061590	0011	64.00	HR	15.00	GL 1010020707	534000	0.00	960.00
					JL 0255001	0004	0.00	

**SMALL VEHICLE (W/O TRAILER/TOOLS)**

Qty Received	Qty Paid	Qty Damaged	Receipt Date	Packing Slip	Receiver's User ID
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<b>ITEM TOTALS:</b>	<b>0.00</b>	<b>0.00</b>
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<b>Not Received</b>
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ITEMS

PR Number	Item	Qty Ordered	Unit	Unit Price	Key	Object	Discount Charges	Extended	Catalog	Whse
R061590	0012	32.00	HR	65.00	GL 1010020707	534000	0.00	2,080.00		
					JL 0255001	0004	0.00			

**MINI-EXCAVATOR**

Qty Received	Qty Paid	Qty Damaged	Receipt Date	Packing Slip	Receiver's User ID
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<b>ITEM TOTALS:</b>	<b>0.00</b>	<b>0.00</b>
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<b>Not Received</b>
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ITEMS

PR Number	Item	Qty Ordered	Unit	Unit Price	Key	Object	Discount Charges	Extended	Catalog	Whse
R061590	0013	32.00	HR	8.00	GL 1010020707	534000	0.00	256.00		
					JL 0255001	0004	0.00			

**VIBRATORY TAMPER**

Qty Received	Qty Paid	Qty Damaged	Receipt Date	Packing Slip	Receiver's User ID
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<b>ITEM TOTALS:</b>	<b>0.00</b>	<b>0.00</b>
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<b>Not Received</b>
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ITEMS

PR Number	Item	Qty Ordered	Unit	Unit Price	Key	Object	Discount Charges	Extended	Catalog	Whse
R061590	0014	32.00	HR	315.00	GL 1010020707	534000	0.00	10,080.00		
					JL 0255001	0004	0.00			

**DIRECTIONAL DRILL-STANDARD (1720 OR BELOW)**

Qty Received	Qty Paid	Qty Damaged	Receipt Date	Packing Slip	Receiver's User ID
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<b>ITEM TOTALS:</b>	<b>0.00</b>	<b>0.00</b>
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<b>Not Received</b>
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Qty Received	Qty Paid
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<b>R061590 TOTALS:</b>	<b>0.00</b>	<b>0.00</b>
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ENCUMBRANCES

Requisition	Item	Account Key	Batch ID	Post Date	EN Amount	PD Amount	Balance	Tr

OPEN HOLD ACTIVITY

Item	Account Key	Check #	ST	Check Date	Qty	Unit Price	Paid Amount	Invoice #	Invoice Date

**0.00 TOTAL PAID**

**GRAND TOTALS FOR PURCHASE ORDER**

<b>TOTALS:</b>	<b>Qty Received</b>	<b>Qty Paid</b>	<b>Total Paid</b>
	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>



July 31, 2015

Manatee County-Public Works Department  
 Traffic Operations Division Manager  
 Attn: Aaron Burkett  
 Bradenton, FL

Quote for: SR684 Cortez Road Fiber and Conduit Replacement

MasTec North America, Inc. is pleased to offer the following material quotation to Manatee County Public Works Department (Traffic).

ITEM #	DESCRIPTION	UNIT COST	EST. QTY	TOTAL
MAINT-3	Equipment Operation/Forman ✓	\$ 40.00	32 hrs	\$ 1,280.00
MAINT-8	Laborer ✓	\$ 30.00	96 hrs	\$ 2,880.00
MAINT-10	Supervisor ✓	\$ 42.00	32 hrs	\$ 1,344.00
MAINT-4	Fiber Optic Foreman ✓	\$ 97.50	15 hrs	\$ 1,462.50
MAINT-6	Fiber Optic Technician ✓	\$ 84.30	15 hrs	\$ 1,264.50
MAINT-20	Fiber Optic Splicing Van with Tools ✓	\$ 45.00	30 hrs	\$ 1,350.00
MAINT-12	Air Compressor ✓	\$ 12.00	10 hrs	\$ 120.00
MAINT-17	Cable Reel Trailer ✓	\$ 12.00	32 hrs	\$ 384.00
MAINT-18	Backhoe/Excavator/Directional Drill Trailer ✓	\$ 15.00	64 hrs	\$ 960.00
MAINT-25	Medium Vehicle (W/O Trailer/Tools) ✓	\$ 20.00	32 hrs	\$ 640.00
MAINT-29	Small Vehicle (W/O Trailer/Tools) ✓	\$ 15.00	64 hrs	\$ 960.00
MAINT-30	Mini-Excavator ✓	\$ 65.00	32 hrs	\$ 2,080.00
MAINT-31	Vibratory Tamper ✓	\$ 8.00	32 hrs	\$ 256.00
MAINT-14	Directional Drill-Standard (1720 or Below) ✓	\$ 315.00	32 hrs	\$ 10,080.00
Total:				\$25,061.00

Scope:

- Repair damage caused by others by replacing 1.25" HDPE conduit and 72CT Fiber along South side of SR684 (Cortez RD) from 20<sup>th</sup> St. W to 26<sup>th</sup> St. W.
- Excavate and expose all existing utilities along Route. Directional Bore new conduit from pullbox on SE corner of 20<sup>th</sup> St. W. (PN39) West to pullbox (PN38).
- Approximately 900', remove damaged fiber and locate wire from existing conduit at PN-38, West to pullbox PN-37 on SE Corner of Cortez and 26<sup>th</sup> St. W.
- Remove damaged fiber and locate wire from pullbox PN-39 North across Cortez Rd to pullbox PN-40, NE Corner of Cortez and 20<sup>th</sup> St. W.
- Install new 72CT Fiber and locate wire from PN-37 to PN-40 approximately 2100' to bypass damage location and restore connectivity between splice points.
- Prep and re-enter existing splice closure at PN-37 and PN-40, remove fiber splice from damaged cable and resplice new 72CT fiber at both locations.
- End to end test new fiber for continuity.



Terms:

- The agreement can only change by a Change Order executed by both parties.
- Labor and equipment will be provided by MasTec North America, Inc.
- Material will be provided by Manatee County Traffic Operations Division.
- FDOT permit for work zone will be provided by Manatee County Traffic Operations Division
- Payment terms Net 45 from Invoice Date.
- No Retainage provisions. Invoice to be paid in full.
- Quote assumes no concrete replacement will be necessary, but if required, change will be processed through a change order executed by both parties.

If you are in agreement with the above, please sign your acceptance below and return the original to my attention. A copy will be returned to you for your files. If you have any questions, please contact Kris Stone @ 813-415-8564 or Maureen Popovich at 813-675-0879.

Sincerely,

*John C. Audi*

John C. Audi  
Division Vice President

 8/3/15  
Aaron Burkett  
Manatee County-Public Works Dept.

\_\_\_\_\_  
John C. Audi  
MasTec North America, Inc.

Page 2 of 2

MasTec North America, Inc. 7221 Dr Martin Luther King Jr Blvd East; Tampa Florida  
33619813.621.0881 fax 813.626.3740 [www.mastec.com](http://www.mastec.com)

**1. DEFINITIONS; ACCEPTANCE; REVOCATION.**

Acceptance of this quote must be made on the exact terms herein. MasTec North America, Inc. ("MasTec") expressly rejects any terms and conditions on Master Control ("Customer's") acknowledgements, quotations, purchase order or other forms at variance with this quote. If this document is determined to be an acceptance, the acceptance is expressly conditioned on Customer's assent to all of the terms and conditions herein, notwithstanding any provision in Customer's documents or otherwise. MasTec reserves the right to revoke this quote at any time prior to acceptance by Customer.

**2. PAYMENT.**

Customer agrees to pay MasTec within thirty (30) days of Customer's receipt of Contractor's properly prepared invoices. All amounts that remain unpaid after thirty (30) days of Customer's receipt of a properly prepared invoice, shall accrue interest at a rate of the lesser of 12% per annum and the maximum interest permitted by applicable law.

**3. TERMINATION.**

Customer may, by written notice of default sent to MasTec, terminate the work in whole or in part if MasTec defaults in its performance of any material obligation and does not cure its default within a period of thirty (30) calendar days after MasTec's receipt of a notice of default from Customer, or if cure cannot be completed within thirty (30) days, then if MasTec fails to begin to cure within thirty (30) days and diligently pursue cure thereafter.

MasTec may, by written notice of default sent to Customer and without prejudice to any other remedy for breach of contract, terminate the work in whole or in part if Customer fails to make payments in accordance with the terms of these Terms and Conditions, or otherwise defaults in its performance of any material obligation and does not cure its default within a period of thirty (30) calendar days after Customer's receipt of a notice of default from MasTec, or if cure cannot be completed within thirty (30) days, then if Customer fails to begin to cure within thirty (30) days and diligently pursue cure thereafter.

**4. TITLE; RISK OF LOSS**

Title to the work and any materials shall pass to Customer upon turn over of possession of the work to Customer and payment therefor. In no event shall MasTec be responsible for loss or damage to the extent caused by the acts, omissions, or negligence of Customer or any party for which Customer is responsible.

**5. CHANGES; REMEDIES.**

A Change Order is a written supplement or change to the work or quote which authorizes a change in the scope of work, schedule, compensation or other provisions. Each Change Order must reference this quote and must be signed by a duly authorized representative of both parties. Each party shall have ten (10) days from receipt of a written Change Order request to respond in writing to the other party.

MasTec shall be entitled to additional compensation on a cost plus 10% basis should it encounter any previously unknown physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the work, or of the character provided for in any Customer documentation, including, but not limited to, the existence of hazardous substances, naturally occurring, concealed, unusual or difficult natural subsurface conditions or obstacles, or man-made obstructions not discovered or discoverable by the exercise of reasonable diligence, or for any errors or omissions in Customer's documentation with respect to site conditions, hazardous substances, or any other information concerning the site or work.

MasTec shall be entitled to additional time and compensation on a cost plus 10% basis in the event its performance is delayed or it sustains additional costs as a result of any event beyond the reasonable control of MasTec.

**6. ASSIGNMENT.**

This quote and any and all of Customer's rights and obligations pursuant to this Purchase Order may not be assigned by Customer without MasTec's prior written consent. Any assignment without such consent is void. Subject to the foregoing, this quote, upon acceptance, shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, successors and permitted assigns.

**7. WARRANTY.**

MasTec warrants that in performance of the work provided for in this quote, MasTec will exercise the degree of thoroughness, competence and care that is appropriate to the nature of the work and customary in the utility industry. MasTec further warrants that the work performed hereunder will be free of defects in design (except to the extent Customer has furnished the design), title, workmanship, and materials. MasTec shall not be held responsible for defects caused by lack of maintenance, unintended use, misuse, abuse, improper or unsuitable installation, external accidents, or other causes beyond the reasonable control of the MasTec.

THE WARRANTIES SET FORTH HEREIN ARE EXCLUSIVE AND IN LIEU OF ALL OTHER IMPLIED OR ORAL WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ALL OTHER WARRANTIES ARE HEREBY DISCLAIMED. THERE ARE NO OTHER WARRANTIES, AGREEMENTS, ORAL OR WRITTEN, OR UNDERSTANDINGS WHICH EXTEND BEYOND THOSE SET FORTH IN THESE TERMS AND CONDITIONS.

Either party ("Indemnifying Party") shall, to the fullest extent allowed by applicable law, indemnify, protect, defend and hold harmless the other party and each of their officers, directors, employees, agents and representatives (the "Indemnitees") from and against any and all losses, damages, claims, liabilities, costs and expenses (including, without limitation, demands, fines, remediation costs, penalties, attorneys' fees, court costs, legal, accounting, consulting, engineering and other expenses) that may be imposed on, or incurred by the Indemnitees, or asserted against the Indemnitees or any of them by any party or parties (including, without limitation, a governmental entity), for damage to property or injury or death to persons, caused by, arising from, relating to or in connection with, in whole or in part, directly or indirectly, Indemnifying Party's negligence or intentional misconduct or Indemnifying Party's misuse or misappropriation of any trade secret or other intellectual property, including any patent or copyright infringement. THIS INDEMNITY SHALL NOT APPLY TO THE EXTENT OF INTENTIONAL MISCONDUCT OR NEGLIGENCE, ACTIVE OR PASSIVE, OF ANY INDEMNITEES. Indemnitees may require Indemnifying Party to defend all suits or claims concerning the foregoing.

Notwithstanding the foregoing, in no event shall MasTec be liable for any losses, damages, claims, liabilities, costs or expenses arising out of or relating to damage to any utilities or other property, except to the extent caused solely by MasTec's gross negligence or intentional misconduct.

**9. CONSEQUENTIAL DAMAGES; LIMITATION OF LIABILITY**

IN NO EVENT SHALL MASTEC BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO, LOSS OF ACTUAL OR ANTICIPATED PROFITS, REVENUES OR PRODUCT AND REGARDLESS OF WHETHER ANY SUCH CLAIM ARISES OUT OF BREACH OF CONTRACT OR WARRANTY, TORT, NEGLIGENCE, PRODUCT LIABILITY, MISREPRESENTATION, INDEMNITY, CONTRIBUTION, STRICT LIABILITY, EQUITY, OR ANY OTHER LEGAL THEORY. IN NO EVENT SHALL MASTEC'S AGGREGATE DAMAGES HEREUNDER EXCEED THE AMOUNT ACTUALLY RECEIVED FROM CUSTOMER PURSUANT TO THIS QUOTE.

**10. EFFECT OF AGREEMENT.**

This quote sets out the entire agreement between the parties regarding the work. The parties agree that there are no other oral or written understandings or agreements between them regarding the work. No amendment, modification or waiver of any provision of this quote will be effective unless it is made in writing, signed by the parties to be bound by it, clearly stating the extent and nature of the amendment, modification, or waiver. If MasTec fails to insist upon strict performance of any obligation under this Purchase Order that failure will not result in a waiver of MasTec's right to demand strict performance in the future.

**11. APPLICABLE LAW; VENUE.**

THIS QUOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF FLORIDA, WITHOUT REGARD TO ITS CONFLICTS OF LAW AND CHOICE OF LAW PRINCIPLES. THE PARTIES AGREE THAT THE SOLE AND EXCLUSIVE JURISDICTION AND VENUE IN ALL LEGAL ACTIONS BROUGHT TO ENFORCE OR CONSTRUCT THIS PURCHASE ORDER SHALL BE IN FEDERAL OR STATE COURTS IN MANATEE COUNTY, FLORIDA, AND EACH PARTY WAIVES ANY CLAIM OF LACK OF JURISDICTION OR FORUM NON CONVENIENS.

**12. ATTORNEYS' FEES; COSTS.**

Should either party sue to enforce its rights herein, the prevailing party shall be entitled to reimbursement from the other party of reasonable attorneys' fees and litigation costs and expenses, in an amount to be determined by the court or by arbitration if required by the court or agreed by the parties.

**13. MISCELLANEOUS.**

If any provision of this quote is determined to be unenforceable or invalid, the unenforceable or invalid provision shall be deemed severed from this quote, and the remaining portions of this quote shall be enforced with the same force and effect as if the severed portions had never been part of this quote. Titles to paragraphs are for convenience only and shall have no bearing on the interpretation of this quote.