



*Florida Department of Transportation*

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GOVERNOR

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KEVIN J. THIBAUT  
SECRETARY

January 30, 2020

**ADDENDUM NO. 4**

To: ALL DESIGN BUILD FIRMS

FINANCIAL ITEM NUMBER: 220440-1-52-01, 220440-1-56-01, 220440-1-56-04, 220440-1-56-05, 220440-1-56-06

CONTRACT NUMBER: E3S76

DESCRIPTION: SR 30 (US 98) from Bayshore Rd to Portside Dr, Santa Rosa County

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PRICE PROPOSALS TO BE RECEIVED: April 14, 2020

This is your authorization to make the following changes to the Final Request for Proposal package you now have for the subject project:

**Attached for your use is a redline revision to the Final RFP document previously distributed. The following is a summary of the revisions:**

**Contract Document Section**

- Updated Division I Design-Build Specification to reflect new wage rate number

**Reference Documents Section**

- Provided UWHC Agreements for City of Gulf Breeze and Midway Water

**Section I. Introduction**

- Removed funding provisions for City of Gulf Breeze utility work. City of Gulf Breeze has entered into agreements with the Department to satisfy funding requirements.

Please use this information when preparing your proposal.

All PROPOSAL HOLDERS please acknowledge receipt of the addendum on the Design Build Proposal of form (form no. 375-020-12), in the space provided.

Sincerely,

Ranae Dodson  
Professional Services Contract Supervisor

cc: Kerrie Harrell, File

Please sign below to acknowledge receipt of Addendum No. 4.



*Florida Department of Transportation*  
*District 3*

**LOW BID  
DESIGN-BUILD  
REQUEST FOR PROPOSAL**

**For**

**SR 30 (US 98) from Bayshore Road to Portside Drive  
Santa Rosa County**

**Financial Projects Number(s): 220440-1-52-01,  
220440-1-56-01,  
220440-1-56-04,  
220440-1-56-05,  
220440-1-56-06**

**Federal Aid Project Number(s): D319-079-B  
Contract Number: E3S76**

**[Addendum No. 1 - 11/26/19](#)**

**[Addendum No. 2 - 12/11/19](#)**

**[Addendum No. 3 - 12/20/19](#)**

**[Addendum No. 4 - 01/30/20](#)**

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## ATTACHMENTS

The Attachments listed below are hereby incorporated into and made a part of this Request for Proposal (RFP) as though fully set forth herein.

Project Advertisement  
FHWA 1273  
Workforce and Bituminous Material Document  
ITS Facility Management Implementation Guidelines and Minimum Requirements  
Pavement Design  
FPID 220440.1 Final Approved SR 30 (US 98) NSR 3.24.14 Complete.pdf  
NEPA Re-Evaluation Document  
Environmental Commitments  
Right-of-Way Commitments and Stipulated Final Judgements  
Graphics for access management changes  
Utility Specifications – City of Gulf Breeze  
Utility Specifications – Midway Water  
US 98 (Gulf Breeze Pkwy) at College Pkwy – HSIP Candidate Technical Memorandum  
**Pre-Proposal Meeting Questions and Responses**

Bid Price Proposal Forms:

1. Design Build Proposal Of Proposer (No. 375-020-12)
2. Design-Build Bid Blank (No. 375-020-17)
3. Design-Build Bid or Proposal Bond (No. 375-020-34)
4. Vendor Certification Regarding Scrutinized Companies Lists (No. 375-030-60)
5. Design-Build Bid Proposal (No. 700-010-65)

Other Contract Forms:

1. Design-Build Contract Bond (No. 375-020-14)
2. Contract Affidavit (No. 375-020-30)
3. Design-Build Contract (No. 375-020-13)

## CONTRACT DOCUMENTS

The documents listed below are incorporated into and made part of the Contract as though fully set forth within it, and will be enforced in accordance with Article 5-2 Coordination of Contract Documents included in the Division I Specifications. The documents below are not incorporated into or made part of the RFP, and, in accordance with the governing order of Article 5-2, the RFP is the principal governing document in the event of a discrepancy between any of the Contract Documents.

### **Division I Design-Build Specifications (updated Addendum No. 4)**

Public Records (SP0030900D3-120)

Legal Requirements and Responsibility to the Public – Laws to be Observed – Compliance with Federal Endangered Species Act and Other Wildlife Regulations (Bear) (SP0070104-1)

Legal Requirements and Responsibility to the Public – Laws to be Observed – Compliance with Federal Endangered Species Act and Other Wildlife Regulations (Gopher Tortoises) (SP0070104-3)

Legal Requirements and Responsibility to the Public - E-Verify (SP0072900)

Legal Requirements and Responsibility to the Public - Scrutinized Companies

(SP0073000)  
Legal Requirements and Responsibility to the Public - Title VI Assurance - DOT 1050.2A,  
Appendix A and Appendix E (SP0073100)  
Prosecution of Work – Partnering (SP0080306)  
Prosecution and Progress – Limitations of Operations – Contaminated Material (Mercury-  
Containing Devices and Lamps) (SP0080409)  
Prosecution and Progress – Damage Recovery (SP0081200)

Divisions II and III Special Provisions identified by the Department to be used on the Project:  
Mobilization (SP1010000DB)  
Contractor Quality Control General Requirements (SP1050813DB)  
Structures Foundations (SP4550000DB)

## **REFERENCE DOCUMENTS PROVIDED BUT NOT INCORPORATED INTO THE RFP OR THE CONTRACT**

The following documents are being provided with this RFP. Except as specifically set forth in the body of this RFP, these documents are being provided for reference and general information only. They are not being incorporated into and are not being made part of the RFP, the contract documents or any other document that is connected or related to this Project except as otherwise specifically stated herein. No information contained in these documents shall be construed as a representation of any field condition or any statement of facts upon which the Design-Build Firm can rely upon in performance of this contract. All information contained in these reference documents must be verified by a proper factual investigation. The bidder agrees that by accepting copies of the documents, any and all claims for damages, time or any other impacts based on the documents are expressly waived.

All documents below will be provided via ZIP files:

Straight Line Diagram  
Location Map  
Conceptual Plans  
Conceptual Plans project info (including cadd)  
Right-of-Way Maps  
FPID 421664-1 As-Built Resurfacing Plans  
FPID 431883-1 As-Built Safety Improvement Plans  
FPID 431883-5 Safety Improvement Plans  
FPID 441541-1 SR 281 Resurfacing Plans  
City of Gulf Breeze Concept Plans  
Midway Water Systems Concept Plans  
VE Study for 220440-1

**Executed Utility Work by Highway Contractor Agreements – City of Gulf Breeze and Midway Water**

## **I. Introduction.**

The Florida Department of Transportation (Department) has issued this Request for Proposal (RFP) to solicit competitive Bids and Proposals from Proposers for SR 30 (US 98) in Santa Rosa County. The project will improve the existing conditions on SR 30 (US 98) from Bayshore Road to Portside Drive, a distance of approximately 4.25 miles. The existing four-lane roadway will be widened to create a six-lane urban facility with a raised median and buffered bike lanes. The Project will also include resurfacing SR 281 from SR 30 (US 98) to the Garcon Point Bridge (Bridge #580174).

Along with all engineering services needed to satisfy the requirements of this Project, the Design-Build Firm shall also include a Landscape Architect duly authorized to practice Landscape Architecture in the State of Florida consistent with State Statute 481 part II. The Design-Build Firm's Landscape Architect (DBLA) shall review and identify future unencumbered landscape areas for this Project. This Project shall reserve landscape opportunities and implement the FDOT Highway Beautification Policy. Landscape construction will be performed by others and not included with this Project. Areas shall be identified in the Design-Build Firm's plans as "future landscape areas to be constructed by others". Coordination will be required by the Design-Build Firm and the District Landscape Architect. Coordination between DBLA, the District Landscape Architect and Engineer will be required during the Design-Build plans development process to ensure landscape opportunities are accommodated within the project limits. The DBLA shall be included in the project kick-off meeting and subsequent progress meetings.

### **Description of Work**

The Design-Build Firm shall improve the existing conditions on SR 30 (US 98) from east of Bayshore Road (CMP 4.033) to west of Portside Drive (CMP 8.286). The existing four-lane roadway will be widened to create a six-lane urban facility. Cross slope correction shall be implemented. Use of criteria for RRR projects will only be allowed on SR 281 resurfacing. The Design Speed is 45 mph. The raised median will vary between 22 ft. and 30 ft. wide and include Type E curb and gutter. Travel lanes will be 11ft. wide. Buffered bike lanes will be 7 ft. wide and located along both directions of travel. Border areas will include Type F curb and gutter and 6 ft. concrete sidewalk. Construct a shared use path, 12 ft. wide, along the south side of SR 30 (US 98) from the end of the existing shared-use path (CMP 4.430) to Gondolier Boulevard. If any existing shared use path is impacted by the Design-Build Firm's design, reinstall shared use path within the impacted limits. Pattern textured pavement is not required to be reinstalled on the shared use path unless the County decides to pay for the added cost. Coordinate during the design phase with the Department's Project Manager during to coordinate with the County regarding patterned textured pavement on the shared use path. The sidewalk is not required to be constructed on the south side of SR 30 (US 98) where the shared use path will exist. Design and construction of storm water facilities will be required along with all necessary permits. All work shall be contained within the Department's right-of-way. No work may be performed outside of the Department's existing right-of-way unless specifically approved by the Department (as detailed below in the RFP).

The conceptual plans (and associated files) are being provided for information only. The conceptual plans are an old set of preliminary plans that no longer comply with the Department's design criteria. The Design-Build Firm is required to provide a fully functional design that complies with this RFP. The proposed typical section described above is the minimum requirement for the Project. The Design-Build Firm will be required to install median opening locations with associated turn lanes as depicted in the roll plot graphics under "graphics for access management changes" (see RFP – Attachments) versus median opening locations as identified in the concept plans. The roll plot graphics from 2019 depict the latest access management approvals for the Project while the conceptual plans are no longer accurate in terms of median opening location. This includes constructing a westbound left turn lane with directional opening at CMP 4.180 along SR 30 (US 98) (approx. 1320 ft. west of Bayshore Dr.) that was not originally shown in the

concept plans. All turn lanes and median openings shall be designed and constructed to meet Governing Regulations included in this RFP. Every effort shall be made to design turn lane lengths to match the existing turn lane length or exceed the existing length. Minor access management modifications will be allowed to satisfy the Governing Regulations included in this RFP, but any significant modifications will require approval of the District Design Engineer. The Design-Build Firm will be required to provide proper access to businesses and side streets to ensure the safety and efficiency of the transportation system is maintained. This includes, but is not limited to providing reconstructed driveways at all locations where driveways currently exist. All driveways and side roads shall be reconstructed or resurfaced to the Department's right-of-way line. All driveways and side roads shall remain open at all times. The Design-Build Firm shall design and construct sidewalk for the full limits depicted in the conceptual plans. The Design-Build Firm will be required to comply with all right-of-way, project and environmental commitments (and/or agreements) attached to this RFP.

The Design-Build Firm shall design the driveway to Tires Plus (Parcel 702) to NOT utilize the temporary construction easement shown in the right-of-way maps. The design shall include all necessary work to tie-in the driveway within the Department's permanent right-of-way.

The required pavement design for the project is included as an Attachment to this RFP.

The Design-Build Firm shall provide a fully functional drainage system to accommodate the requirements of this project. This includes, but is not limited to, replacement of existing structures and any other drainage improvements necessary to provide a fully functional six-lane facility along SR 30 (US 98) to meet water quality and quantity permitting requirements. All existing drainage components within the project limits shall be removed or grout-filled in consideration of the new pipe design layout. Capping of existing pipes without grout filling will NOT be allowed due to future maintenance concerns. No existing drainage shall be utilized in the new drainage design. The Design-Build Firm will be responsible for obtaining all permits. The Design Build Firm shall not include littoral zones and plantings in stormwater pond designs. Any proposed storm water pond modifications must remain within the proposed or existing right-of-way defined by the Department. **On SR 281 where resurfacing is required by this RFP, the existing drainage can remain in service.**

Environmental permits have not been acquired and are the responsibility of the Design-Build Firm. Based on the conceptual plans, there were no impacts to wetlands and mitigation was not anticipated at the time of the development of the conceptual plans.

Design and construct an eastbound right-turn lane on SR 30 (US 98) at Tiger Point Blvd, Tiger Trace Blvd and Whisper Bay Blvd.

The Design-Build Firm is required to resurface the existing pavement on SR 281 from SR 30 (US 98) to the Garcon Point Bridge (Bridge #580174). At one time, plans were being developed for this resurfacing as a standalone resurfacing project. These preliminary plans (FPID 441541-1) were stopped early in their development stage, but are provided for the Design-Build Firm as information only. Bridge #580173 will be excepted out of the resurfacing of SR 281. The existing guardrail on the south side of Garcon Point Bridge (Bridge #580174) and on the north and south side of Bridge #580173 shall be replaced with Thrie Beam Retrofits.

Incorporate the recommendations from the Technical Memorandum: HSIP Candidate Review US 98/SR 30 (Gulf Breeze Parkway) at College Parkway Section No. 58030, CMP 6.596 Santa Rosa County June 28, 2018.

1. Upgrade the traffic signal with new mast arms, signal heads, internally illuminated street name



- signs, and pedestrian signals and detectors.
2. Provide offset left-turn lanes on the eastbound and westbound approaches.
  3. Remove acceleration tapers in the northwest and southeast corners of the intersection.

All left turn lanes within the project limits shall be designed, if right-of-way permits, as offset left turn lanes to enhance safety along the corridor.

The Design-Build Firm shall design, procure, install, construct, integrate, and test the Project including all work and ancillary items necessary to successfully install the Intelligent Transportation Systems (ITS) as described in this RFP. This project consists of fiber optic cable and associated ITS infrastructure, including Closed Circuit Television (CCTV) cameras, connection to Arterial Dynamic Message Sign (ADMS), network equipment, wireless detection systems, vehicle presence detection systems, electrical systems, hardware deployment and coordinated integration with the Escambia County Traffic Signal Operations Center (TSOC). All work associated with the above listed elements shall be included in the Project. This includes, but is not limited to, site survey, utility coordination, constructing and maintaining power services, installing power to cabinets and road side devices, power calculations, installation of poles, cabinets and other ITS related structures, ITS Facility Management (ITSFM) asset management data collection, acceptance testing of the constructed system, demonstration testing on installed devices, traffic control coordination, removing existing materials as necessary, clearing and grubbing, performance turf, erosion control and any additional items necessary.

The Design-Build Firm shall be responsible for providing system configuration information for successful system integration with the Escambia County Traffic Signal Operations Center (TSOC). The Design-Build Firm shall verify all Internet Protocol (IP) based equipment has Simple Network Management Protocol (SNMP) configured to be identifiable through the FDOT District Network Management Software (NMS). The Design-Build Firm shall provide all power and communications equipment/infrastructure necessary to connect to the Escambia County Traffic Signal Operations Center (TSOC). The Design-Build Firm shall be required to develop Technical Special Provisions (TSP) for any items not covered under the Department's Standard Specifications to specify what is to be built while meeting the minimum requirements therein.

The Design-Build Firm will include the following attributes, facilities, infrastructure, ITS devices, systems, and associated work:

- Closed Circuit Television (CCTV) cameras at a minimum of three (3) signalized intersections for arterial incident management.
- Wireless Communication Device (Cellular) at a minimum of three (3) signalized intersections to provide communication between the corridor and Escambia County's Traffic Signal Operations Center (TSOC).
- Vehicle Detection System (Microwave Detection system and Blue-tooth Detection System).
- Complete integration of existing arterial Dynamic Message Signs (ADMS)

These devices shall be routed to the Escambia County Traffic Signal Operations Center (TSOC) utilizing the proposed fiber optic backbone along SR 30 (US 98) and cellular communication devices.

The ITS infrastructure shall be designed to maintain, control and operate from the Escambia County's TSOC located at the Escambia County Office Complex, 3363 West Park Place, Pensacola, Florida.

ITS and Traffic Design and Engineering Services – provide complete design of the system, including equipment necessary to tie into the existing ITS network such that the information is transmitted to the TSOC. The design will include, but is not limited to, all fiber optic cabling and detail sheets for pull boxes,

conduit, cabinet, cabinet modifications, power service runs and modifications and all other equipment and incidentals for ITS infrastructure required for complete installation. The Design shall identify right of way and applicable roadway topography.

ITS and traffic Documentation – provide complete and comprehensive documentation of all elements of this project as specified herein. The Design-Build Firm shall provide data to enter into the Department ITSFM for all new and modified equipment and infrastructure as defined throughout this document.

Traffic signal modification/installation/removal, including mast arm construction is a requirement of this contract. The existing signalized intersections as listed below will require replacement to accommodate the new six-lane section. Replace existing signal structures with mast arms at the intersections of SR 30 (US 98) and

- Gondolier Blvd. / Kelton Blvd.
- Whisper Bay Blvd.
- Oriole Beach Rd. / Shopping Center (Breeze Plaza)
- College Pkwy.
- Country Club Rd. / Green Briar Pkwy.
- Shopping Center / SR 281 (Avalon Boulevard Frontage Rd.)
- Tiger Park Ln. / Portside Dr.

The signal design shall include full pedestrian features with countdown pedestrian signals meeting ADA standards, LED signal heads with reflective back plates, vehicular detection (video), LED internally illuminated overhead street name signs (servicing all applicable directions), Uninterrupted Power Supply devices (UPS), and emergency preemption devices.

Communication drops from the fiber trunk line shall be added to the signalized intersections. New fiber drops shall be designed for any ITS device not connected to a signalized intersection cabinet. CCTV cameras shall be tied into signalized cabinets via Cat 6 Ethernet cable from the CCTV to the closest signal cabinet, if the cabinet is within the distance limit of Ethernet.

A Structure Number Request Form will be required at the 90% submittal for each new mast arm installation, high mast light poles or sign structures. Along with the form, the Design-Build Firm shall submit applicable plan and elevation sheets and project location map.

Existing roadway lighting will remain and be adjusted as necessary to accommodate the project improvements. Lighting within the limits of signalized intersections shall be improved to meet New Reconstruction criteria and include sidewalk lighting and enhanced horizontal and vertical lighting illumination standards as found in the FDOT Design Manual.

Sound Barrier wall construction is a requirement of this contract as per the final Noise Study Report Addendum dated February 2014. The Design-Build Firm will be required to install noise walls along the north side of SR 30 (US 98) in three (3) locations. The locations, station limits and height requirements are provided below:

Barrier Location	SR 30 Roadway Stationing (Does Not Include Side Street Stationing – See NSR Addendum for Limits)		Barrier Height (ft)
	Start/Stop		
East Grand Point	279+40	286+40	13

Breezy Wind Drive (West Barrier)	401+00	405+40	13
Breezy Wind Drive (East Barrier)	406+00	412+20	13

The offset of the wall from the roadway may vary, but should be as close to the right-of-way as feasible. The Design-Build Firm shall make every effort to avoid impacting any overhead utility electric or communication lines. Variations in required offsets are allowed with Department approval. The Design-Build Firm will be required to design and construct the sound barrier walls in accordance to the latest design standards and specifications.

The Design-Build Firm will prepare the Final Noise Study Report if their design deviates from the Department's latest Noise Study Report in terms of wall elevation, roadway profile and noise wall effectiveness. The Department will review and must provide approval of the Design-Build Firm's Final Noise Study Report before the wall can be installed. The Design-Build Firm shall ensure their design provides equal to or better noise wall effectiveness than the Department's latest Noise Study Report. The Design-Build Firm will be required to adjust the wall height and/or offset if necessary until noise wall effectiveness is achieved. The Design-Build Firm will be responsible for any public involvement required for the noise wall.

Irrigation that encroaches into the right of way shall be cut and capped and the property owner shall be notified prior to cutting and capping. The adjacent property owner shall also be notified if any landscaping within the Department's right of way will be removed if it is not feasible to utilize with the Design-Build Firm's proposed design. The Design-Build Firm shall provide the adjacent property owner a minimum one-month advanced written notification to allow the property owner time to remove the irrigation or landscaping from the Department's right of way. After that one-month notification period ends, the Design-Build Firm will cut/cap irrigation, remove remaining irrigation components and any impacted landscaping from the Department's right-of-way.

It is the intent to always preserve existing vegetation including trees and palms that do not conflict with proposed improvements. Tree and palm protection shall comply with FDOT Standard Plans for Road and Bridge Construction (Standard Plans), Index 110-100. Within the Project limits and within the Project Right of Way, it will be the responsibility of the Design-Build Firm to identify and remove all Category 1 invasive exotics as defined by the Florida Exotic Pest Plant Council ([www.fleppc.org](http://www.fleppc.org)) and as identified in the Landscape Opportunity Plan.

The intent of this Project is to replace, repair or rehabilitate all deficiencies noted in the RFP within the Project limits such that maintenance work required upon Final Acceptance is limited to routine work.

All design and construction activities for the project will be required to remain within the existing right-of-way. The Department Right-of-Way Maps are available on the internet and made available in the reference documents. These maps are the controlling document in reference to right-of-way line location. The conceptual plans may or may not accurately depict the right-of-way being acquired by the Department. All design and construction activities for the project will be required to remain within the existing right-of-way.

During the right-of-way acquisition negotiation process, the Department may obtain rights-of-entry or easements from property owners and document this specific access right in the Right-of-Way Commitments. For this reason, the Right-of-Way Commitments that include property access rights shall overrule the Right-of-Way Maps and the conceptual plans. The Design-Build Firm shall design and construct all Right-of-Way Commitments and elements included in Right-of-Way Stipulated Final

Judgements included as an Attachment to this RFP.

The Department will have its demolition contractor (under a separate contract) remove all buildings, septic tanks, and wells during its clearing activities. The Design-Build Firm will be responsible for any remaining clearing and grubbing including, but not limited to existing fencing, trees, concrete removal, etc.

#### Right-of-way acquisition process for unique proposals by Design-Build Firms

It is the Department's intent that all Project construction activities be conducted within the existing Right-of-Way. The Design-Build Firm may submit a Technical Proposal that requires the acquisition of additional Right-of-Way if the subject acquisition was approved during the Alternative Technical Concept (ATC) process. Any Technical Proposal that requires the acquisition of additional Right-of-Way will not extend the contract duration as set forth in the Request for Proposal under any circumstances. The Department will have sole authority to determine whether the acquisition of additional Right-of-Way on the Project is in the Department's best interest, and the Department reserves the right to reject the acquisition of additional Right-of-Way.

If a Design-Build Firm intends to submit a Technical Proposal that requires the acquisition of additional Right-of-Way, the Design-Build Firm shall discuss such a proposal with the Department as part of the ATC process. If a Design-Build Firm submits a Technical Proposal that requires the acquisition of additional Right-of-Way and the Design-Build Firm fails to obtain Department approval as part of the ATC process, then the Department will not consider such aspects as part of the contract. If the Design-Build Firm's Technical Proposal requires additional Right-of-Way approved by the ATC process, the additional Right-of-Way will be required to be directly acquired by the Department. The Design-Build Firm shall submit, along with the Technical Proposal, Right-of-Way maps and legal descriptions including area in square feet of any proposed additional Right-of-Way parcels in the Technical Proposal. The additional Right-of-Way will be acquired by the Department in accordance with all applicable state and federal laws, specifically including but not limited to the Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs (42 USC Chapter 61) and its implementing regulations. This includes completing a SEIR/NEPA evaluation as appropriate. All costs concerning the acquisition of additional Right-of-Way will be borne solely by the Design-Build Firm. These costs include, but are not limited to consultant acquisition, appraisal services, court fees, attorney and any expert fees, property cost, etc. The Department will have sole discretion with respect to the entire acquisition process of the additional Right-of-Way.

If the Design-Build Firm's Technical Proposal requires additional Right-of-Way, the acquisition of any such Right-of-Way shall be at no cost to the Department, and all costs associated with securing and making ready for use such Right-of-Way for the Project shall be borne solely by the Design-Build Firm as a part of the Design-Build Firm's Lump Sum Price Bid. The Department will not advance any funds for any such Right-of-Way acquisition and the Design-Build Firm shall bear all risk of delays in the acquisition of the additional property, regardless of cause or source.

The Department will provide to the successful Design-Build Firm an estimate of all costs related to the acquisition and use of the additional Right-of-Way for the project. At the time the Design-Build Firm returns the executed contract to the Department, the Design-Build Firm will provide the Department funds equal to the amount of the Department's estimate along with a Letter of Credit approved by the Department in an amount equal to 100% of the Department's estimate. If additional funds beyond the Department's estimate are anticipated, the Design-Build Firm shall be solely responsible for all such costs and provide the same to the Department upon ten (10) days written notice from the Department. The Letter of Credit is for the purpose of securing the obligations of the Design-Build Firm with respect to the acquisition and use

of additional Right-of-Way. The Letter of Credit will be released upon the Department's determination that all costs related to the acquisition of and making ready for use of the additional Right-of-Way have been satisfied. Any remaining funds provided will be returned to the Design-Build Firm.

Any additional Right-of-Way must be acquired prior to the commencement of any construction on or affecting the subject property. The Design-Build Firm waives any and all rights or claims for information, compensation, or reimbursement of expenses with respect to the Design-Build Firm's payment to the Department for costs associated with the acquisition of the additional Right-of-Way. The additional Right-of-Way cannot be used for any construction activity or other purpose until the Department has issued an applicable parcel clear letter or a Right-of-Way Certification for Construction.

If the Department's attempt to acquire the additional Right-of-Way is unsuccessful, then the Design-Build Firm shall provide a design of the Project within existing Right-of-Way and be required to complete the Project solely for the Lump Sum Price Bid, with no further monetary or time adjustments arising therefrom. Under no circumstances will the Department be liable for any increase in either time or money impacts the Design-Build Firm suffers due to the Design-Build Firm's proposed acquisition of additional Right-of-Way, whether or not the acquisition is successful.

### Utilities

The Design-Build Firm will be responsible for providing utility adjustment plans and coordinating utility relocations. The Design-Build Firm shall be responsible for determining, through the use of non-destructive means, both the horizontal and vertical location of all existing utilities above and below ground within the project limits, and for coordinating with the Utility owner(s) for any necessary relocation and/or adjustment of their utilities through the development of a comprehensive utility work schedule. Existing utility location information is provided in the RFP – Reference Documents for information purposes only.

Along with coordinating utility relocations for the project, the Design-Build Firm is required to perform the utility relocation work for the City of Gulf Breeze and Midway Water System utility relocations. The work effort for these anticipated relocations is described below:

#### **1.) The City of Gulf Breeze**

The Design-Build Firm shall be required to design, construct, and prepare as-built plans for the City of Gulf Breeze gas, water and sewer adjustment/relocation work as approved by the City of Gulf Breeze and the Department. The Design-Build Firm will be responsible for acquiring all permits required for the utility work. All gas, water and sewer design, construction, tie-ins to existing gas, water and sewer system, service connections and resolution of conflicts with existing gas, water and sewer systems shall be in accordance with the current City of Gulf Breeze standards and shall be scheduled with and coordinated through the City of Gulf Breeze. The Design-Build Firm shall copy the Department on all correspondence with the City of Gulf Breeze related to schedule and coordination efforts. **This work is subject to the timely deposit of necessary funds by the City of Gulf Breeze to the Department and may be removed from the contract if funds are not received. An Addendum to this RFP will be issued before January 1, 2020 if this utility work is removed due to lack of funding.**

#### *Design of Utility Work*

- a. The Design-Build Firm shall prepare the final engineering design, plans, technical special provisions, permit applications (including, but not limited to, FDEP and the FDOT) for the utility work for the City of Gulf Breeze Gas, Water and Sewer in accordance with the City of Gulf Breeze's standards. In the event of a conflict between the City of Gulf Breeze requirements and

any FDOT governing Regulations, the Department shall determine which provisions apply based on the intent and purpose of the Utility Work.

- b. The Plans Package shall be in the same format as the Department's contract documents for the Project and shall be suitable for reproduction.
- c. Unless otherwise specifically directed in writing, the Plans Package shall include any and all activities and work effort required to perform the utility work, including, but not limited to, all clearing and grubbing, permitting, survey, subsurface engineering (as required), utility coordination (telephone, fiber, cable, electrical, gas, etc.) and shall include a traffic control plan.
- d. Construction costs for mobilization, clearing and grubbing and maintenance of traffic for this utility work are to be included in the main project and not in the utility relocations cost.
- e. The Plans Package shall be prepared in compliance with the FDOT Utility Accommodation Manual and the FDOT Design Manual, and this RFP. If the FDOT Design Manual conflicts with the FDOT Utility Accommodation Manual, the Utility Accommodation Manual shall apply where such conflicts exist.
- f. The Design-Build Firm shall prepare the Utility Work's technical special provisions, which are a part of the Plans Package, in accordance with the Department's guidelines on preparation of technical special provisions and shall not duplicate or change the general contracting provisions of the FDOT Standard Specifications for Road and Bridge Construction and any Supplemental Specifications for the Project.
- g. The Design-Build Firm shall provide a copy of the proposed Plans Package to the Department and the City of Gulf Breeze for review at the following stages: 90% and 100% plans.
- h. The Design-Build Firm shall at all times be and remain solely responsible for proper preparation of the Plans Package and for verifying all information necessary to properly prepare the Plans Package, including survey information as to the location (both vertical and horizontal) of the Utility.
- i. The utility work will include all utility facilities of the City of Gulf Breeze which are located within the limits of the Project.
- j. The Design-Build Firm shall fully cooperate and coordinate the utility work with all other right of way users in the preparation of the Plans Package.
- k. Upon completion of the utility work, the facilities shall be deemed to be located on the Department's right-of-way under and pursuant to the Utility Permit to be issued by the Department. The Design-Build Firm shall facilitate and comply with all permit conditions, and provide all disinfection, pressure testing, laboratory tests, permit certifications, record drawings, etc. to obtain regulatory approval and clearance to place the utilities in service.

*Performance of Utility Work*

- a. The Department shall perform all engineering inspection, and monitoring of the Utility Work to insure it is properly performed in accordance with the Plans Package. The City of Gulf Breeze shall have representation on site periodically for consultation as necessary.
- b. Testing, monitoring and reporting shall be performed by the Design-Build Firm in accordance with standard industry practices for water and wastewater and in accordance with the City of Gulf Breeze's standards.
- c. The Design-Build Firm shall coordinate with the City of Gulf Breeze during construction and schedule any necessary temporary utility interruptions, in advance with the City.
- d. All out of service City of Gulf Breeze mains, services, and appurtenances that are in conflict with the Design-Build Firm's Project design shall be removed and cost of removal be covered under FPID:
  - 220440-1-56-04 (Water)
  - 220440-1-56-05 (Sewer)
  - 220440-1-56-06 (Gas)

Should out of service facilities not require removal, then Design-Build Firm shall cap them or grout fill and place them out of service in accordance with FDOT Specifications with costs being covered under FPID:

220440-1-56-04 (Water)

220440-1-56-05 (Sewer)

220440-1-56-06 (Gas)

- e. All work described above for the City of Gulf Breeze utility relocations shall be bid under the appropriate FPID described below:

220440-1-56-04 (Water)

220440-1-56-05 (Sewer)

220440-1-56-06 (Gas)

## 2.) Midway Water System

The Design-Build Firm shall be required to design, construct, and prepare as-built plans for the Midway Water System water adjustment/relocation work as approved by the Midway Water System and the Department. The Design-Build Firm will be responsible for acquiring all permits required for the utility work. All water design, construction, tie-ins to existing water system, service connections and resolution of conflicts with existing water system shall be in accordance with the current Midway Water System standards and shall be scheduled with and coordinated through the Midway Water System. The Design-Build Firm shall copy the Department on all correspondence with the Midway Water System related to schedule and coordination efforts. **This work is subject to the timely deposit of necessary funds by the Midway Water System to the Department and may be removed from the contract if funds are not received. An Addendum to this RFP will be issued before January 1, 2020 if this utility work is removed due to lack of funding.**

### *Design of Utility Work*

- a. The Design-Build Firm shall prepare the final engineering design, plans, technical special provisions, permit applications (including, but not limited to, FDEP and the FDOT) for the utility work for Midway Water System Water in accordance with Midway Water System' standards. In the event of a conflict between Midway Water Systems requirements and any FDOT governing Regulations, the Department shall determine which provisions apply based on the intent and purpose of the Utility Work.
- b. The Plans Package shall be in the same format as the Department's contract documents for the Project and shall be suitable for reproduction.
- c. Unless otherwise specifically directed in writing, the Plans Package shall include any and all activities and work effort required to perform the utility work, including, but not limited to, all clearing and grubbing, permitting, survey, subsurface engineering (as required), utility coordination (telephone, fiber, cable, electrical, gas, etc.) and shall include a traffic control plan.
- d. Construction costs for mobilization, clearing and grubbing and maintenance of traffic for this utility work are to be included in the main project and not in the utility relocations cost.
- e. The Plans Package shall be prepared in compliance with the FDOT Utility Accommodation Manual and the FDOT Design Manual, and this RFP. If the FDOT Design Manual conflicts with the FDOT Utility Accommodation Manual, the Utility Accommodation Manual shall apply where such conflicts exist.
- f. The Design-Build Firm shall prepare the Utility Work's technical special provisions, which are a part of the Plans Package, in accordance with the Department's guidelines on preparation of technical special provisions and shall not duplicate or change the general contracting provisions of

the FDOT Standard Specifications for Road and Bridge Construction and any Supplemental Specifications for the Project.

- g. The Design-Build Firm shall provide a copy of the proposed Plans Package to the Department and Midway Water System for review at the following stages: 90% and 100% plans.
- h. The Design-Build Firm shall at all times be and remain solely responsible for proper preparation of the Plans Package and for verifying all information necessary to properly prepare the Plans Package, including survey information as to the location (both vertical and horizontal) of the Utility.
- i. The utility work will include all utility facilities of Midway Water System which are located within the limits of the Project.
- j. The Design-Build Firm shall fully cooperate and coordinate the utility work with all other right of way users in the preparation of the Plans Package.
- k. Upon completion of the utility work, the facilities shall be deemed to be located on the Department's right-of-way under and pursuant to the Utility Permit to be issued by the Department. The Design-Build Firm shall facilitate and comply with all permit conditions, and provide all disinfection, pressure testing, laboratory tests, permit certifications, record drawings, etc. to obtain regulatory approval and clearance to place the utilities in service.

#### *Performance of Utility Work*

- a. The Department shall perform all engineering inspection, and monitoring of the Utility Work to insure it is properly performed in accordance with the Plans Package. Midway Water System shall have representation on site periodically for consultation as necessary.
- b. Testing, monitoring and reporting shall be performed by the Design-Build Firm in accordance with standard industry practices for water and in accordance with Midway Water System's standards.
- c. The Design-Build Firm shall coordinate with Midway Water System during construction and schedule any necessary temporary utility interruptions, in advance with the City.
- d. All out of service Midway Water System mains, services, and appurtenances that are in conflict with the Design-Build Firm's Project design shall be removed and cost of removal be covered under FPID:  
220440-1-56-01 (Water)  
Should out of service facilities not require removal, then Design-Build Firm shall cap them or grout fill and place them out of service in accordance with FDOT Specifications with costs being covered under FPID:  
220440-1-56-01 (Water)
- e. All work described above for the Midway Water System utility relocations shall be bid under the FPID described below:  
220440-1-56-01 (Water)

The Design-Build Firm shall minimize and, to the greatest extent possible, avoid impacts to existing landscaping or future landscaping opportunities associated with utility relocations.

Advance utility coordination information is provided in RFP – Reference Documents for information only.

**During the Design-Build procurement process for this contract, the Design-Build Firm shall NOT coordinate directly with Midway Water Systems or the City of Gulf Breeze Utilities due to their work being a requirement of this RFP. The Design-Build Firm may request a Utility ATC Meeting to communicate with Midway Water Systems or the City of Gulf Breeze Utilities. After the ATC process is concluded, all questions related to their utility work requirements will be required to go through the FDOT Bid Question website.**



### **A. Design-Build Responsibility**

The Design-Build Firm shall be responsible for survey, geotechnical investigation, design, preparation of all documentation related to the acquisition of all permits not acquired by the Department, maintenance of traffic, demolition, and construction on or before the Project completion date indicated in the Proposal. The Design-Build Firm shall coordinate all utility relocations.

The Design-Build Firm shall be responsible for compliance with Design and Construction Criteria (Section VI) which sets forth requirements regarding survey, design, construction, and maintenance of traffic during construction, requirements relative to Project management, scheduling, and coordination with other agencies and entities such as state and local government, utilities and the public.

The Design-Build Firm shall be responsible for reviewing the approved Environmental Document of the PD&E Study and all subsequent environmental document reevaluations.

The Design-Build Firm is responsible for coordinating with the District Environmental Management Office (DEMO) on any engineering information related to Environmental Reevaluations. The Design-Build Firm will not be compensated for any additional costs or time associated with Reevaluation(s) resulting from proposed design changes.

The Design-Build Firm may propose changes which differ from the approved Project Development & Environment (PD&E) Study. Proposed changes must be coordinated through the Department. If changes are proposed to the configuration, the Design-Build Firm shall be responsible for preparing the necessary documentation required for the Department to analyze and satisfy requirements to obtain approval of the Department, and if applicable, the Office of Environmental Management (OEM) for the National Environmental Policy Act (NEPA) document. The Design-Build Firm shall provide the required documentation for review and processing. Approved revisions to the configuration may also be required to be included in the NEPA document or State Environmental Impact Report (SEIR) Reevaluations, per Section P (Environmental Services/Permits/Mitigation) of the RFP. The Design-Build Firm will not be compensated for any additional costs or time resulting from proposed changes.

The Design-Build Firm shall examine the Contract Documents and the site of the proposed work carefully before submitting a Proposal for the work contemplated and shall investigate the conditions to be encountered, as to the character, quality, and quantities of work to be performed and materials to be furnished and as to the requirements of all Contract Documents. Written notification of differing site conditions discovered during the design or construction phase of the Project will be given to the Department's Project Manager.

The Design-Build Firm shall examine boring data, where available, and make their own interpretation of the subsoil investigations and other preliminary data, and shall base their bid on their own opinion of the conditions likely to be encountered. The submission of a proposal is prima facie evidence that the Design-Build Firm has made an examination as described in this provision.

The Design-Build Firm shall demonstrate good Project management practices while working on this Project. These include communication with the Department and others as necessary, management of time and resources, and documentation.

The Design-Build Firm will provide litter removal and mowing within the project limits in accordance with Specification Section 107 with a 30 calendar day mowing frequency and a 30 calendar day litter removal.

### **B. Department Responsibility**

The Department will provide contract administration, management services, construction engineering inspection services, environmental oversight, and quality acceptance reviews of all work associated with the development and preparation of the contract plans, permits, and construction of the improvements. The Department will provide Project specific information and/or functions as outlined in this document.

In accordance with 23 CFR 636.109 of the FHWA, in a Federal Aid project, the Department shall have oversight, review, and approval authority of the permitting process.

The Department will determine the environmental impacts and coordinate with the appropriate agencies during the preparation of NEPA or SEIR Reevaluations. For federal projects, NEPA Reevaluations will be processed by the Department’s EMO Office for approval by OEM pursuant to 23 U.S.C. §327 and a Memorandum of Understanding dated December 14, 2016 and executed by the FHWA and the Department.

## II. Schedule of Events.

Below is the current schedule of the remaining events that will take place in the selection process. The Department reserves the right to make changes or alterations to the schedule as the Department determines is in the best interests of the public. Proposers will be notified sufficiently in advance of any changes or alterations in the schedule. Unless otherwise notified in writing by the Department, the dates indicated below for submission of items or for other actions on the part of a Proposer shall constitute absolute deadlines for those activities and failure to fully comply by the time stated shall cause a Proposer to be disqualified.

<b>Date</b>	<b>Event</b>
09/30/2019	Planned Advertisement
11/13/2019	Official Advertisement
11/20/2019	Mandatory Pre-Proposal meeting at 1:30 pm local time at FDOT, 1074 Highway 90, Chipley, FL. All Utility Agency/Owners that the Department contemplates an adjustment, protection, or relocation is possible are to be invited to the Mandatory Pre-Proposal Meeting.
11/22/2019	Deadline for Design-Build Firm to request participation in One-on-One Alternative Technical Concept Discussion Meeting No. 1
12/06/2019	Deadline for Design-Build Firm to submit preliminary list of Alternative Technical Concepts prior to One-on-One Alternative Technical Concept Discussion Meeting No. 1
12/11/2019	One-on-One Alternative Technical Concept Meeting No. 1
12/13/2019	Deadline for Design-Build Firm to request participation in One-on-One Alternative Technical Concept Discussion Meeting No. 2
<del>02/10/2020</del> <del>01/04/2020</del>	<b><u>Deadline for Design-Build Firm to request participation in One-on-One Utility Alternative Technical Concept Discussion Meeting – Meeting will include Midway Water Systems and the City of Gulf Breeze only</u></b>
<del>02/13/2020</del> <del>01/07/2020</del>	<b><u>Utility One-on-One Alternative Technical Concept Meeting – Midway Water Systems and the City of Gulf Breeze only</u></b>
<del>02/20/2020</del> <del>01/15/2020</del>	One-on-One Alternative Technical Concept Meeting No. 2
<del>02/27/2020</del> <del>01/22/2020</del>	Deadline for submittal of Alternative Technical Concept Proposals 2:00 pm local time
<del>02/27/2020</del>	Deadline for submission of requests for Design Exceptions or Design

<a href="#"><u>01/22/2020</u></a>	Variations 2:00 pm local time
<a href="#"><u>03/26/2020</u></a> <a href="#"><u>02/19/2020</u></a>	Deadline for submittal of questions, for which a response is assured, prior to the submission of the Technical and Bid Price Proposals. All questions shall be submitted to the Pre-Bid Q&A website.
<a href="#"><u>04/02/2020</u></a> <a href="#"><u>02/26/2020</u></a>	Deadline for the Department to post responses to the Pre-Bid Q&A website for questions submitted by the Design-Build Firms prior to the submittal of the Proposal.
<a href="#"><u>04/14/2020</u></a> <a href="#"><u>03/04/2020</u></a>	Technical Proposals and Price Proposals due in District Office by 10:00 am local time
<a href="#"><u>04/14/2020</u></a> <a href="#"><u>03/04/2020</u></a>	Public announcing of Price Proposals at 10:30 am local time at FDOT, 1074 Highway 90, Chipley, FL
<a href="#"><u>04/16/2020</u></a> <a href="#"><u>03/11/2020</u></a>	Public Meeting of Technical Review Committee to determine Responsiveness of Technical Proposals at 10:00 am local time at FDOT, 1074 Highway 90, Chipley, FL
<a href="#"><u>04/20/2019</u></a> <a href="#"><u>03/16/2020</u></a>	Public Meeting of Selection Committee to determine intended Award (Final Selection Posting) at 9:00 am local time at FDOT, 1074 Highway 90, Chipley, FL
<a href="#"><u>04/20/2020</u></a> <a href="#"><u>03/16/2020</u></a>	Posting of the Department's intended decision to Award
<a href="#"><u>04/27/2020</u></a> <a href="#"><u>03/23/2020</u></a>	Anticipated Award Date
<a href="#"><u>05/11/2020</u></a> <a href="#"><u>04/06/2020</u></a>	Anticipated Execution Date

### III. Threshold Requirements.

#### A. Qualifications

Proposers are required to be pre-qualified in all work types required for the Project. The Technical qualification requirements of Florida Administrative Code (F.A.C.) Chapter 14-75 and all qualification requirements of F.A.C. Chapter 14-22, based on the applicable category of the Project, must be satisfied.

#### B. Joint Venture Firm

Two or more Firms submitting as a Joint Venture must meet the Joint Venture requirements of Section 14-22.007, F.A.C. Parties to a Joint Venture must submit a Declaration of Joint Venture and Power of Attorney Form No. 375-020-18, prior to the deadline for receipt of Proposals.

If the Proposer is a Joint Venture, the individual empowered by a properly executed Declaration of Joint Venture and Power of Attorney Form shall execute the Proposal. The Proposal shall clearly identify who will be responsible for the engineering, quality control, and geotechnical and construction portions of the Work. The Joint Venture shall provide an Affirmative Action Plan specifically for the Joint Venture.

#### C. Price Proposal Guarantee

A Price Proposal guaranty in an amount of not less than five percent (5%) of the total bid amount shall accompany each Proposer's Price Proposal. The Price Proposal guaranty may, at the discretion of the Proposer, be in the form of a cashier's check, bank money order, bank draft of any national or state bank, certified check, or surety bond, payable to the Department. The surety on any bid bond shall be a company recognized to execute bid bonds for contracts of the State of Florida. The Price Proposal guaranty shall

stand for the Proposer's obligation to timely and properly execute the contract and supply all other submittals due therewith. The amount of the Price Proposal guaranty shall be a liquidated sum, which shall be due in full in the event of default, regardless of the actual damages suffered. The Price Proposal guaranty of all Proposers' shall be released pursuant to 3-4 of the Division I Design-Build Specifications.

#### **D. Pre-Proposal Meeting**

Attendance at the pre-proposal meeting is mandatory. Any Proposer failing to attend will be deemed non-responsive and eliminated from further consideration. The purpose of this meeting is to provide a forum for the Department to discuss with all concerned parties the proposed Project, the design and construction criteria, contract procurement schedule, method of compensation, instructions for submitting proposals, Design Exceptions, Design Variations, and other relevant issues. In the event that any discussions at the pre-proposal meeting require, in the Department's opinion, official additions, deletions, or clarifications of the Request for Proposal, or any other document, the Department will issue a written addendum to this Request for Proposal as the Department determines is appropriate. No oral representations or discussions, which take place at the pre-proposal meeting, will be binding on the Department. FHWA will be invited on Projects of Division Interests (PoDIs), in order to discuss the Project in detail and to clarify any concerns. Proposers shall direct all questions to the Department's Question and Answer website:

<https://fdotwp1.dot.state.fl.us/BidQuestionsAndAnswers/>

Failure by a Proposer to attend or be represented at the pre-proposal meeting will constitute a non-responsive determination of their bid package. Bids found to be non-responsive will not be considered. All Proposers must be present and signed in prior to the start of the mandatory pre-proposal meeting. The convener of the meeting will circulate the attendee sign in sheet at the time the meeting was advertised to begin. Once all Proposers have signed, the sign in sheet will be taken and the meeting will "officially" begin. Any Proposer not signed in at the "official" start of the meeting will be considered late and will not be allowed to propose on the Project.

During and after the meeting, it is the responsibility of the Contracting Unit to ensure that each Proposer develops their Technical Proposal with the same information. If a Proposer receives information from the Department relating to the Project, the Department will ensure that all Proposers receive the same information in a timely fashion. The Project file will clearly document all communications with any Firm regarding the design and construction criteria by the Contracting Unit or the Project Manager.

#### **E. Question and Answer**

The Design-Build Firm shall submit questions to the Departments Q&A website in accordance with section 2-4 of the Division I Design-Build Specifications.

#### **F. Protest Rights**

Any person who is adversely affected by the specifications contained in this Request for Proposal must file a notice of intent to protest in writing within seventy-two hours of the posting of this Request for Proposal. Pursuant to Sections 120.57(3) and 337.11, Florida Statutes, and Rule Chapter 28-110, F.A.C., any person adversely affected by the agency decision or intended decision shall file with the agency both a notice of protest in writing and bond within 72 hours after the posting of the notice of decision or intended decision, or posting of the solicitation with respect to a protest of the terms, conditions, and specifications contained in a solicitation and will file a formal written protest within 10 days after the filing of the notice of protest. The formal written protest shall be filed within 10 days after the date of the notice of protest if filed. The

person filing the Protest must send the notice of intent and the formal written protest to:

Clerk of Agency Proceedings  
Department of Transportation  
605 Suwannee Street, MS 58  
Tallahassee, Florida 32399-0458

Failure to file a notice of protest or formal written protest within the time prescribed in section 120.57(3), Florida Statutes, or failure to post the bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under Chapter 120 Florida Statutes.

### **G. Non-Responsive Proposals**

Proposals found to be non-responsive shall not be considered. Proposals may be rejected if found to be in nonconformance with the requirements and instructions herein contained. A Proposal may be found to be non-responsive by reasons, including, but not limited to, failure to utilize or complete prescribed forms, conditional Proposals, incomplete Proposals, indefinite or ambiguous Proposals, failure to meet deadlines and improper and/or undated signatures.

Other conditions which may cause rejection of Proposals include evidence of collusion among Proposers, obvious lack of experience or expertise to perform the required work, submission of more than one Proposal for the same work from an individual, firm, joint venture, or corporation under the same or a different name (also included for Design-Build Projects are those Proposals wherein the same Engineer is identified in more than one Proposal), failure to perform or meet financial obligations on previous contracts, employment of unauthorized aliens in violation of Section 274A (e) of the Immigration and Nationalization Act, or in the event an individual, firm, partnership, or corporation is on the United States Department of Labor's System for Award Management (SAM) list.

The Department will not give consideration to tentative or qualified commitments in the proposals. For example, the Department will not give consideration to phrases as "we may" or "we are considering" in the evaluation process for the reason that they do not indicate a firm commitment.

Proposals will also be rejected if not delivered or received on or before the date and time specified as the due date for submission.

Any proposal submitted by a Proposer that did not sign-in at the mandatory pre-proposal meeting will be non-responsive.

### **H. Waiver of Irregularities**

The Department may waive minor informalities or irregularities in Proposals received where such is merely a matter of form and not substance, and the correction or waiver of which is not prejudicial to other Proposers. Minor irregularities are defined as those that will not have an adverse effect on the Department's interest and will not affect the Price of the Proposals by giving a Proposer an advantage or benefit not enjoyed by other Proposers.

1. Any design submittals that are part of a Proposal shall be deemed preliminary only.
2. Preliminary design submittals may vary from the requirements of the RFP.

3. In no event will any such elections by the Department be deemed to be a waiving of the RFP.
4. The Proposer who is selected for the Project will be required to fully comply with the RFP for the Price Bid, regardless that the Proposal may have been based on a variation from the RFP.
5. The Proposer shall obtain any necessary permits.

#### **I. Modification or Withdrawal of Proposal**

Proposers may modify or withdraw previously submitted Proposals at any time prior to the Proposal due date. Requests for modification or withdrawal of a submitted Proposal shall be in writing and shall be signed in the same manner as the Proposal. Upon receipt and acceptance of such a request, the entire Proposal will be returned to the Proposer and not considered unless resubmitted by the due date and time. Proposers may also send a change in sealed envelope to be opened at the same time as the Proposal provided the change is submitted prior to the Proposal due date.

#### **J. Department's Responsibilities**

This Request for Proposal does not commit the Department to make studies or designs for the preparation of any proposal, nor to procure or contract for any articles or services.

The Department does not guarantee the details pertaining to borings, as shown on any documents supplied by the Department, to be more than a general indication of the materials likely to be found adjacent to holes bored at the site of the work, approximately at the locations indicated.

#### **K. Design-Build Contract**

The Department will enter into a Lump Sum contract with the successful Design-Build Firm. In accordance with Section V, the Design-Build Firm will provide a schedule of values to the Department for their approval. The total of the Schedule of Values will be the lump sum contract amount.

The terms and conditions of this contract are fixed Price and fixed time. The Design-Build Firm's submitted Bid (time and cost) is to be a lump sum Bid for completing the scope of work detailed in the Request for Proposal.

### **IV. Disadvantaged Business Enterprise (DBE) Program.**

#### **A. DBE Availability Goal Percentage:**

The Department of Transportation has an overall, race-neutral DBE goal. This means that the State's goal is to spend a portion of the highway dollars with Certified DBE's as prime Design-Build Firms or as subcontractors. Race-neutral means that the Department believes that the overall goal can be achieved through the normal competitive procurement process. The Department has reviewed this Project and assigned a DBE availability goal shown in the Project Advertisement on the bid blank/contract front page under "% DBE Availability Goal". The Department has determined that this DBE percentage can realistically be achieved on this Project based on the number of DBE's associated with the different types of work that will be required.

Under 49 Code of Federal Regulations Part 26, if the overall goal is not achieved, the Department may be required to return to a race-conscious program where goals are imposed on individual contracts. The Department encourages all of our Design-Build Firms to actively pursue obtaining bids and quotes from Certified DBE's.

The Department is reporting to the Federal Highway Administration the planned commitments to use DBE's, as well as actual dollars paid to DBE's. This information is being collected through the Department's Equal Opportunity Compliance (EOC) system. Additional requirements of the Design-Build Firm may be found in Chapter 2 of the FDOT Equal Opportunity Construction Contract Compliance Manual.

**B. DBE Supportive Services Providers:**

The Department has contracted with a consultant, referred to as DBE Supportive Services Provider, to provide managerial and technical assistance to DBE's. This consultant is also required to work with prime Design-Build Firms, who have been awarded contracts, to assist in identifying DBE's that are available to participate on the Project. The successful Design-Build Firm should meet with the DBE Supportive Services Provider to discuss the DBE's that are available to work on this Project. The current DBE Supportive Services Provider for the State of Florida can be found in the Equal Opportunity website at: <http://www.fdot.gov/equalopportunity/serviceproviders.shtm>

**C. Bidders Opportunity List:**

The Federal DBE Program requires States to maintain a database of all Firms that are participating, or attempting to participate, on DOT-assisted contracts. The list must include all Firms that bid on prime contracts or bid or quote subcontracts on DOT-assisted Projects, including both DBE's and Non-DBE's.

A Bid Opportunity List should be submitted through the Equal Opportunity Compliance system which is available at the Equal Opportunity Office Website. This information should be entered into the Equal Opportunity Compliance System within 3 business days of submission of the bid or proposal.

**V. Project Requirements and Provisions for Work**

**A. Governing Regulations:**

The services performed by the Design-Build Firm shall be in compliance with all applicable Manuals and Guidelines including the Department, FHWA, AASHTO, and additional requirements specified in this document. Except to the extent inconsistent with the specific provisions in this document, the current edition, including updates, of the following Manuals and Guidelines shall be used in the performance of this work. Current edition is defined as the edition in place and adopted by the Department at the date of advertisement of this contract with the exception of the Standard Specifications for Road and Bridge Construction (Divisions II & III), Special Provisions and Supplemental Specifications, Manual on Uniform Traffic Control Devices (MUTCD), and FDOT Standard Plans with applicable Interim Revisions. The Design-Build Firm shall use the edition of the Standard Specifications for Road and Bridge Construction (Divisions II & III), Special Provisions and Supplemental Specifications, FDOT Standard Plans and applicable Interim Revisions in effect at the time the bid price proposals are due in the District Office. The Design-Build Firm shall use the 2009 edition of the MUTCD (as amended in 2012). It shall be the Design-Build Firm's responsibility to acquire and utilize the necessary manuals and guidelines that apply to the work required to complete this Project. The services will include preparation of all documents necessary to complete the Project as described in Section I of this document.

1. Florida Department of Transportation Design Manual (FDM)  
<http://www.fdot.gov/roadway/FDM/>
2. Florida Department of Transportation Specifications Package Preparation Procedure  
<http://www.fdot.gov/programmanagement/PackagePreparation/Handbooks/630-010-005.pdf>
3. Florida Department of Transportation Standard Plans for Road and Bridge Construction  
<http://www.fdot.gov/design/standardplans/>
4. Standard Plans Instructions (Refer to Part I, Chapter 115, FDM)  
<http://www.fdot.gov/roadway/FDM/>
5. Florida Department of Transportation Standard Specifications for Road and Bridge Construction (Divisions II & III), Special Provisions and Supplemental Specifications  
<http://www.fdot.gov/programmanagement/default.shtm>
6. Florida Department of Transportation Surveying Procedure 550-030-101  
<http://fdotwp1.dot.state.fl.us/ProceduresInformationManagementSystemInternet/FormsAndProcedures/ViewDocument?topicNum=550-030-101>
7. Florida Department of Transportation EFB User Handbook (Electronic Field Book)  
[http://www.fdot.gov/geospatial/doc\\_pubs.shtm](http://www.fdot.gov/geospatial/doc_pubs.shtm)
8. Florida Department of Transportation Drainage Manual  
<http://www.fdot.gov/roadway/Drainage/ManualsandHandbooks.shtm>
9. Florida Department of Transportation Soils and Foundations Handbook  
<http://www.fdot.gov/structures/Manuals/SFH.pdf>
10. Florida Department of Transportation Structures Manual  
<http://www.fdot.gov/structures/DocsandPubs.shtm>
11. Florida Department of Transportation Computer Aided Design and Drafting (CADD) Manual  
<http://www.fdot.gov/cadd/downloads/publications/CADDManual/default.shtm>
12. AASHTO – A Policy on Geometric Design of Highways and Streets  
[https://bookstore.transportation.org/collection\\_detail.aspx?ID=110](https://bookstore.transportation.org/collection_detail.aspx?ID=110)
13. MUTCD - 2009  
<http://mutcd.fhwa.dot.gov/>
14. Safe Mobility For Life Program Policy Statement  
<http://www.fdot.gov/traffic/TrafficServices/PDFs/000-750-001.pdf>
15. Traffic Engineering and Operations Safe Mobility for Life Program  
<http://www.fdot.gov/traffic/TrafficServices/SafetyisGolden.shtm/>
16. Florida Department of Transportation American with Disabilities Act (ADA) Compliance – Facilities Access for Persons with Disabilities Procedure 625-020-015  
<https://fdotwp1.dot.state.fl.us/ProceduresInformationManagementSystemInternet/?viewBy=0&procType=pr>
17. Florida Department of Transportation Florida Sampling and Testing Methods  
<http://www.fdot.gov/materials/administration/resources/library/publications/fstm/disclai>



[mer.shtm](#)

18. Florida Department of Transportation Flexible Pavement Coring and Evaluation Procedure  
<http://www.fdot.gov/materials/administration/resources/library/publications/materialsmanual/documents/v1-section32-clean.pdf>
19. Florida Department of Transportation Design Bulletins and Update Memos  
<http://www.fdot.gov/roadway/Bulletin/Default.shtm>
20. Florida Department of Transportation Utility Accommodation Manual  
[https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/programmanagement/programmanagement/utilities/docs/uam/uam2017.pdf?sfvrsn=d97fd3dd\\_0](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/programmanagement/programmanagement/utilities/docs/uam/uam2017.pdf?sfvrsn=d97fd3dd_0)
21. AASHTO LRFD Bridge Design Specifications  
[https://bookstore.transportation.org/category\\_item.aspx?id=BR](https://bookstore.transportation.org/category_item.aspx?id=BR)
22. Florida Department of Transportation Flexible Pavement Design Manual  
<http://www.fdot.gov/roadway/PM/publicationS.shtm>
23. Florida Department of Transportation Rigid Pavement Design Manual  
<http://www.fdot.gov/roadway/PM/publicationS.shtm>
24. Florida Department of Transportation Pavement Type Selection Manual  
<http://www.fdot.gov/roadway/PM/publicationS.shtm>
25. Florida Department of Transportation Right of Way Manual  
<http://www.fdot.gov/rightofway/Documents.shtm>
26. Florida Department of Transportation Traffic Engineering Manual  
<http://www.fdot.gov/traffic/TrafficServices/Studies/TEM/tem.shtm>
27. Florida Department of Transportation Intelligent Transportation System Guide Book  
[http://www.fdot.gov/traffic/Doc\\_Library/Doc\\_Library.shtm](http://www.fdot.gov/traffic/Doc_Library/Doc_Library.shtm)
28. Federal Highway Administration Checklist and Guidelines for Review of Geotechnical Reports and Preliminary Plans and Specifications  
<http://www.fhwa.dot.gov/engineering/geotech/pubs/reviewguide/checklist.cfm>
29. AASHTO Guide for the Development of Bicycle Facilities  
[https://bookstore.transportation.org/collection\\_detail.aspx?ID=116](https://bookstore.transportation.org/collection_detail.aspx?ID=116)
30. Federal Highway Administration Hydraulic Engineering Circular Number 18 (HEC 18).  
[http://www.fhwa.dot.gov/engineering/hydraulics/library\\_arc.cfm?pub\\_number=17](http://www.fhwa.dot.gov/engineering/hydraulics/library_arc.cfm?pub_number=17)
31. Florida Department of Transportation Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways  
<http://www.fdot.gov/roadway/FloridaGreenbook/FGB.shtm>
32. Florida Department of Transportation Project Development and Environment Manual, Parts 1 and 2  
<http://www.fdot.gov/environment/pubs/pdeman/pdeman1.shtm>
33. Florida Department of Transportation Driveway Information Guide  
<http://www.fdot.gov/planning/systems/programs/sm/accman/pdfs/driveway2008.pdf>
34. AASHTO Highway Safety Manual  
<http://www.highwaysafetymanual.org/>

35. Florida Statutes  
<http://www.leg.state.fl.us/Statutes/index.cfm?Mode=View%20Statutes&SubMenu=1&Tab=statutes&CFID=14677574&CFTOKEN=80981948>
36. Florida Department of Transportation Equal Opportunity Construction Contract Compliance Manual  
<http://www.fdot.gov/equalopportunity/contractcomplianceworkbook.shtm>

## **B. Innovative Aspects:**

All innovative aspects shall be identified separately as such in the Technical Proposal. An innovative aspect does not include revisions to specifications, standards or established Department policies. Innovation should be limited to Design-Build Firm's means and methods, roadway alignments, approach to Project, etc.

### **1. Alternative Technical Concept (ATC) Proposals**

The Department has chosen to incorporate in the Design-Build method of project delivery the process whereby Design-Build Firms may propose innovative technical solutions for the Department's approval which meet or exceed the goals of the project. The process involves the submission of an Alternative Technical Concept (ATC) as outlined below. This process has shown to be very cost effective in providing the best-value solution which often times is a result of the collaborative approach of the contractor and their designer which is made possible with the Design Build project delivery method and the ATC process.

The ATC process allows innovation, flexibility, time and cost savings on the design and construction of Design-Build Projects while providing the best value for the public. Any deviation from the RFP that the Design-Build Firm seeks to obtain approval to utilize prior to Technical Proposal submission is, by definition, an ATC and therefore must be discussed and submitted to the Department for consideration through the ATC process. ATCs also include items defined in FDM, Part 1, Chapter 121.3.2. The proposed ATC shall provide an approach that is equal to or better than the requirements of the RFP, as determined by the Department. ATC Proposals which reduce scope, quality, performance, or reliability should not be proposed. A proposed concept does not meet the definition of an ATC if the concept is contemplated by the RFP.

The Department will keep all ATC submissions confidential prior to the Final Selection of the Proposer to the fullest extent allowed by law, with few exceptions. Although the Department will issue an addendum for all ATC Proposals contained in the list below, the Department will endeavor to maintain confidentiality of the Design-Build Firms specific ATC proposal. Prior to approving ATC's which would result in the issuance of an Addendum as a result of the item being listed below, the Design-Build Firm will be given the option to withdraw previously submitted ATC proposals. Any approved ATC Proposal related to following requirements described by this RFP shall result in the issuance of an Addendum to the RFP:

- New Design Exceptions
- Changes to the minimum pavement design requirements
- Median opening access management modifications
- Significant changes in scope as determined by the Department.

The following requirements described by this RFP may be modified by the Design-Build Firm provided they are presented in the One-on-One ATC discussion meeting, as defined below, and submitted to the

Department for review and approval through the ATC process described herein. The Department may deem a Proposal Non-Responsive should the Design-Build Firm include but fail to present and obtain Department approval of the proposed alternates through the ATC process. Department approval of an ATC proposal that is related to the items listed below will NOT result in the issuance of an Addendum to the RFP.

- Any RFP requirement other than the items included in the previous paragraph's bulleted list

## **2. One-on-One ATC Proposal Discussion Meetings**

One-on-One ATC discussion meetings may be held in order for the Design-Build Firm to describe proposed changes to supplied basic configurations, Project scope, design criteria, and/or construction criteria. Each Design-Build Firm with proposed changes may request a One-on-One ATC discussion meeting to describe the proposed changes. The Design-Build Firm shall provide, by the deadline shown in the Schedule of Events of this RFP, a preliminary list of ATC proposals to be reviewed and discussed during the One-on-One ATC discussion meetings. This list may not be inclusive of all ATC's to be discussed but it should be sufficiently comprehensive to allow the Department to identify appropriate personnel to participate in the One-on-One ATC discussion meetings.

The purpose of the One-on-One ATC discussion meeting is to discuss the ATC proposals, answer questions that the Department may have related to the ATC proposal, review other relevant information and when possible establish whether the proposal meets the definition of an ATC thereby requiring the submittal of a formal ATC submittal. The meeting should be between representatives of the Design-Build Firm and/or the Design-Build Engineer of Record and Department as needed to provide feedback on the ATC proposal. FHWA should be invited to ATC meetings for all PoDI projects. Immediately prior to the conclusion of the One-on-One ATC discussion meeting, the Department will advise the Design-Build Firm as to the following related to the ATC proposals which were discussed:

- The Proposal meets the criteria established herein as a qualifying ATC Proposal; therefore, an ATC Proposal submission IS required, or
- The Proposal does not meet the criteria established herein as a qualifying ATC proposal since the Proposal is already allowed or contemplated by the original RFP; therefore, an ATC Proposal submission is NOT required.

The Department will return all handouts back to the Design-Build Firm except one copy to remain in the secure procurement file.

## **3. Submittal of ATC Proposals**

All ATC submittals must be in writing and may be submitted at any time following the Shortlist Posting but shall be discussed and submitted prior to the deadline shown in the Schedule of Events of this RFP.

All ATC submittals are required to be on 8½" x 11" paper, or plan sheets or on roll plots no wider than 36" and shall be sequentially numbered and include the following information and discussions:

- a) Description: A description and conceptual drawings of the configuration of the ATC or other appropriate descriptive information, including, if appropriate, product details and a traffic operational analysis as applicable;
- b) Usage: The locations where and an explanation of how the ATC would be used on the Project;

- c) Deviations: References to requirements of the RFP which are inconsistent with the proposed ATC, an explanation of the nature of the deviations from the requirements and a request for approval of such deviations along with suggested changes to the requirements of the RFP which would allow the alternative proposal;
- d) Analysis: An analysis justifying use of the ATC and why the deviation, if any, from the requirements of the RFP should be allowed;
- e) Impacts: A preliminary analysis of potential impacts on vehicular traffic (during construction), environmental impacts, community impacts, safety, and life-cycle Project and infrastructure costs, including impacts on the cost of repair, maintenance, and operation;
- f) Risks: A description of added risks to the Department or third parties associated with implementation of the ATC;
- g) Quality: A description of how the ATC is equal or better in quality and performance than the requirements of the RFP including the traffic operational analysis if requested by the Department;
- h) Operations: Any changes in operation requirements associated with the ATC, including ease of operations;
- i) Maintenance: Any changes in maintenance requirements associated with the ATC, including ease of maintenance;
- j) Anticipated Life: Any changes in the anticipated life of the item comprising the ATC;

#### **4. Review and Approval of ATC Submittals**

After receipt of the ATC submittal, the District Design Engineer (DDE), or designee, will communicate with the appropriate staff (i.e. District Structures Design Engineer, District Construction Engineer, District Maintenance Engineer, State Structures Design Engineer, State Roadway Design Engineer, FHWA, as applicable) as necessary, and respond to the Design-Build Firm in writing within 14 calendar days of receipt of the ATC submittal as to whether the ATC is acceptable, not acceptable, or requires additional information. If the DDE, or designee, determines that more information is required for the review of an ATC, questions should be prepared by the DDE, or designee, to request and receive responses from the Design-Build Firm. The review should be completed within 14 calendar days of the receipt of the ATC submittal. If the review will require additional time, the Design-Build Firm should be notified in advance of the 14-day deadline with an estimated timeframe for completion.

Approved Design Exceptions required as part of an approved ATC submittal will result in the issuance of an addendum to the RFP notifying all Design-Build Firms signed in at the mandatory Pre-Proposal Meeting of the approved Design Exception(s). Such a change will be approved by FHWA, as applicable. Prior to approving ATC's which would result in the issuance of an Addendum as a result of a Design Exception, the Design-Build Firm will be given the option to withdraw previously submitted ATC Proposals.

The Department reserves the right to disclose to all Design-Build Firms, via an Addendum to the RFP, any errors of the RFP that are identified during the One-on-One ATC meetings, except to the extent that the Department determines, in its sole discretion, such disclosure would reveal confidential or proprietary information of the ATC.

Through the ATC process, the Design-Build Firm may submit, and the Department may consider, geometric modifications to the Concept Plans or other contract requirements that will provide an engineering solution that is better overall in terms of traffic flow and reduced congestion. The approval of ATCs related to improvements of traffic flow and reduced congestion is at the sole discretion of the Department. It is the Design-Build Firm's responsibility to clearly establish in the ATC process how the engineering solution provides a benefit to the Department and identify areas of conflict outlined in the RFP.

ATC's are accepted by the Department at the Department's discretion and the Department reserves the right to reject any ATC submitted. The Department reserves the right to issue an Addendum to the RFP based upon a previously denied ATC Proposal, without regard to the confidentiality of the denied ATC Proposal. All Department approvals of ATC submissions are based upon the known impacts on the Project at the time of submission. The Department reserves the right to require a modification or amendment to a previously approved ATC as a result of a contract change which is issued by an addendum subsequent to the Department's initial approval of the ATC.

### **5. Incorporation of Approved ATC's into the Technical Proposal**

The Design-Build Firm will have the option to include any Department Approved ATC's in the Technical Proposal. The Proposal Price should reflect any incorporated ATC's. All approved ATC's that are incorporated into the Technical Proposal must be clearly identified in the Technical Proposal.

#### **C. Geotechnical Services:**

##### **1. General Conditions:**

The Design-Build Firm shall be responsible for identifying and performing any geotechnical investigation, analysis and design of roadways, foundations, foundation construction, foundation load and integrity testing, and inspection dictated by the Project needs in accordance with Department guidelines, procedures and specifications. All geotechnical work necessary shall be performed in accordance with the Governing Regulations. The Design-Build Firm shall be solely responsible for all geotechnical aspects of the Project.

#### **D. Department Commitments:**

The Design-Build Firm will be responsible for adhering to the project commitments identified below:

1. All right-of-way commitments, agreements and stipulated final judgements.
2. Median opening locations
3. All environmental commitments.

#### **E. Environmental Permits:**

The Design-Build Firm shall be responsible for obtaining all applicable permits for this project.

All applicable data shall be prepared in accordance with Chapter 373 and 403, Florida Statutes, Chapters 40 and 62, F.A.C.; Rivers and Harbors Act of 1899, Section 404 of the Clean Water Act, 23 CFR 771, 23 CFR 636, and parts 114 and 115, Title 33, Code of Federal Regulations. Preparation of all documentation related to the acquisition of all applicable permits will be the responsibility of the Design-Build Firm. Preparation of complete permit packages will be the responsibility of the Design-Build Firm. The Design-Build Firm is responsible for the accuracy of all information included in permit application packages. As

the permittee, the Department is responsible for reviewing, approving, and signing, the permit application package including all permit modifications, or subsequent permit applications. This applies whether the Project is Federal or state funded. Once the Department has approved the permit application, the Design-Build Firm is responsible for submitting the permit application to the environmental permitting agency. A copy (electronic and hard copy) of any and all correspondence with any of the environmental permitting agencies shall be sent to the District Environmental Permits Office. If any agency rejects or denies the permit application, it is the Design-Build Firm's responsibility to make whatever changes necessary to ensure the permit application is approved. The Design-Build Firm shall be responsible for any necessary permit extensions or re-permitting in order to keep the environmental permits valid throughout the construction period. The Design-Build Firm shall provide the Department with draft copies of any and all permit applications, including responses to agency Requests for Additional Information, requests to modify the permits and/or requests for permit extensions, for review and approval by the Department prior to submittal to the agencies.

The Design-Build Firm will be required to pay all permit and public notice fees. Any fines levied by permitting agencies shall be the responsibility of the Design-Build Firm. The Design-Build Firm shall be responsible for complying with all permit conditions. The Design-Build Firm will be required to file any public notices required by the permits, in a publication selected by the Department, and will be responsible for payment of all fees associated with the filing the public notice.

The Department is responsible for providing mitigation of all wetland impacts identified in the conceptual plans, if any exist. If any design modifications the Design-Build Firm propose ~~to~~ increase the amount of wetland impacts, the Design-Build Firm shall be responsible for providing the Department information on the amount and type of wetland impacts as soon as the impacts are identified (including temporary impacts and/or any anticipated impacts due to construction staging or construction methods). Prior to submitting a permit modification to a regulatory agency, the Design-Build Firm shall provide the Department a draft of all supporting information. The Department will have up to 15 calendar days (excluding weekends and Department observed holidays) to review and comment on the draft permit application package. The Design-Build Firm will address all comments by the Department and obtain Department approval, prior to submittal of the draft permit application package. The Design-Build Firm shall be solely responsible for all time and costs associated with providing the required information to the Department, as well as the time required by the Department to perform its review of the permit application package, prior to submittal of the permit application(s) by the Design-Build Firm to the regulatory agencies.

Any additional mitigation required due to design modifications proposed by the Design-Build Firm shall be the responsibility of the Design-Build Firm and shall be satisfied through the purchase of mitigation bank credits. The Design-Build Firm shall purchase credits directly from a permitted mitigation bank. In the event that permitted mitigation credits are unavailable or insufficient to meet the project needs, the Design-Build Firm will be responsible for providing alternative mitigation consistent with the provisions of section 373.4137, Florida Statutes, and acceptable to the permitting agencies. The Design-Build Firm shall be solely responsible for all costs associated with permitting activities and shall include all necessary permitting activities in their schedule.

However, notwithstanding anything above to the contrary, upon the Design-Build Firm's preliminary request for extension of Contract Time, pursuant to 8-7.3, being made directly to the District Construction Engineer, the Department reserves unto the District Construction Engineer, in their sole and absolute discretion, according to the parameters set forth below, the authority to make a determination to grant a non-compensable time extension for any impacts beyond the reasonable control of the Design-Build Firm in securing permits. Furthermore, as to any such impact, no modification provision will be considered by the District Construction Engineer unless the Design-Build Firm clearly establishes that it has continuously

from the beginning of the Project aggressively, efficiently and effectively pursued the securing of the permits including the utilization of any and all reasonably available means and methods to overcome all impacts. There shall be no right of any kind on behalf of the Design-Build Firm to challenge or otherwise seek review or appeal in any forum of any determination made by the District Construction Engineer under this provision.

**F. Railroad Coordination – N/A**

**G. Survey**

If the Design-Build Firm chooses to utilize the existing survey, the Design-Build Firm shall be responsible for verifying the accuracy of the information being provided and for providing all other surveys necessary for the Project.

The Design-Build Firm shall perform all surveying (Terrestrial, Mobile and/or Aerial) and mapping services necessary to complete the Project. Survey services must also comply with all pertinent Florida Statutes (Chapters 177 and 472, F.S.) and applicable rules in the Florida Administrative Code (Rule Chapter 5J-17, F.A.C.). All field survey data will be furnished to the District Surveyor in a Department approved digital format, readily available for input and use in CADD Design files. All surveying and mapping work must be accomplished in accordance with the Department's Surveying and Mapping Procedure, Topic Nos. 550-030-101, and the Surveying and Mapping Handbook.

**H. Verification of Existing Conditions:**

The Design-Build Firm shall be responsible for verification of existing conditions, including research of all existing Department records and other information.

By execution of the contract, the Design-Build Firm specifically acknowledges and agrees that the Design-Build Firm is contracting and being compensated for performing adequate investigations of existing site conditions sufficient to support the design developed by the Design-Build Firm and that any information is being provided merely to assist the Design-Build Firm in completing adequate site investigations. Notwithstanding any other provision in the contract documents to the contrary, no additional compensation will be paid in the event of any inaccuracies in the preliminary information.

**I. Submittals:**

**1. Component Submittals:**

The Design-Build Firm may submit components of the contract plans set instead of submitting the entire contract plan set; however, sufficient information from other components must be provided to allow for a complete review. In accordance with the FDOT Design Manual, components of the contract plans set are roadway, signing and pavement marking, signalization, ITS, lighting, landscape, architectural, structural, and toll facilities. The Department will designate in the review comments if the next submittal will be a resubmittal of the 90% phase submittal or if the plans and supporting calculations are significantly developed to proceed to the Final Submittal.

The Design-Build Firm may divide the Project into separate areas and submit components for each area; however, sufficient information on adjoining areas must be provided to allow for a complete review.

## 2. Phase Submittals:

The Design-Build Firm shall provide the documents for each phase submittal listed below to the Department's Project Manager. The particular phase shall be clearly indicated on the documents. The Department's Project Manager will send the documents to the appropriate office for review and comment. Once all comments requiring a response from the Design-Build Firm have been satisfactorily resolved as determined by the Department, the Department's Project Manager will initial, date and stamp the signed and sealed plans and specifications as "Released for Construction".

One (1) month prior to the 90% submittal listed below, the Design-Build Firm will be required to prepare and submit to the Department for review phase submittal notification draft email for distribution to Local Governments to obtain comments from the respective entity. The Design-Build Firm may obtain an example of a sample distribution email from the Department's Project Manager. The Design-Build Firm will provide a list of proposed recipients, such as City and/or County Commissioners, TPO, appropriate public officials, etc., and submit this list to the District Public Information Office for review and approval prior to submitting the draft email for distribution by the Department. Along with the draft email, a PDF of the plans (without structures included) shall be provided for distribution. Exempt structural information shall not be distributed. A sample distribution list can be obtained from the Department's Project Manager.

The draft email distribution shall include the following information:

- FPID Number
- State Road Number and Local Road Name
- Project limits
- Type of work
- Anticipated construction start date
- Estimated duration of construction
- Department contact persons
- A fourteen (14) calendar day deadline for providing comments

Each comment or request provided by the local government or entity reviewing the submittal shall be evaluated by the Design-Build Firm and discussed with the Department's Project Manager. Responses will be prepared by the Design-Build Firm for the District Secretary (i.e. for elected officials) or District Consultant Project Management Engineer's signature. All comments or requests shall be responded to in writing within thirty (30) days of receipt of comments.

The Design-Build Firm shall pay postage for these notifications or comment responses as necessary. They will also be responsible for the mail-out effort.

### **90% Phase Submittal**

- 2 copies of 11" X 17" plans (all required components)
- 2 signed and sealed geotechnical report
- 1 copy of Settlement and Vibration Monitoring Plan (SVMP) for Department acceptance and update throughout the construction period
- 1 copy of design documentation
- 1 copy of Technical Special Provisions, if applicable
- 2 copies of Landscape Opportunity Plans
- 1 copy of Concept of Operations (ITS)
- 1 copy of Project System Engineering Management Plan (ITS)
- 1 copy of Requirement Traceability Verification Matrix (ITS)



1 copy existing Signalization and Intelligent Transportation System equipment report  
1 copy of each completed Structural Number Request Form  
All of the information above shall also be submitted electronically in .pdf format. All QC plans and documentation for each component submittal shall be electronic in .pdf format

The Department will designate in the review comments if the next submittal will be a resubmittal of the 90% phase submittal or if the plans and supporting calculations are significantly developed to proceed to the Final Submittal. If the Department requires more than 2 resubmittals a submittal workshop between the Department and the Design-Build Firm must be held to resolve any outstanding issues or comments.

### **Final Submittal**

1 set of signed and sealed 11" X 17" plans (all required documents)  
1 set of signed and sealed Landscape Opportunity Plans  
1 signed and sealed Construction Specifications Package  
1 signed and sealed Technical Special Provisions, as applicable  
1 set of signed and sealed design documentation  
1 copy of Settlement and Vibration Monitoring Plan (SVMP)  
1 copy of Concept of Operations (ITS)  
1 copy of Project System Engineering Management Plan (ITS)  
1 copy of Requirement Traceability Verification Matrix (ITS)  
1 copy existing Signalization and Intelligent Transportation System equipment report  
All of the information above shall also be submitted electronically in .pdf format.  
All QC plans and documentation for each component submittal shall be electronic in .pdf format

The Design-Build Firm shall provide a list of all changes made to the plans or specifications that were not directly related to the 90% plans review comments. Significant changes (as determined by the Department) made as a part of the Final submittal, that were not reviewed or provided in response to the 90% submittal comments, may require an additional review phase prior to stamping the plans or specifications "Released for Construction." The Design-Build Firm shall provide a signed certification that all Electronic Review Comments (ERC) have been resolved to the Department's satisfaction as a requirement before obtaining "Released for Construction" plans.

**All signed and sealed documents will be signed and sealed by hand (not electronically).**

### **3. Requirements to Begin Construction:**

The Department's indication that the signed and sealed plans and specifications are "Released for Construction" authorizes the Design Build Firm to proceed with construction based on the contract plans and specifications. The Department's review of submittals and subsequent Release for Construction is to assure that the Design-Build Firm's EOR has approved and signed the submittal, the submittal has been independently reviewed and is in general conformance with the contract documents. The Department's review is not meant to be a complete and detailed review. No failure by the Department in discovering details in the submittal that are released for construction and subsequently found not to be in compliance

with the requirements of the contract shall constitute a basis for the Design-Build Firm's entitlement to additional monetary compensation, time, or other adjustments to the contract. The Design-Build Firm shall cause the Engineer of Record to resolve the items not in compliance with the contract, errors or omissions at no additional cost to the Department and all revisions are subject to the Department's approval. The Design-Build Firm shall correct any constructed element that is not in compliance with the contract at no additional cost to the Department.

Design-Build Firm may choose to begin construction prior to completion of the Phase Submittals and the Department stamping the plans and specifications Released for Construction. To begin construction the Design-Build Firm shall submit signed and sealed plans for the specific activity; submit a signed and sealed Construction Specifications Package or Supplemental Specifications Package; obtain regulatory permits as required for the specific activity; obtain utility agreements and permits, if applicable; and provide five (5) days notice before starting the specific activity. The plans to begin construction may be in any format including report with details, 8 1/2" X 11" sheets, or 11" X 17" sheets, and only the information needed by the Design-Build Firm to construct the specific activity needs to be shown. Beginning construction prior to the Department stamping the plans and specifications Released for Construction does not reduce or eliminate the Phase Submittal requirements.

#### **As-Built Set:**

The Design-Build Firm's Professional Engineer in responsible charge of the Project's design shall professionally endorse (sign, seal, and certify) the As-Built Plans, the special provisions and all reference and support documents. The professional endorsement shall be performed in accordance with the FDOT Design Manual.

Design-Build Firm shall complete the As-Built Plans as the Project is being constructed. All changes made subsequent to the "Released for Construction" Plans shall be signed/sealed by the EOR. The As-Built Plans shall reflect all changes initiated by the Design-Build Firm or the Department in the form of revisions. The As-Built Plans shall be submitted prior to Project completion for Department review and acceptance as a condition precedent to the Department's issuance of Final Acceptance.

The Department shall review, certify, and accept the As-Built Plans prior to issuing Final Acceptance of the project in order to complete the As-Built Plans.

As-Built Plans shall include Global Positioning System (GPS) data utilizing the criteria set forth in the ITS Facility Management (ITSFM) Implementation Guidelines and Minimum Requirements provided as an Attachment to this RFP. The Design-Build Firm shall be responsible for providing data as necessary for populating ITSFM based on the Implementation Guidelines and Minimum Requirements with all new and existing equipment that the ITS and traffic elements interacts with. This will include, but not be limited to; all new conduit runs, pull boxes, cabinets, field equipment, ADMS, networking devices, wireless sensors, cellular devices, CCTV, MVDS, cabinet equipment and others. Attached with this RFP is the ITSFM Implementation Guidelines and Minimum Requirements describing the procedures and amount of detail required to efficiently and accurately complete this task.

The Department shall accept the As-Built Plans and related documents when in compliance with Design Build Division I Specification 7-2.3, As-Built Drawings and Certified Surveys, and the As-Built Requirements.

The Design-Build Firm shall furnish to the Department, upon Project completion, the following:

- 1 set of 11" X 17" signed and sealed As-Built plans, drawings and Certified Surveys (including Landscape Opportunity Plans)
- 1 set of 11 "X 17" copy of the signed and sealed As-Built plans, drawings and Certified Surveys
- 1 set of final documentation (if different from final component submittal)
- 1 set of survey information, including electronic files and field books
- CADD Files
- ITSFM import templates, ITSFM master code lists applicable to this project.
- Provide all project data necessary to populate the District ITSFM database.
- 1 Final Project DVD submittal containing the information above shall be electronic in .pdf format

**4. Milestones:**

Component submittals, in addition to the plan submittals listed in the previous section will be required. In addition to various submittals mentioned throughout this document the following milestone submittals will be required.

- Typical Section package
- Utility Clearance Certification
- Permit applications for Department review
- Responses to Request for Additional Information's (RAIs) from permitting agencies for Department review
- Approved permits package
- Pavement Design Package, if different than the minimum pavement design included as an Attachment to the RFP
- Information necessary to complete any NEPA Reevaluations

**J. Contract Duration:**

The Department has established a **Contract Duration of 1385 calendar days** for the subject Project. Due to the magnitude of utility relocations anticipated for the project, 365 days for utility relocations have been allocated in the contract duration listed above that would cause reduced productivity for construction activities. The Design-Build Firm shall schedule the Project appropriately to include the work included in this contract along with utility owners relocating their facilities for the Project.

**K. Project Schedule:**

The Design-Build Firm shall submit a Schedule, in accordance with Subarticle 8-3.2 (Design-Build Division I Specifications). The Design-Build Firm's Schedule shall allow for up to fifteen (15) calendar days (excluding weekends and Department observed Holidays) review time for the Department's review of all submittals.

The Department will perform the review of Foundation Construction submittals in accordance with Section 455.

The following Special Events have been identified in accordance with Specification 8-6.4:

- Blue Angel Air Show in July
- Double Bridge Run in July

- Bands on the Beach from April to October (Tuesday evenings)

The minimum number of activities included in the Schedule shall be those listed in the Schedule of Values and those listed below:

- Anticipated Contract Execution Date
- Anticipated Notice to Proceed Date
- Design Submittals
- Shop Drawing Submittals
- Other Contractor-Initiated Submittals including RFM's, RFC's, and NCR's
- Design Survey
- Submittal Reviews by the Department
- Design Review / Acceptance Milestones
- Materials Quality Tracking
- Geotechnical Investigation
- Start of Construction
- Clearing and Grubbing
- Construction Mobilization
- Embankment/Excavation
- Environmental Permit Acquisition
- Walls Design
- Walls Construction
- Roadway Design
- Roadway Construction
- Signing and Pavement Marking Design
- Signing and Pavement Marking Construction
- Signalization and Intelligent Transportation System Design
- Signalization and Intelligent Transportation System Construction
- Lighting Design
- Lighting Construction
- Maintenance of Traffic Design
- Landscape Opportunity Plans
- Permit Submittals
- Maintenance of Traffic Set-Up (per duration)
- Erosion Control
- Holidays and Special Events (shown as non-work days)
- Maintenance of Communication (MOC) Plan
- Existing Signalization and Intelligent Transportation System equipment report
- Equipment Testing and Commissioning; System Testing, Standalone
- Equipment Testing and Commissioning; System Testing, Network Communication
- Equipment Testing and Commissioning; System Testing, Central Test End-User
- Equipment Submittals (Prior to Start of Construction)
- Test Plan Submittal to FDOT
- Field Device Deployment
- System Integration (District Coordination, County Coordination, Meetings, Field Work, Acceptance)
- As-Built Plan Preparation and Submittal
- RTVM Updates

- Additional Construction Milestones as determined by the Design-Build Firm
- Final Completion Date for All Work

**L. Key Personnel/Staffing:**

The Design-Build Firm's work shall be performed and directed by key personnel identified in the Technical Proposal by the Design-Build Firm. In the event a change in key personnel is requested, the Design-Build Firm shall submit the qualifications of the proposed key personnel and include the reason for the proposed change. Any changes in the indicated personnel shall be subject to review and approval by the District Construction Engineer. The Department shall have sole discretion in determining whether or not the proposed substitutions in key personnel are comparable to the key personnel identified in the Technical Proposal. The Design-Build Firm shall have available professional staff meeting the minimum training and experience set forth in Florida Statute Chapter 455.

**M. Partner/Teaming Arrangement:**

Partner/Teaming Arrangements of the Design-Build Firm (i.e., Prime Contractor or Lead Design Firm) cannot be changed after submittal of the Technical Proposal without written consent of the Department. In the event a change in the Partner/Teaming Arrangement is requested, the Design-Build Firm shall submit the reason for the proposed change. Any changes in the Partner/Teaming Arrangement shall be subject to review and approval by the Department's Chief Engineer. The Department shall have sole discretion in determining whether or not the proposed substitutions in Partner/Teaming Arrangements are comparable to the Partner/Teaming Arrangements identified in the Technical Proposal.

**N. Meetings and Progress Reporting:**

The Design-Build Firm shall anticipate periodic meetings with Department personnel and other agencies as required for resolution of design and/or construction issues. These meetings may include:

- Department technical issue resolution
- Local government agency coordination
- Maintenance of Traffic Workshop
- Pavement Design Meeting, as appropriate
- Permit agency coordination
- Scoping Meetings
- System Integration Meetings
- Post Submittal Design Review Meetings

During design, the Design-Build Firm shall meet with the Department's Project Manager on a biweekly basis at a minimum and provide a biweekly look ahead of the activities to be completed during the upcoming month.

During construction, the Design-Build Firm shall meet with the Department's Project Manager on a weekly basis and provide a one-week look ahead for activities to be performed during the coming week.

The Design-Build Firm shall meet with the Department's Project Manager at least thirty (30) calendar days before beginning system integration activities. The purpose of these meetings shall be to verify the Design-Build Firm's ITS and signalization integration plans by reviewing site survey information, proposed splicing diagrams, IP addressing schemes, troubleshooting issues, and other design issues. In addition, at these meetings the Design-Build Firm shall identify any concerns regarding the Integration and provide

detailed information on how such concerns will be addressed and/or minimized.

The Design-Build Firm shall provide all documentation required to support system integration meetings, including detailed functional narrative text, system and subsystem drawings and schematics. Also included shall be the documentation to demonstrate all elements of the proposed design which includes, but is not limited to: technical, functional, and operational requirements; ITS/communications; equipment; termination/patch panels; performance criteria; and details relating to interfaces to other ITS subsystems. If, for any reason, planned network or signal operation outages are to occur, the Design-Build Firm shall submit to the Department for approval a Maintenance of Communication (MOC) Plan in advance of the planned network or signal operation outage detailing work to be performed and a strategy for minimizing the outage.

All action items resulting from the System Integration Meeting shall be satisfactorily addressed by the Design-Build Firm and reviewed and approved by the Department.

The Design-Build Firm shall, on a monthly basis, provide written progress reports that describe the items of concern and the work performed on each task.

**O. Public Involvement:**

**1. General:**

Public involvement is an important aspect of the Project. Public involvement includes communicating to all interested persons, groups, and government organizations information regarding the development of the Project. The Department, or its designated representative, will serve as the Public Involvement Consultant (PIC) to carry out an exhaustive Public Involvement Campaign and a marketing effort. The Design-Build Firm will assist the Department in the Public Involvement effort as described below.

The Design-Build Firm shall provide weekly advance MOT changes for roadways to the Department's Project Manager no later than noon each Thursday. For the upcoming week (Sunday through Saturday) which will be used to notify the public of impacts.

**2. Community Awareness:**

The Design-Build Firm will review and comment on a Community Awareness Program if requested by the Department.

**3. Public Meetings:**

The Design-Build Firm shall provide all supporting materials necessary for various public meetings, which may include:

- Kick-off or introductory meeting
- Metropolitan Planning Organization (MPO) Citizens Advisory Committee Meetings
- MPO Transportation Technical Committee Meetings
- MPO Meetings
- Public Information Meetings
- Elected and appointed officials
- Special interest groups (private groups, homeowners' associations, environmental groups, minority groups and individuals)

- Open Houses
- Virtual Public Hearings

The Design-Build Firm shall include attendance at two meetings per month for the term of the contract to support the public involvement program. The Department anticipates having one Construction Public Meeting for the Project.

For any of the above type meetings, the Design-Build Firm shall provide all technical assistance, data and information, display boards, printed material, video graphics, computerized graphics, etc., and information necessary for the day-to-day exchange of information with the public, all agencies and elected officials in order to keep them informed as to the progress and impacts that the proposed Project will create. This includes workshops, information meetings, open houses, and public hearings. The Design-Build Firm shall provide display boards using aerials for the Construction Public Meeting to the same level of quality or better than the Graphics for access management changes included in this RFP. The Design-Build Firm shall provide information for the various public meetings at a minimum one (1) month prior to the meeting for Department review and approval.

The Design-Build Firm shall, as determined by the Department, attend the meetings with an appropriate number of personnel to assist the CEI/Department. The Design-Build Firm shall forward all requests for group meetings to the CEI/Department. The Design-Build Firm shall inform the CEI/Department of any meetings with individuals that occur without prior notice.

#### **4. Public Workshops, Information Meetings:**

The Design-Build Firm shall provide all the support services listed in No. 3 above.

All legal/display advertisements announcing workshops, information meetings, and public meetings will be prepared and paid for by the Department.

The Department will be responsible for the legal/display advertisements for public meetings. The Department will be responsible for preparing and mailing (includes postage) for all letters announcing the associated workshops and information meetings.

#### **5. Public Involvement Data:**

The Design-Build Firm is responsible for the following:

- Coordinating with the Department.
- Identifying possible permit and review agencies and providing names and contact information for these agencies to the Department.
- Providing required expertise (staff members) to assist the Department on an as-needed basis.
- Preparing color graphic renderings and/or computer-generated graphics to depict the proposed improvements for coordination with the Department, local governments, and other agencies.
- Providing information to the Department to keep the Department website or social media platforms up to date.

The Design-Build Firm shall provide records of all public correspondence, written or verbal, to the

Department throughout the life of the Project.

The Design-Build Firm may be asked by the CEI/Department to prepare draft responses to any public inquiries as a result of the public involvement process.

**P. Quality Management Plan (QMP):**

**1. Design:**

The Design-Build Firm shall be responsible for the professional quality, technical accuracy and coordination of all surveys, designs, drawings, specifications, geotechnical and other services furnished by the Design-Build Firm under this contract.

The Design-Build Firm shall provide a Design Quality Management Plan, which describes the Quality Control (QC) procedures to be utilized to verify, independently check, and review all design drawings, specifications, and other documentation prepared as a part of the contract. In addition the QMP shall establish a Quality Assurance (QA) program to confirm that the Quality Control procedures are followed. The Design-Build Firm shall describe how the checking and review processes are to be documented to verify that the required procedures were followed. The QMP may be one utilized by the Design-Build Firm, as part of their normal operation or it may be one specifically designed for this Project. The Design-Build Firm shall submit a QMP within fifteen (15) working days following issuance of the written Notice to Proceed. A marked up set of prints from the Quality Control review will be sent in with each review submittal. The responsible Professional Engineers or Professional Surveyor that performed the Quality Control review, as well as the QA manager will sign a statement certifying that the review was conducted.

The Design-Build Firm shall, without additional compensation, correct all errors or deficiencies in the surveys, designs, drawings, specifications and/or other services.

**2. Construction:**

The Design-Build Firm shall be responsible for developing and maintaining a Construction Quality Control Plan in accordance with Section 105 of Standard Specifications which describes their Quality Control procedures to verify, check, and maintain control of key construction processes and materials.

The sampling, testing and reporting of all materials used shall be in compliance with the Sampling, Testing and Reporting Guide (STRG) provided by the Department. The Design-Build Firm will use the Department's database(s) to allow audits of materials used to assure compliance with the STRG. The Department has listed the most commonly used materials and details in the Department's database. When materials being used are not in the Department's database list, the Design-Build Firm shall use appropriate material details from the STRG to report sampling and testing. Refer to the State Materials Office website for instructions on gaining access to the Department's databases: <http://www.fdot.gov/materials/quality/programs/qualitycontrol/contractor.shtm>

Prepare and submit to the Engineer a Job Guide Schedule (JGS) using the Department database in accordance with Section 105 of Standard Specifications.

The Department shall maintain its rights to inspect construction activities and request any documentation from the Design-Build Firm to ensure quality products and services are being provided in accordance with the Department's Materials Acceptance Program.



**Q. Liaison Office:**

The Department and the Design-Build Firm will designate a Liaison Office and a Project Manager who shall be the representative of their respective organizations for the Project.

**R. Engineers Field Office – N/A**

**S. Schedule of Values:**

The Design-Build Firm is responsible for submitting estimates requesting payment. Estimates requesting payment will be based on the completion or percentage of completion of tasks as defined in the schedule of values. Final payment will be made upon final acceptance by the Department of the Design-Build Project. Tracking DBE participation will be required under normal procedures according to the Construction Project Administration Manual. The Design-Build Firm must submit the schedule of values to the Department for approval. No estimates requesting payment shall be submitted prior to Department approval of the schedule of values.

Upon receipt of the estimates requesting payment, the Department's Project Manager will make judgment on whether or not work of sufficient quality and quantity has been accomplished by comparing the reported percent complete against actual work accomplished.

**T. Computer Automation:**

The Project shall be developed utilizing computer automation systems in order to facilitate the development of the contract plans. Various software and operating systems were developed to aid in assuring quality and conformance with Department policies and procedures. The Department supports MicroStation and GEOPAK as its standard graphics and roadway design platform as well as Autodesk's AutoCAD Civil 3D as an alternate platform. Seed Files, Cell Libraries, User Commands, MDL Applications and related programs developed for roadway design and drafting are available in the FDOT CADD Software Suite. Furnish As-Built documents for all building related components of the project in AutoCAD format. It is the responsibility of the Design-Build Firm to obtain and utilize current Department releases of all CADD applications.

The Design-Build Firm will be required to furnish the Project's CADD files after the plans have been Released for Construction. The Design-Build Firm's role and responsibilities are defined in the Department's CADD Manual. The Design-Build Firm will be required to submit final documents and files which shall include complete CADD design and coordinate geometry files in MicroStation and/or AutoCAD design files format.

As part of the As-Built Set deliverables, field conditions shall be incorporated into MicroStation and/or AutoCAD design files. Use the cloud revision utility as well as an "AB" revision triangle to denote field conditions on plan sheets.

**U. Construction Engineering and Inspection:**

The Department is responsible for providing Construction Engineering and Inspection (CEI) and Quality Assurance Engineering.

The Design-Build Firm is subject to the Department's Independent Assurance (IA) Procedures.

**V. Testing:**

The Department or its representative will perform verification and resolution sampling and testing activities at both on site, as well as, off site locations such as pre-stress plants, batch plants, structural steel and weld, fabrication plants, etc. in accordance with the latest Specifications.

**W. Value Added:**

The Design-Build Firm may provide Value Added Project Features, in accordance with Article 5-14 of the Specifications for the following features:

- Roadway features
- Roadway drainage systems,
- Concrete defects
- And any other products or features the Design-Build Firm desires.

The Design-Build Firm shall develop the Value Added criteria, measurable standards, and remedial work plans in the Design-Build Firm's Technical Proposal for features proposed by the Design-Build Firm.

The Design-Build Firm shall provide at a minimum the three (3) year warranty period as defined by Article 338, Value Added Asphalt Pavement, Division II, Standard Specifications. The Design-Build Firm may provide a longer warranty period than the three (3) year minimum.

**X. Adjoining Construction Projects:**

The Design-Build Firm shall be responsible for coordinating all design, permitting, and construction activities with other construction Projects that are impacted by or impact this Project. This includes Projects under the jurisdiction of local governments, the Department, other regional and state agencies, or private entities. Adjoining construction projects include, but are not limited to:

1. FPID 220426-2-22-01 SR 30 (US 98) Multilane reconstruction from Portside Drive to Okaloosa County Line. This project is currently in PD&E.
2. FPID 220426-3-32-01 SR 30 (US 98) Multilane reconstruction from Portside Drive to Bergen Road. This project is scheduled for design in FY 23.

The Design-Build Firm shall consider and include in the Construction Plans and Bid Price Proposal, any and all temporary detours or diversions required to facilitate traffic movements into and out of the project limits; notwithstanding the alignment, lane positioning and/or grade differences of traffic conditions on those adjacent projects.

**Y. Issue Escalation:**

In the event issues arise during prosecution of the work, the resolution of those issues will be processed as described below unless revised by a Project specific Partnering Agreement:

The escalation process begins with the Construction Project Manager. All issues are to be directed to the Construction Project Manager. If the issue cannot be resolved by the Construction Project Manager in

coordination with the Resident Engineer and Design Project Manager as applicable, the Construction Project Manager shall forward the issue to the District Construction Engineer who will coordinate with the District Design Engineer, and the District Utility Administrator, as applicable. Each level shall have a maximum of five (5) calendar days (excluding weekends and Department observed holidays) to answer, resolve, or address the issue. The Design-Build Firm shall provide all supporting documentation relative to the issue being escalated. The five (5) calendar day period (excluding weekends and Department observed holidays) begins when each level in the issue escalation process has received all required supporting documentation necessary to arrive at an informed and complete decision. The five (5) calendar day period (excluding weekends and Department observed holidays) is a response time and does not infer resolution. Questions asked by the Department may be expressed verbally and followed up in writing within one (1) calendar day (excluding weekends and Department observed holidays). Responses provided by the Design-Build Firm may be expressed verbally and followed up in writing within one (1) working day. Once a response is received from the District Construction Engineer, the Construction Project Manager will respond to the Design-Build Firm in a timely manner but not to exceed three (3) calendar days (excluding weekends and Department observed holidays).

The Design-Build Firm shall provide a similar issue escalation process for their organization with personnel of similar levels of responsibility.

Should an impasse develop, the Dispute Review Board shall assist in the resolution of disputes and claims arising out of the work on the Contract.

## **VI. Design and Construction Criteria.**

### **A. General:**

All design and construction work completed under the Contract shall be in accordance with the United States Standard Measures.

### **B. Vibration and Settlement Monitoring:**

The Design-Build Firm shall be responsible for the identification of and coordination with vibration sensitive sites impacted by the Work for the duration of the construction period.

The Design-Build Firm is responsible for evaluating the need for, design of, and the provision of any necessary precautionary features to protect existing structures from damage, including, at a minimum, selecting construction methods and procedures that will prevent damage. The Design-Build Firm shall submit for Department acceptance a Settlement and Vibration Monitoring Plan (SVMP) as part of the 90% plans submittal and update the SVMP throughout the Construction Period. The Design-Build Firm is responsible for establishing maximum settlement and vibration thresholds equivalent to or lower than the Department Specification requirements for all construction activities, including vibratory compaction operations and excavations.

Submittals for Settlement and Vibration Monitoring Plan (SVMP) shall include the following as a minimum:

- Identify any existing structures that will be monitored for vibrations during the construction period.
- Establish the maximum vibration levels for the existing structures that shall not be exceeded.

- Identify any existing structures that will be monitored for settlement during the construction period.
- Establish the maximum settlement levels for the existing structures that must not be exceeded.
- Identify any existing structures that require pre-construction and post-construction surveys.

The Department will perform the review of Vibration and Settlement submittals in accordance with Department Specifications.

### **C. Geotechnical Services:**

#### **Drilled Shaft Foundations for Bridges and Miscellaneous Structures**

The Design-Build Firm shall be responsible for the following:

1. Evaluating geotechnical conditions to determine the drilled shaft diameter and length and construction methods to be used.
2. Performing the subsurface investigation in accordance with the Soils and Foundations Handbook.
3. Preparing and submitting a Drilled Shaft Installation Plan for the Department's acceptance.
4. Determining the production shaft lengths.
5. Constructing all drilled shafts to the required tip elevation and socket requirement in accordance with the plans, specifications, and standard plans.
6. Inspecting and documenting the construction of all drilled shafts in accordance with the specifications.
7. Performing Cross-Hole Sonic Logging (CSL) or Thermal Integrity tests on any shafts for all miscellaneous structures suspected of containing defects.
8. Repairing all detected defects and conducting post repair integrity testing using 3D tomographic imaging and gamma-gamma density logging.
9. Submitting Foundation Certification Packages in accordance with the specifications.
10. Providing safe access, and cooperating with the Department in verification of the drilled shafts, both during construction and after submittal of the certification package.

#### **Spread Footings Foundations, if necessary**

The Design-Build Firm shall be responsible for the following:

1. Evaluating geotechnical conditions and designing the spread footing.
2. Constructing the spread footing to the required footing elevation, at the required soil or rock material, and at the required compaction levels, in accordance with the specifications.
3. Inspecting and documenting the spread footing construction.
4. Submitting Foundation Certification Packages in accordance with the specifications.
5. Providing safe access, and cooperating with the Department in verification of the spread footing, both during construction and after submittal of the certification package.

#### **Auger Cast Piles for Sound Barrier Walls**

The Design-Build Firm shall be responsible for the following:

1. Evaluating geotechnical conditions and designing the foundations, including diameter and lengths.
2. Constructing all auger cast piles to the required tip elevation and socket requirements, in accordance with the specifications.
3. Preparing and submitting an Auger Cast Pile Installation Plan for the Department's acceptance.
4. Inspecting and documenting the auger cast pile installation.
5. Submitting Foundation Certification Packages in accordance with the specifications.
6. Providing safe access, and cooperating with the Department in verification of the auger cast piles, both during construction and after submittal of the certification package.

### **Specialty Geotechnical Services Requirements**

Specialty geotechnical work is any alternative geotechnical work not covered by Department Specifications and requires the development of a Technical Special Provision (TSP). Any TSP for geotechnical work shall include the following:

- Criteria of measurable parameters to be met in order to accept the specialty geotechnical work,
- A field testing and instrumentation program to verify design assumptions and performance,
- A quality control program to be performed by the Design-Build Firm that includes sampling and testing to ensure the material quality, products, and installation procedures meet requirements,
- A verification testing program to be performed by the Geotechnical Foundation Design Engineer of Record (GFDEOR) that includes inspection, sampling, and testing to verify the material, products, and procedures meet requirements. The TSP shall include language providing separate lab samples to be used for the Department's independent verification.
- A certification process

After construction of the specialty geotechnical work, the Design-Build Firm shall submit a certification package for Department's review within 15 business days. The certification package shall include the results of all the field testing, instrumentation and lab testing performed and a signed and sealed letter by the GFDEOR certifying that the specialty geotechnical work meets the requirements. The Department may issue comments and require additional verification testing.

#### **D. Utility Coordination**

The Design-Build Firm shall utilize a single dedicated person responsible for managing all utility coordination. This person shall be contractually referred to as the Utility Coordination Manager and shall be identified in the Design-Build Firm's Proposal. The Design-Build Firm shall notify the Department in writing of any change in the identity of the Utility Coordination Manager (UCM). The Utility Coordination Manager shall have the following knowledge, skills, and abilities:

1. A minimum of 4 years of experience performing utility coordination in accordance with Department standards, policies, and procedures.
2. Knowledge of the Department plans production process and utility coordination practices,
3. Knowledge of Department agreements, standards, policies, and procedures.
4. Ability to physically reach the project site within three (3) hours.

The Design-Build Firm's Utility Coordination Manager shall be responsible for managing all utility coordination, including, but not limited to, the following:

1. Ensuring that all utility coordination and activities are conducted in accordance with the requirements of the Contract Documents.
2. Identifying all existing utilities and coordinating any new installations.
3. Reviewing proposed utility permit application packages and recommending approval/disapproval of each permit application based on the compatibility of the permit as related to the Design-Build Firm's plans.
4. Scheduling and conducting utility meetings, preparing and distributing minutes of all utility meetings, and ensuring expedient follow-up on all unresolved issues. The utility meetings shall be monthly during the design phase, but once construction commences (any element of construction), the meetings shall be held biweekly. Meetings will be required to remain on biweekly status until all conflicts are resolved and utilities are fully relocated.
5. Distributing all plans, conflict matrices and changes to affected Utility Agency/Owners and making sure this information is properly coordinated.
6. Identifying, preparing, reviewing and facilitating any agreement required for any utility work needed through final approval and execution. The UCM shall also be responsible for monitoring and reporting the performance of all involved parties under said agreement.
7. Preparing, reviewing, approving, signing, coordinating the implementation of and submitting to the Department for review, all Utility Agreements. Provide copies to the Department Area Utility Manager.
8. Resolving utility conflicts.
9. Obtaining and maintaining all appropriate "*Sunshine State One Call of Florida*" tickets.
10. Performing Constructability Reviews of plans prior to construction activities with regard to the installation, removal, temporary removal, de-energizing, deactivation, relocation, or adjustment of utilities.
11. Providing periodic Project updates to the Department Project Manager and District Utility Office as requested. Copy the Department Area Utility Manager on all correspondence regarding utilities.
12. Coordination with the Department on any issues that arise concerning reimbursement of utility work costs between the Department and the utility.

The following Utility Agency/Owners (UA/O's) have been identified by the Department as having facilities within the Project corridor for which the Department contemplates an adjustment, protection, or relocation is possible. Also provided below is a determination made by the Department as to the eligibility of reimbursement for each UA/O. The UA/O's will be responsible for any necessary relocations for the project except where a UA/O is specifically identified in this RFP for the Design-Build Firm to perform the design and construction of the UA/O's relocation. The Department will pay and handle all reimbursable agreements outside of the Design-Build contract if the UA/O is deemed eligible for reimbursement. The Design-Build Firm is responsible for all other coordination and agreements indicated in this document with the exception of reimbursable agreements.

**Table A – Summary of Department Contemplated Adjustment, Protection, or Relocation**

<u>UA/O</u>	<u>Utility Relocation Type</u>	<u>Budget</u>	<u>Lump Sum Bid</u>	<u>Eligible for Reimbursement Y/N</u>
AT&T Florida	UA/O performing utility work	N/A	N	N
Cox Southeast	UA/O performing utility work	N/A	N	N
Fairpoint Regional Utilities	UA/O performing utility work	N/A	N	N
Gulf Breeze, City of (Gas)	D-B Performing utility work	\$832,004	Y	N
Gulf Breeze, City of (Water)	D-B Performing utility work	\$227,749	Y	N
Gulf Breeze, City of (Sewer)	D-B Performing utility work	\$875,526	Y	N
Gulf Power (Distribution)	UA/O performing utility work	N/A	N	N
Gulf Power (Transmission)	UA/O performing utility work	N/A	N	Y
Mediacom	UA/O performing utility work	N/A	N	N
Midway Water System	D-B Performing utility work	\$1,144,921	Y	N
Uniti Fiber	UA/O performing utility work	N/A	N	N
Verizon Business (MCI)	UA/O performing utility work	N/A	N	N
FDOT ITS	D-B Performing work	N/A	Y	N

**Table B - Summary of UA/O having facilities within the Proposed Project Limits**

<b>Utility Owners</b>			
<b>Company</b>	<b>Contact Person</b>	<b>Contact Number</b>	<b>Email Address</b>
AT&T Florida	Rob St. Pierre	(850) 436-1701	<a href="mailto:rs634y@att.com">rs634y@att.com</a>
Cox Southeast	Troy Young	(850) 232-5044	<a href="mailto:troy.young@cox.com">troy.young@cox.com</a>

Fairpoint Regional Utilities	Rob Williamson	(850) 939-2427 ext. 229	<a href="mailto:robwilliamson@hnws-fl.com">robwilliamson@hnws-fl.com</a>
	Dale Long	(850) 939-5732 ext. 225	<a href="mailto:dlong@mesi-fl.com">dlong@mesi-fl.com</a>
Gulf Breeze, City of ( <i>Gas</i> )	Thomas Lambert	(850) 934-4094	<a href="mailto:tlambert@gulfbreezefl.gov">tlambert@gulfbreezefl.gov</a>
	Roger Jackson	(850) 934-5130	<a href="mailto:rjackson@gulfbreezefl.gov">rjackson@gulfbreezefl.gov</a>
Gulf Breeze, City of ( <i>Water &amp; Sewer</i> )	Jeremy Norris	(850) 232-4370	<a href="mailto:jnorris@gulfbreezefl.gov">jnorris@gulfbreezefl.gov</a>
Gulf Power Company ( <i>Distribution</i> )	Chad Swails	(850) 429-2446	<a href="mailto:chad.swails@nexteraenergy.com">chad.swails@nexteraenergy.com</a>
Gulf Power Company ( <i>Transmission</i> )	Jason Benton	(850) 444-6374	<a href="mailto:jason.benton@nexteraenergy.com">jason.benton@nexteraenergy.com</a>
Mediacom	Tommy Green	(850) 934-2564	<a href="mailto:tgreen@mediacomcc.com">tgreen@mediacomcc.com</a>
Midway Water Systems	Greg DeLapp	(850) 932-5188	<a href="mailto:gdelapp@midwaywater.com">gdelapp@midwaywater.com</a>
	Mike Bobick	(850) 932-5188	<a href="mailto:mbobick@midwaywater.com">mbobick@midwaywater.com</a>
	Jody Anderson	(850) 932-5188	<a href="mailto:janderson@midwaywater.com">janderson@midwaywater.com</a>
Uniti Fiber ( <i>formerly Southern Light</i> )	Kyle Hill	(850) 544-1400	<a href="mailto:james.hill@uniti.com">james.hill@uniti.com</a>
Verizon Business ( <i>MCI</i> )	Chuck Brunick	(407) 257-6135	<a href="mailto:chuck.brunick@verizon.com">chuck.brunick@verizon.com</a>
FDOT ITS	Mark Nallick	(850) 330-1785	<a href="mailto:mark.nallick@dot.state.fl.us">mark.nallick@dot.state.fl.us</a>

The Design-Build Firm may request the utility to be relocated to accommodate changes from the conceptual plans; however, these relocations require the Department's approval and the Department will not pay the UA/O or the Design-Build Firm for the utility relocation work regardless of the UA/O's eligibility for reimbursement.

For a reimbursable utility relocation where the UA/O desires the work to be done by their contractor, the UA/O will perform the work in accordance with the utility work schedule and permit, and bill the Department directly.

**DEVIATION FROM THE CONCEPTUAL UTILITY RELOCATION PLAN:** If the Design-Build Firm chooses to deviate from the conceptual plans and the scope of the impact to a utility depicted in the Reference Document section of the RFP, and thereby causes a greater impact to a utility, the Design-Build Firm shall be solely responsible for all increased costs incurred by the utility owner associated with the increase in the scope of the impact to a utility from that depicted in the conceptual plans. The Design-Build Firm shall obtain an agreement from the utility owner being impacted which outlines the changes to the scope of the impact to a utility from that depicted in the conceptual plans. The agreement shall also address the Design-Build Firm's obligation to compensate the utility owner for the additional costs above the costs which would have been incurred without the Design Build Firm's increase in the scope of the impact to a utility from that depicted in the conceptual plans. The Design-Build Firm shall also provide a draft utility permit application acceptable to the Department for the placement of the utility owner's facilities based on the final design. The Department shall not compensate or reimburse the Design-Build Firm for any cost created by a change in scope of the impact to a utility from that depicted in the conceptual plan, or be liable for any time delays caused by a change in scope of the impact to a utility from that depicted in the conceptual plans.



The relocation agreements, plans, work schedules and permit application are to be forwarded to the Department for review by the District Utility Office (DUO) and the Department's Project Manager. The DUO and the Department's Project Manager will review the documents. Once reviewed, the utility permit application will be forwarded to the District Maintenance office for the permit to be signed and recorded or submitted through the One Stop (OSP) system.

**E. Roadway Plans:**

**General:**

The Design-Build Firm shall prepare the Roadway Plans Package. This work effort includes the roadway design and drainage analysis needed to prepare a complete set of Roadway Plans, Temporary Traffic Control Plans, Environmental Permits and other necessary documents.

**Design Analysis:**

The Design-Build Firm shall develop and submit a signed and sealed Typical Section Package, Pavement Design Package (if changed from minimum pavement design in this RFP), and design documentation for review and concurrence by the Department and FHWA on Projects of Division Interest (PoDIs).

Any deviation from the Department's design criteria will require a Design Variation and any deviation from AASHTO will require a Design Exception. If a Design-Build Firm requests a Design Variation or Design Exception, it must be discussed prior to the submission of the Proposal. All such Design Variations and Design Exceptions must be approved or disapproved prior to the submission of the Proposal. Design Exceptions will be disclosed to all the Design-Build Firms via an Addendum.

These packages shall include the following:

**F. Roadway Design:**

See FDM Part 3; Chapter 301 for Roadway Design sheets, elements and completion level required for each submittal.

**1. Typical Section Package:**

- Transmittal letter
- Location Map
- Roadway Typical Section(s)
  1. Pavement Description (Includes milling depth)
  2. Minimum lane, shoulder, median widths
  3. Slopes requirements
  4. Barriers
- Right of Way Data Sheet
- Design Speed

**2. Pavement Design Package:**

The recommended pavement design attached to this document is the minimum required pavement design for the contract. The pavement designs detailed in the conceptual plans may NOT be accurate and are

overruled by the recommended pavement designs included in this RFP. If alternate pavement designs are proposed, the following submittal requirements should be provided to the Department for review.

- Pavement Design
  1. Minimum design period
  2. Minimum ESAL's
  3. Minimum design reliability factors
  4. Resilient modulus for existing and proposed widening (show assumptions)
  5. Roadbed resilient modulus
  6. Minimum structural asphalt thickness
  7. Cross slope
  8. Identify the need for modified binder
  9. Pavement coring and evaluation
  10. Identify if ARMI layer is required
  11. Minimum milling depth

### 3. Drainage Analysis:

The Design-Build Firm shall be responsible for designing the drainage and stormwater management systems. All design work shall be in compliance with the Department's Drainage Manual; Florida Administrative Code, chapter 14-86; Federal Aid Policy Guide 23 CFR 650A; and the requirements of the regulatory agencies. This work will include the engineering analysis necessary to design any or all of the following: cross drains, French drains, underdrains, edge drains, roadway ditches, outfall ditches, storm sewers, retention/detention facilities, other drainage systems, temporary drainage design for all MOT phases and elements of systems as required for a complete analysis. Full coordination with all permitting agencies, the District Environmental Management Office and Drainage Design Engineer will be required from the outset. Full documentation of all meetings and decisions are to be submitted to the District Drainage Design Engineer, District Environmental Permits Coordinator and Department's Project Manager. These activities and submittals shall be coordinated through the Department's Project Manager.

The exact number of drainage basins, outfalls and water management facilities (retention/detention areas, weirs, etc.) will be the Design-Build Firm's responsibility. The Department has developed preliminary pond designs as depicted in the conceptual plans. The Design-Build Firm shall complete the design and permitting for any required pond locations and for the full project. The objective is to obtain approved stormwater treatment/attenuation design. The drainage design shall ensure that no adverse impacts occur to adjacent properties as a result of the design. The drainage design detailed in the conceptual plans may be modified by the Design-Build Firm.

Perform design and generate construction plans documenting that the permitted systems function to criteria.

**~~The Design-Build Firm shall verify that all existing cross drains and storm sewers that are to remain have adequate hydraulic capacity and design life. Flood flow requirements will be determined in accordance with the Department's procedures. If any of these existing cross drains or storm sewers are found to be hydraulically inadequate or found to have insufficient design life, they must be replaced or supplemented in accordance with the drainage requirements of this RFP. If any existing cross drains or storm sewers require repairs but otherwise would have sufficient remaining design life, repairs shall be made in accordance with the requirements of this RFP. These requirements also apply to any proposed extensions of existing drainage pipes and structures.~~**

The Design-Build Firm will consider optional culvert materials in accordance with the Department's Drainage Manual Criteria.

Prior to proceeding with the Drainage Design, the Design-Build Firm shall meet with the District Drainage Engineer and District Environmental Permits Coordinator. The purpose of this meeting is to provide information to the Design-Build Firm that will better coordinate the Preliminary and Final Drainage Design efforts. This meeting is Mandatory and is to occur fifteen (15) calendar days (excluding weekends and Department observed holidays) prior to any submittals containing drainage components.

The assumed velocity method will NOT be allowed for crossdrain analysis. The Design-Build Firm shall provide the Department's District Drainage Engineer a signed and sealed Drainage Design Report. It shall be a record set of all drainage computations, both hydrologic and hydraulic. The engineer shall include all necessary support data.

### **G. Geometric Design:**

The Design-Build Firm shall prepare the geometric design for the Project using the Standard Plans and criteria that are most appropriate with proper consideration given to the design traffic volumes, adjacent land use, design consistency, aesthetics, ADA requirements, and this document.

The design elements shall include, but not be limited to, the horizontal and vertical alignments, lane widths, shoulder widths, median widths, cross slopes, borders, sight distance, side slopes, front slopes and ditches. The geometric design developed by the Design-Build Firm shall be an engineering solution that is not merely an adherence to the minimum AASHTO and/or Department standards.

### **H. Design Documentation, Calculations, and Computations:**

The Design-Build Firm shall submit to the Department design documentation, notes, calculations, and computations to document the design conclusions reached during the development of the construction plans.

The design notes and computation sheets shall be fully titled, numbered, dated, indexed, and signed by the designer and the checker. Computer output forms and other oversized sheets shall be folded to a standard size 8½" x 11". At the Project completion, a final set of design notes and computations, signed by the Design-Build Firm, shall be submitted with the record set of plans and tracings.

The design documentation, notes, calculations and computations shall include, but not be limited to the following data:

1. Standards Plans and criteria used for the Project
2. Geometric design calculations for roadway alignments
3. Vertical geometry calculations
4. Documentation of decisions reached resulting from meetings, telephone conversations or site visits
5. Design Standards and criteria used for the Project
6. Power service voltage drop calculations to verify proper wire size for an electrical circuit based on voltage drop and current carrying capacity is sufficient at all proposed new equipment locations.
7. CCTV citing survey video files and pictures.

Prior to final acceptance, furnish the District with two copies of the following documentary items obtained from the manufacturer for all of the electronic equipment:

1. Operation Manual
2. Troubleshooting and Service Manual
3. Assembly and installation instructions
4. Pictorial layout of components and schematics for circuit boards
5. Parts list
6. Diagram of the field installation wiring
7. Warranty information

**I. Structure Plans:**

1. **Structure Design Analysis:**
  - a. The Design-Build Firm shall submit to the Department final signed and sealed design documentation prepared during the development of the plans.
  - b. The Design-Build Firm shall insure that the final geotechnical recommendations and reports required for structure design are submitted with the 90% plans.
2. **Criteria**

The Design-Build Firm shall incorporate the following into the design of this facility:

- a. All plans and designs are to be prepared in accordance with the Governing Regulations of Section V. A.
- b. **Critical Temporary Retaining Walls:** Whenever the construction of a structural component (such as a wall, footing, or other such component) requires excavation that may endanger the public or an existing structure that is in use the Design-Build Firm must protect the existing facility and the public. If a critical temporary retaining wall is, therefore, required during the construction stage only, it may be removed and reused after completion of the work. Such systems as steel sheet pilings, soldier beams and lagging or other similar systems are commonly used. In such cases, the Design-Build Firm is responsible for designing and detailing the wall in the set of contract plans. These plans must be signed and sealed by the Structural Engineer in responsible charge of the wall design.

**J. Specifications:**

Department Specifications may not be modified or revised. Technical Special Provisions shall be written only for items not addressed by Department Specifications, and shall not be used as a means of changing Department Specifications.

The Design-Build Firm shall prepare and submit a signed and sealed Construction Specifications Package for the Project, containing all applicable Division II and III Special Provisions and Supplemental Specifications from the Specifications Workbook in effect at the time the Bid Price Proposals were due in the District Office, along with any approved Developmental Specifications and Technical Special Provisions, that are not part of this RFP. Any subsequent modifications to the Construction Specifications

Package shall be prepared, signed and sealed as a Supplemental Specifications Package. The Specifications Package(s) shall be prepared, signed and sealed by the Design-Build Firms Engineer of Record who has successfully completed the mandatory Specifications Package Preparations Training.

The website for completing the training is at the following URL address:

<http://www2.dot.state.fl.us/programmanagement/PackagePreparation/TrainingConsultants.aspx>

Specification Workbooks are posted on the Department's website at the following URL address:

<https://fdotwp1.dot.state.fl.us/SpecificationsPackage/Utilities/Membership/login.aspx?ReturnUrl=%2fSpecificationsPackage%2fdefault.aspx>

Upon review and approval by the Department, the Construction Specifications Package will be stamped "Released for Construction" and initialed and dated by the Department.

**K. Shop Drawings:**

The Design-Build Firm shall be responsible for the preparation and approval of Shop Drawings. Shop Drawings shall be in conformance with the FDM. When required to be submitted to the Department, Shop Drawings shall bear the stamp and signature of the Design-Build Firm's Engineer of Record (EOR), and Specialty Engineer as appropriate. All "Approved" and "Approved as Noted" Shop Drawings submitted to the Department for review shall also include Engineer of Record QA/QC Shop Drawing check prints along with the EOR stamped set(s). The Department shall review the Shop Drawing(s) to evaluate compliance with Project requirements and provide any findings to the Design-Build Firm. The Departments procedural review of Shop Drawings is to assure that the Design-Build Firm's EOR has approved and signed the drawing, the drawing has been independently reviewed and is in general conformance with the plans. The Departments review is not meant to be a complete and detailed review. Upon review and approval of the Shop Drawing, the Department will initial, date, and stamp the drawing "Released for Construction" or "Released for Construction as Noted".

Shop Drawing submittals must be accompanied by sufficient information for adjoining components or areas of work to allow for proper evaluation of the Shop Drawing(s) submitted for review.

**L. Sequence of Construction:**

The Design-Build Firm shall construct the work in a logical manner and with the following objectives as guides:

1. Maintain or improve, to the maximum extent possible, the quality of existing traffic operations, both in terms of flow rate and safety, throughout the duration of the Project.
2. Minimize the number of different Temporary Traffic Control Plan (TTCP) phases, i.e., number of different diversions and detours for a given traffic movement.
3. Take advantage of newly constructed portions of the permanent facility as soon as possible when it is in the best interest of traffic operations and construction activity.
4. Maintain reasonable direct access to adjacent properties at all times, with the exception in areas of limited access Right of Way where direct access is not permitted.
5. Coordinate with adjacent construction Projects and maintaining agencies.

**M. Stormwater Pollution Prevention Plans (SWPPP)**

The Design-Build Firm shall prepare a Storm Water Pollution Prevention Plan (SWPPP) as required by the National Pollution Discharge Elimination System (NPDES). The Design-Build Firm shall refer to the Department’s Project Development and Environment Manual and Florida Department of Environmental Protection (FDEP) Rule 62-621.300(4)(a) for information in regard to the SWPPP. The SWPPP and the Design-Build Firm’s Certification (FDEP Form 62-621.300(4)(b) NOTICE OF INTENT (NOI) TO USE GENERIC PERMIT FOR STORMWATER DISCHARGE FROM LARGE AND SMALL CONSTRUCTION ACTIVITIES) shall be submitted for Department review and approval. Department approval must be obtained prior to beginning construction activities.

**N. Transportation Management Plan:**

The Design-Build Firm must develop a Transportation Management Plan in accordance with in accordance with the Department’s FDOT Design Manual.

**1. Traffic Control Restrictions:**

There will be NO LANE CLOSURES allowed between the hours of **5:30 AM to 9:00 PM**. A lane may only be closed during active work periods. Also, the Design-Build Firm shall develop the Project to be able to provide for all lanes of traffic to be open in the event of an emergency.

NO LANE CLOSURES are allowed on the Project during the times shown below so as to minimize potential impacts to the following events:

- Blue Angel Air Show in July
- Double Bridge Run in July
- Bands on the Beach from April to October (Tuesday evenings)

SPRING BREAK	
YEAR	MARCH
2021	12-28
2022	11-27
2023	10-26
2024	08-24
2025	07-23
2026	13-29
2027	12-28

Side roads, business access, and driveways shall remain open at all times. Side roads can NOT be closed unless approval from the District Secretary and any applicable local government is obtained. Local government approval is required to be provided via County Commission resolution.

**O. Environmental Services/Permits/Mitigation:**

The Design-Build Firm will be responsible for preparing designs and proposing construction methods that are permissible. The Design-Build Firm will be responsible for any required permit fees. All permits required for a particular construction activity will be acquired prior to commencing the particular construction activity. Delays due to incomplete or erroneous permit application packages, agency rejection, agency denials, agency processing time, or any permit violations, except as provided herein, will be the

responsibility of the Design-Build Firm, and will not be considered sufficient reason for a time extension or additional compensation.

As the permittee, the Department is responsible for reviewing, approving, and signing the permit application package including all permit modifications, or subsequent permit applications.

The following Project specific Environmental Services/Permits have been identified as specific requirements for this project:

1. Noise walls shall be installed in accordance with the requirements of this RFP and the 2014 Noise Study Report Addendum. In case of discrepancy between the RFP and the 2014 Noise Study Report Addendum, the RFP will govern.
2. Construction noise and vibration will be minimized to the greatest practical extent through compliance with any local ordinances and adherence to controls listed in the latest edition of the FDOT's Standard Specifications for Road and Bridge Construction.
3. Wetland impacts and mitigation will be determined by the permitting process. An individual ERP is anticipated to be required for the Project.
4. An updated review was performed April 2019 to refresh the discussion on the previously-identified Medium and High sites. District Contamination Impacts Coordinator (DCIC) concurrence received April 1, 2019. There was one previously-identified Medium site: 9046588 Fill-Ups Food Stores #1083, 2901 Gulf Breeze Parkway. A Site Rehabilitation Completion Order / No Further Action was issued by FDEP on April 1, 2011. Monitoring wells were abandoned September 2011. Underground tanks were replaced in September 2009. Groundwater samples were below target cleanup levels. The facility is currently in compliance for one underground storage tanks as of April 2018 (which is the most recent inspection report on files in the FDEP Oculus system). There was one previously-identified High site: 8521098, Circle K#4388, 3414 Gulf Breeze Parkway. The Florida Department of Health approved a Well Abandonment Report (April 2012). The FDEP issued a Site Rehabilitation Completion Order / No Further Action (March 2012). A Close Assessment Report letter was issued December 5, 2017.
5. Any profile deficiencies will be verified and addressed during the final design phase.
6. Avoid the Forest Lawn cemetery. The typical section change evaluated in the 2008 reevaluation (which removed the frontage roads) allows for reduction of the required right-of-way along SR 30 (US 98) which essentially eliminates required right-of-way along SR 30 (US 98) including the need for any additional right-of-way at the cemetery.
7. Every effort should be made during the design stage to salvage or reuse as much of the existing base and pavement as possible. It is anticipated that with the typical section change evaluated in the 2008 reevaluation, the existing roadway will be widened and resurfaced. This will allow for maximum reuse of the existing base and pavement. The roadway will be modified from a rural section with ditches to a curb and gutter section.
8. Traffic signals are expected to require provisions for pedestrians (including, as a minimum, pedestrian push buttons) where warranted based on future studies. During the final design, the signal systems will be developed to include accommodations for pedestrians.
9. Consistent with the Final June 27, 2012 Florida Fish and Wildlife Conservation Commission (FWC) Black Bear Management Plan, the contractor shall properly remove garbage and food debris from the construction site daily to eliminate possible sources of food that could encourage and attract bears. The contractor shall report nuisance black bears to the FWC at the

Wildlife Alert Hotline at 1-888-404-3922.

10. Within the National Park Service Gulf Islands National Seashore Naval Live Oaks area, no overhead street lighting shall be provided.
11. The Design-Build Firm will conduct surveys for gopher tortoises and burrows within the right-of-way along US 98 within the National Park Service Gulf Islands National Seashore Naval Live Oaks Area, and for pond sites 3A and 3B, no more than 90 days prior to the start of land clearing/construction. Prior to construction, the Design-Build Firm will relocate any tortoises found within the construction area or less than 25 feet outside the construction area. For gopher tortoise or burrows that appear after construction has begun, the FDOT will ensure that the Design-Build Firm shall follow direction provided in Spec 7-1.4: Legal Requirements and Responsibility to the Public – Laws to be Observed – Compliance with Federal Endangered Species Act and Other Wildlife Regulations, which includes procedures for avoidance.

The Design-Build Firm will be required to coordinate with DEMO and the CEI as necessary to ensure compliance of the specific requirements listed above along with any other NEPA requirements for the project.

**P. Signing and Pavement Marking Plans:**

The Design-Build Firm shall prepare signing and pavement marking plans in accordance with Department criteria. Final pavement markings shall be thermoplastic.

The Design-Build Firm shall be responsible for the design of all new or retrofit sign supports (post, overhead span, overhead cantilever, and any applicable foundations). The Design-Build Firm shall show all details (anchor bolt size, bolt circle, bolt length, etc.) as well as all design assumptions (wind loads, support reactions, etc.) used in the analysis.

All existing signs shall be removed and new signs designed and installed within the project limits.

**Q. Lighting Plans:**

The Design-Build Firm is expected to coordinate closely with the Department's Area Utility Manager and the area power provider (Gulf Power) in order to maximize the use of the UAO's poles and service. Typically, the most cost-efficient solution is for the UAO to install and maintain the necessary lights required for the Project. The Design-Build Firm may design the lighting and utilize the UAO for the required lighting installations for the project or the Design-Build Firm may design and construct standard FDOT lighting poles or a combination of both methods. If the Design-Build Firm determines new lighting installations can be done by Gulf Power on their utility poles, these specific lighting installations will be paid by the Department directly to Gulf Power. The Design-Build Firm shall include the cost for any lighting NOT being installed on Gulf Power poles and the cost of design (for any method) in their bid for the Project – FPID 220440-1-52-01. ~~The Design-Build Firm shall include the cost for either process in their bid for the Project – FPID 220440-1-52-01.~~ If the Design-Build Firm chooses to utilize the UAO to install lighting, the Design-Build Firm shall pay for the installation cost and the Department will pay for future maintenance costs. The Design-Build Firm shall coordinate with the Department in design to insure all appropriate agreements are executed.

New lighting installations are required at signalized intersection and anywhere existing roadway lighting that is impacted by the Design-Build Firm's design and construction for the Project. The existing lighting is maintained by Gulf Power. For any necessary relocations to existing lighting, the Design-Build Firm shall coordinate and pay Gulf Power to relocate lighting as necessary.



The Design-Build Firm shall prepare lighting plans in accordance with Department criteria.

Existing light poles, luminaire arms, luminaires, and load centers identified for removal shall be coordinated with the Maintaining Agency as to whether these features will become the property of Design-Build Firm or salvaged, transported, and delivered to the Maintaining Agency for future use. Gulf Power is the Maintaining Agency for some of the lighting and the FDOT is the Maintaining Agency for others (typically those connected to traffic signals). Determine appropriate party to coordinate with during the utility coordination process.

The Design-Build Firm shall comply with the requirements of each jurisdictional authority within the Project limits. Compliance with the jurisdictional authority includes but is not limited to: field reviews, technical meetings, special deliverable, etc. It is the Design-build Firm's responsibility to verify and comply with all jurisdictional authority's requirements.

If the Design-Build Firm chooses to design and construct utilizing FDOT poles for the new signalized intersections requiring lighting, the following criteria shall apply:

The Design-Build Firm shall develop and submit for approval, a Load Center/Circuit/Pole Number identification plan that is compatible with the existing lighting systems maintenance identification scheme.

The Design-Build Firm shall perform detailed field reviews. Review and document all lighting (poles/luminaires, sign luminaires, etc.), circuiting, load centers, service points, utility transformers, etc., within the limits of lighting construction. This review includes: conductors, conduit, grounding, enclosures, voltages, mounting heights, pullboxes, etc. This review also includes circuits outside the limits of lighting construction that originate or touch this Project's scope of work.

All deficiencies within the limits of lighting construction shall be identified and corrected. Deficiencies outside the limits of lighting construction shall be brought to the attention of the Department.

After the field reviews are completed, a list of all damaged and/or non-functioning equipment shall be documented and forwarded to the Department prior to the start of construction. All damaged and/or non-functioning equipment within the limits of lighting construction are required to be replaced or repaired to meet all applicable criteria and shall be in like-new condition.

Where new electrical services are required, the Design-Build Firm shall coordinate the final locations of distribution transformer and service pole to minimize service and branch circuit conductors and conduit lengths. Separate power service meter to be provided for lighting infrastructure.

## **R. Signalization and Intelligent Transportation System Plans**

### **1. General**

The Design-Build Firm shall prepare Signalization and Intelligent Transportation Plans in accordance with Department criteria.

The Design-Build Firm shall prepare design plans and provide necessary documentation for the procurement and installation of the Signalization and Intelligent Transportation System devices as well as overall system construction and integration. The construction plan sheets shall be in accordance with Department requirements and include, but not be limited to:

- Project Layout / Overview sheets outlying the locations of field elements
- Detail sheets on:
  - ADMS Structure, ADMS attachment, ADMS display/layout
  - CCTV structure, CCTV attachment, CCTV operation/layout
  - MVDS structure, MVDS attachment, MVDS operation/layout
  - Bluetooth structure, Bluetooth attachment, Bluetooth operation/layout
  - Managed Field Ethernet Switches (MFES)
  - Fiber optic cables, conduit, pull boxes, splice vault, splice enclosures
  - Grounding and Grounding Array details
  - Surge Protection
  - Lightning protection, air terminals and dissipation
  - Directional Bore Details
  - System Overview Sheets of District and fiber Ring
  - Commercial electric power service
  - Connection to existing ITS electrical services
  - Overall Power Service Distribution Diagram
  - Wiring and connection details
  - Power conduit, pull box, and cable installation
  - Communication Hub and Field Cabinets
  - System-level block diagrams
  - Device-level block diagrams
  - Device and facility access plans
  - Field hub/router cabinet configuration details
  - Fiber optic splicing diagrams
  - System configuration/Wiring diagram/Equipment Interface for field equipment at individual locations and communications hubs.
  - Maintenance of Communications (MOC) Plan

The Design-Build Firm is responsible for ensuring project compliance with the Regional ITS Architecture and FHWA Rule 940 as applicable. This includes, but is not limited to, the development or update of a concept of operations, the development or update of a system engineering master plan (SEMP), and requirement traceability verification (RTVM) as well as coordination of document review.

The Design-Build Firm shall detail existing Signalization and Intelligent Transportation System equipment and report which devices will be removed, replaced, recovered or impacted by project work.

## **2. Design and Engineering Services:**

The Design-Build Firm shall be responsible for all Signalization and ITS design and engineering services relating to the Project. All signalization and ITS system components shall be new unless otherwise identified for relocation. No mounting, installing or integrating of ITS, traffic and signalization components to existing or new light poles, lighting structures, sign structures, etc. shall be permitted. Do not mix ITS, signalization and lighting infrastructure.

The design of the new system shall integrate with the existing devices. The design shall include the necessary infrastructure and components to ensure proper connection of the new ITS components. This shall include but not be limited to all proposed ITS components of this project as well as existing sub-systems that remain or are re-deployed as the final project.

At a minimum, the signal work in this project consists of the following major components:

- The Design-Build Firm shall replace existing traffic controller cabinet assemblies with new traffic controllers and cabinet assembly compatible with Escambia County computerized traffic system. The proposed traffic controller cabinet assembly shall be approved by maintaining agency. Provide fiber optic drops at the new signal cabinets at Gondolier Blvd. / Kelton Blvd., Whisper Bay Blvd., Oriole Beach Rd. / Shopping Center (Breeze Plaza), College Pkwy., Country Club Rd. / Green Briar Pkwy., Shopping Center / SR 281 (Avalon Blvd. Frontage Rd.), Tiger Park Ln. / Portside Dr.
- Video cameras - The Design-Build Firm shall upgrade the existing detection at the signalized intersection to video detection. At minimum each traffic signal intersection shall have one (1) fish-eye traffic detection camera. **Each fish-eye traffic detection camera shall be mounted at a height as per camera manufacturer mounting height recommendation. Each fish-eye camera shall provide accurate traffic detection at each detection zone for safe and effective traffic signal operation.**
- Overhead street name signs – The Design-Build Firm shall design, **furnish, install and test** Signal Mounted Overhead Illuminated Street Name Signs
- ~~**Mast Arms— The Design-Build shall design mast arm signal structures including arms, upright, arm/upright connection(s), baseplate, backplates, anchor bolts, foundation and any other details necessary for fabrication and construction. The design shall be based on Department Cantilever Signal Structure Standards using standard Department plan sheets. Calculations for the structure shall be performed using Department approved software.**~~
- **Mast Arms - The Design-Build Firm shall design, furnish and install all mast arm assemblies, mast arm mounting assemblies and pedestrian poles or pedestals. The Design-Build Firm shall design, furnish and install mast arm signal structures including but not limited to arms, upright, arm/upright connections(s), baseplate, cover plates, caps, clamps, blank sign panel, luminaire bracket, anchor bolts, foundation, and any other details necessary for fabrication and construction and shall provide all labor, equipment, miscellaneous materials and hardware necessary for a complete and acceptable installation. The design shall be based on Department Cantilever Signal Structure Standards using standard Department plan sheets. Calculations for the structure shall be performed using Department approved software. The Design-Build Firm shall design, furnish, install, and test the traffic signal and pedestrian signal and all components necessary to make a complete unit, including mounting assemblies, backplates, visors, LED modules, labor and materials necessary for a complete and acceptable installation.**
- The Design-Build Firm shall design and implement the Project to keep the Department's standard Traffic Signal Maintenance and Compensation Agreement in good standing.

At a minimum, the ITS work in this project consists of the following major components:

- Replacement/recovery of all ITS System components that are impacted by the Design-Build Firm's scope of work as approved by the Department. All equipment shall be new unless otherwise specified.

- ITS Cabinet Installation – All new ITS cabinets shall be mounted at a maximum of 72” from top of the cabinet **to** finish grade or technician pad. Provide safe and efficient accessibility to each device cabinet and device for built condition and for construction duration. Submit device and cabinet accessibility plan for approval of the Department. This cabinet shall meet the technical requirements of FDOT. Separate breakers shall be installed for the new equipment and not piggybacked off the existing ITS system power configuration. Breakers, grounding and other electrical connections shall comply with all applicable standards including the National Electric Code (NEC). A concrete technician or service pad shall be provided and spare conduit installed as required. The technician or service pad shall extend at least 30” from each cabinet door and from each side of the cabinet to provide adequate space for maintenance technician to stand and perform maintenance activity safely. Existing Arterial Dynamic Message Sign (ADMS) cabinets shall be furnished with concrete service pad. Two (2) cabinets placed side by side shall be separated at minimum by 6 feet. The Design-Build Firm shall install a Uninterruptible Power Supply (UPS) at each ITS device cabinet and traffic signal cabinet as required in the RFP document. At minimum, each UPS shall be sized according to the maximum expected load for each cabinet plus 50 additional watts. The service outlets shall not be connected to the UPS. The UPS shall provide commercial power pass through during all failures of UPS. The Design-Build Firm shall ensure that the UPS is generator compatible to ensure clean, uninterrupted power to protected equipment when generator power is used. The UPS shall be environmentally rated for the environment that the UPS is installed in. The recharging of all the UPS batteries which may be drained shall be included within the power design calculations. The Design-Build Firm shall supply a Simple Network Management Protocol (SNMP) network management interface to determine the operational status of the UPS, the internal UPS temperature, the external temperature as recorded by a remote sensor mounted elsewhere in the cabinet, the state of the cabinet door switch(es) (open or closed), and surge protection device (SPD) failures (open or closed SPD alarm contacts). All UPS shall be designed and integrated to email events over the ITS and traffic engineering ethernet network, such as: power loss, battery levels, and alarms. Any software required to monitor the UPSs shall be furnished, configured, and integrated into the TSOC monitoring computer.
- Conduit and Pull Boxes – No existing conduit shall be used on this project. Use cap and seal and abandon existing conduit in place. Any existing copper cable inside the conduit shall not be removed without the advanced approval from the Department. Any removed copper cable shall be inventoried and delivered to the Department with a transmittal letter. The transmittal letter shall be signed by a minimum of two stakeholders. All new underground and directional bored communications conduit shall be HDPE SDR 11 rated or thicker and smooth wall interior. A spare conduit shall be provided for each newly installed conduit. There shall be a separate spare conduit each for communication and power. Open trench and bored communication conduit consists of a 4” gray outer duct, one 1 ¼” white innerduct, one 1 ¼” orange innerduct, and one 1” gray innerduct. Install locate wire inside the outer duct, but outside the innerducts. Open trench and bored power conduit consists of two 2-inch gray conduit. Every drop or laterals, new conduit runs shall have two 2-inch conduit runs. All conduits shall have “jet-line” or equal pull string installed in each spare conduit run for future use. Electrical pull boxes shall not be spaced further than 500 feet apart in any power run. All pull boxes shall be a minimum Tier 15 and rated at 20K or more test static load. A splice vault shall be provided at each signalized intersection along the corridor. Provide safe and efficient accessibility to each facility for built condition and for construction duration. Submit facility accessibility plan for approval of the Department.
- Single Mode Fiber Optic Cable (SMFOC) – All new 144 count SMFOC backbone fiber shall be installed and tested on entire project corridor on SR 30 (US 98). Use 24 count SMFOC drop cable to connect each signalized intersection cabinet and ITS device cabinet on entire project

corridor on SR 30 (US 98). Test all fiber strands before installation and after delivery to the project site or yard or staging area and submit the test results for the Department to review. The SMFOC backbone fiber shall be efficiently designed to have minimum splices to SMFOC backbone fiber and each lateral fiber drop cable shall have at least four (4) live fiber strands.

- Arterial Dynamic Message Sign (ADMS) Integration – Perform complete integration of existing two (2) ADMS in the project corridor to accommodate roadway widening activities. The Design-Build Firm shall verify current working condition of the ADMS and submit the report to the Department for verification. Each ADMS shall have its own splice vault for connection to the fiber trunk line. Two (2) ADMS cater to eastbound and westbound traffic of SR 30 (US 98). These ADMS are located on SR 30 (US 98) prior to intersection of SR 30 (US 98) and SR 281 (Avalon Blvd. Frontage Rd.). Any equipment, device(s), cabinet(s), ADMS and structure(s) damaged during integration process shall be replaced in kind with new materials. Remove and deliver fixed ADMS verification camera and camera attachment arm as directed by the Regional Transportation Management Center in Chipley, FL. Integrate ADMS sign communication with proposed fiber optic and cellular communication system. Extreme care shall be taken not to damage ADMS equipment, device, cabinet and structure during integration process. Protect all ADMS device, cabinets, equipment and items from theft and vandalism until project completion. ADMS signs shall be operational for the project duration. Any operation downtime of the ADMS operation shall be approved in writing from the RTMC Manager in Chipley, FL.
- CCTV – Proposed cameras must demonstrate 100% visual coverage of the project corridor. In addition, the existing ADMSs shall be verified with the proposed cameras. CCTV Cameras shall be 1080p High Definition (HD), embedded encoder, H.264 stream, Pan, Tilt and Zoom (PTZ) IP-enabled. Provide 100% camera coverage areas using the SunGuide software and TSOC operating software. Submit the camera siting survey of each proposed camera to the Department or its designated representative for approval. CCTV siting shall include local agency coordination to verify current and proposed landscaping, land development, lighting and signalization plans do not impact CCTV view, maintenance and operation. The Department approval of the CCTV siting survey does not exempt the Design-Build Firm from meeting the RFP requirements. Minimum mounting height of CCTV shall not be less than 30 feet. Each CCTV camera shall have a lowering device. CCTV cameras shall be mounted at the following intersections: 1) SR 30 (US 98) and SR 281 (Avalon Blvd. Frontage Rd.), 2) SR 30 (US 98) and Oriole Beach Rd./FL 191A, and 3) SR 30 (US 98) and Kelton Blvd.
- CCTV Prestressed Concrete Pole – Provide concrete poles, camera lowering device, mountings, and concrete pad. All prestressed concrete poles shall be backfilled with FDOT approved Class I nonstructural concrete. The distance between a device cable weather head and the device shall not be more than four (4) feet. No steel CCTV poles are allowed on the project.
- MVDS – Includes concrete poles and mountings to detect all travel lanes and auxiliary lanes along the project corridor. In the project corridor, at a minimum, two (2) MVDS devices shall be installed with minimum two (2) mile intervals. **Provide each MVDS** on one side of the roadway to measure traffic traveling on both directions of the roadway. Do not install traffic speed measuring MVDS at signalized intersections.
- Bluetooth – Co-locate Bluetooth with other ITS device location. Bluetooth device shall detect traffic on entire project corridor. At minimum, install two (2) Bluetooth devices in the project corridor. **At minimum, Bluetooth devices shall be spaced ¼ mile intervals.** Bluetooth devices shall be mounted at the following intersections: 1) SR 30 (US 98) and SR 281 (Avalon Blvd. Frontage Rd.) and 2) SR 30 (US 98) and Kelton Blvd.
- Grounding, Surge Suppression, Lightning Protection – Protection shall be provided for all ITS

field elements and ITS Field Cabinets. A surge suppression shall be provided on both sides of ~~the~~ **each** circuit.

- ITS Communication – The Design-Build Firm shall design, furnish, install, integrate and test a new ITS Field Cabinet and new traffic signal cabinets with power supply, Managed Field Ethernet Switch (MFES), communication cable connection to the 144-count single mode fiber optic cable.
- Connection to Existing Electrical Systems: The Design-Build Firm shall perform power calculations and install connections to existing electrical services, to the extent possible. When connecting to existing electrical systems, the Design-Build Firm shall verify that the additional equipment will not overload the existing circuits. If the additional load required by this project overloads the existing circuit, the Design-Build Firm shall modify the power distribution as necessary. The Design-Build Firm shall submit the load calculation for Department approval before finalizing the power design. The new circuit shall utilize an existing spare branch circuit breaker. If no spare breaker is available, then a new branch circuit breaker shall be provided. At a minimum, all affected ITS field cabinets shall be calculated for 125% over peak electrical draw. Mixing of power circuit to lighting/signal circuits is not allowed.
- New Electrical System – Where new electrical service points are required, the Design-Build Firm shall coordinate final locations of the distribution transformer and service pole to minimize the service and branch circuit lengths. The Design-Build Firm shall provide a new load center per current codes and all applicable criteria. The Design-Build Firm shall verify and comply with the requirements of each jurisdictional authority within the Project limits. Compliance with the jurisdictional authority includes, but is not limited to: field reviews, technical meetings, special deliverable, etc. Separate power service meter shall be provided for the ITS infrastructure.
- Removal of any ITS System components – Existing ITS System components shall not be removed without the advanced approval from the Department/maintaining agency. Any removed devices shall be verified, inventoried and delivered to the Department with a transmittal letter. The transmittal letter shall be signed by a minimum of two stakeholders.
- Testing of fiber optic backbone and lateral drops furnished and installed or modified by the Design-Build Firm – If a backbone fiber is modified, bi-directional testing shall occur to/from the nearest fiber hub shelter/cabinet, or current splice point upstream and downstream from the point of modification. Modification includes, but is not limited to, fiber splices, terminations, or relocations.
- New fiber optic cable shall not be run in any conduit with energized (low or high voltage) conductors. New fiber optic cable shall be installed in its own pull box and its pull box shall only be shared with other di-electric fiber optic cables. Only di-electric, loose tube, non-gel single mode fiber optic cable shall be used to interface with the system fiber optic patch panels.
- Locate wire or tone wire shall not be placed in a conduit with communications or power, but shall be furnished and installed inside the outer duct and shall be placed outside of any inner ducts. At all lateral or drop cable conduit locations, the locate wire shall be furnished and installed as per FDOT design standards conduit installation details.
- A Maintenance of Communication Plan (MOC) shall be presented in writing to the Department fourteen (14) days prior to any planned network outages and construction activities. Down time is permitted for network splicing or maintenance as approved by the Department. Part of the MOC plan will include a CEI present to witness the procedure and document start time and end time of any network outage. The MOC shall include repair procedures in the event the existing ITS network or power service is damaged.

- ITS System Access – Any project(s) for construction and/or maintenance requiring access to the existing ITS system including, but not limited to, fiber optic cable (handholes and pull boxes); ITS equipment control cabinet(s); ITS power facilities; ITS specific equipment (CCTV, MVDS, etc.); and/or the RTMC and TSOC will require a submitted and approved access schedule. This document will identify access necessities, schedule expectation(s), specific ITS facilities to be accessed, and an action plan for potential failure. **This document will be submitted thru District 3 Traffic Operation’s ITS Program Manager for approval within 60 days of project construction start or 90 days prior to system access for long duration project(s).** In the event this document is not properly filed with the ITS Department and project CEI, the Department will invoke the damage recovery detail for damages incurred by said project.
- Gathering all new infrastructure information by GPS (sub-foot accuracy) and providing the information necessary for populating the ITSM GIS informational map. The Design-Build Firm shall be responsible for providing the information necessary to populate all new and existing equipment.
- Cellular wireless communication device and service – Provide cellular wireless communication service **in addition to SMFOC connection mentioned above** to traffic signal cabinets of three (3) intersections, namely:
  - 1) SR 30 (US 98) and SR 281 (Avalon Blvd. Frontage Rd.),
  - 2) SR 30 (US 98) and Oriole Beach Rd./FL 191A, and
  - 3) SR 30 (US 98) and Kelton Blvd.

Also, provide cellular service to the ADMS and corresponding verification CCTV cameras. The ADMS and corresponding verification cameras shall communicate with the Escambia County Traffic Signal Operation Center (TSOC).

The cellular wireless communication device shall meet the following criteria:

1. The cellular wireless communication device, hereinafter referred to as the MODEM, shall include the design, furnishing, and installation of equipment; integration; testing; for the full system and subsystems including conduit, riser and weatherhead, mounting assembly, antenna, MODEM, power over Ethernet cables, and any other incidentals for successful installation of wireless communication. The objective of the Department is to have a fully operative **and hardened** MODEM, which shall accurately and automatically transmit data packets wirelessly through a cellular network. The MODEM Frequency Band and Network shall be of fourth generation (4G) Long-Term Evolution (LTE) multi-band to support for 700/850/1700/1900/2100Mhz. It shall be Compatible with High Speed Packet Access (HSPA), Evolved High Speed Packet Access (HSPA+), Global System for Mobile communications (GSM), General Packet Radio Service (GPRS), Enhanced Data rates for GSM Evolution (EDGE), Evolution-Data Optimized Revision A (EVDO (Rev A)) and shall have Wi-Fi compatibility with 802.11 b/g/n.
2. Ensure that along with Governing standards, the MODEM shall comply with all applicable Institute of Electrical and Electronics Engineers (IEEE) networking standards communications including but not limited to:
  - IEEE 802.3 standard for local area network (LAN) and metropolitan area network (MAN) access and physical layer specifications.
  - IEEE 802.11b Enhancements to 802.11 to support 5.5 Mbit/s and 11 Mbit/s.
  - IEEE 802.11g 54 Mbit/s, 2.4 GHz standard (backwards compatible with b).

- IEEE 802.11n Higher-throughput improvements using MIMO (multiple-input, multiple-output antennas).
  - IEEE 802.1x Port-based Network Access Control (PNAC).
  - In the case of conflict between Governing Regulations and above mentioned standards, Governing Regulations shall only be considered.
3. The Design-Build Firm shall provide a Technical Special Provision (TSP) for the wireless communications device. Test procedures shall be part of the TSP. The Design-Build Firm shall conduct a cellular site survey prior to procurement of materials that measures the signal strength and throughput of cellular coverage at each MODEM location. The MODEM and antenna shall have a small form factor and be manufactured for outdoor use. The MODEM shall be static IP addressable. The MODEM shall support real-time two-way communications for remote management and shall include vendor supplied management software. The MODEM shall be fully compatible with the ITS network. All ITS devices connected to the MODEM shall communicate to District Three RTMC in Chipley, FL and TSOC. Furnish, install, integrate and test all necessary equipment to transmit and receive data at the District Three RTMC in Chipley, FL and the TSOC. The MODEM shall have a SIM-based auto carrier selection for all North American carriers. The MODEM antenna shall be able to connect to networks for all North American carriers.
  4. Subject the MODEM to field acceptance tests (FATs). Develop and submit a test plan for FATs to the Department for approval. The Department or its designated representative reserves the right to witness all FATs. Once the MODEM has been installed, conduct local FATs at the field sites according to the submitted and approved test plan. At minimum perform the following:
    - Verify that physical construction has been completed as detailed in the Plans.
    - Inspect the quality and tightness of ground and surge protector connections.
    - Verify proper voltages for all power supplies and related power circuits.
    - Connect devices to the power sources.
    - Verify all connections, including correct installation of communication and power cables.
    - Verify the configuration of the MODEM IP addresses and subnetwork mask.
    - Verify the network connection to the MODEM through ping and telnet sessions from a remote personal computer (PC).
  5. The Design-Build Firm shall provide the final antenna location for each antenna in the design plan.
  6. Install MODEM using settings approved from design plan or as approved by the Department or its designated representative to ensure interoperability and security, including VPN settings, local IP address, port forwarding and Network Address Translation (NAT), and IP-based filtering.
  7. The MODEM must carry a manufacturer standard warranty (software updates and hardware repair or replacement) of 3 years from the date of final acceptance.



8. The Design-Build Firm shall coordinate and seek approval from the Department of Defense (DoD) for any communication medium used in the Project.
  9. The Design-Build Firm shall provide at least one (1) MODEM and Antenna for each Cellular wireless connected cabinet. If a cabinet is connected to more than one (1) CCTV, provide MODEM and Antenna at least equal to the number of CCTVs connected to the cabinet. At minimum, the Design-Build Firm shall provide 10 GB per month machine to machine cellular data service for each MODEM and Antenna for the minimum duration of 24 months (2 years). The Design-Build Firm shall use Florida Department of Management of Services Mobile Communication Services (MCS) Contract to provide such a service to the Department.
- Removal of any ITS System components that are impacted by the Design-Build Firm's scope of work as approved by the Department.
  - Removal of the existing lateral drops from the backbone to the existing mainline toll facilities and from the existing ramp toll facilities that will or may be removed as part of this project. The lateral drops disconnected from the backbone shall be re-spliced "in-kind" to match respective fiber strand(s) and buffer tube(s) as approved by the Department.
  - Bi-directional testing of fiber optic backbone and active lateral drops furnished and installed or modified by the Design-Build Firm. The Design-Build Firm to perform bi-directional test dark lateral drops furnished and installed or modified by the Design-Build Firm.
  - Testing of the Intelligent Transportation System.
  - Coordinate with the Design-Build Firm to avoid conflicts with landscape plans within the Department Right of Way. While procedures are being revised to facilitate this increased collaboration and cooperation, the Design-Build Firm is required to ensure that the design and construction of each ITS project and each landscape project is entirely coordinated with existing and proposed ITS facilities and landscapes. Both programs have been determined to be important components of the state transportation system.

### **3. Construction and Integration Services:**

The Design-Build Firm shall be responsible for all Signalization and ITS construction and integration services as described in this RFP as a part of the Project.

### **4. Testing and Acceptance:**

All equipment furnished by the Design-Build Firm shall be subject to monitoring and testing to determine conformance with all applicable requirements. The Design-Build Firm is responsible for the coordination and performance of material inspection and testing, field acceptance tests, and system acceptance tests. The times and dates of tests must be accepted in writing by the CEI. The Design-Build Firm shall conduct all tests in the presence of the CEI or designated representative.

Final acceptance of the project as determined by the Department will be made after satisfactory completion of the following:

- Stand-alone, sub system and system tests
- 30-Day Burn-In Period of ITS and traffic signal devices
- Department approval of all test reports and results

- Approval of all delivered project submittals, including documentation final field inspection
- All the cellular communication documents
- Assignment of all warranties to the Department and delivery of warranty documentation
- Approval and delivery of all documentation required under this contract including as-built documentation.
- Demonstration that the system is stable and any failures are within predicted mean time between failures and no intermittent operational conditions.
- All spares parts ordered by the Department under this contract that have not been installed shall be turned over to the Department's representative.
- All testing to be completed after construction is complete. No access to system during burn-in test is allowed.

Upon completion of successful final acceptance testing, document the acceptance date and project identification information and provide two (2) copies to the Department. Final acceptance notification shall be provided in writing from the Department.

## **5. Existing Conditions**

This section is intended to provide a general overview of the existing conditions of the Department's ITS System and its components such as the fiber optic network (FON) communications infrastructure within the project limits. Refer to the concept plan for existing ITS equipment locations. In addition, the Design-Build Firm shall refer to the ITS As-Built Plans provided with this RFP as Reference Documents for additional information and shall be responsible for field verifying all existing site conditions within the project limits.

The existing ITS components shall be defined as follows:

- Closed Circuit Television (CCTV) Camera System – The CCTV Camera System consists of fixed cameras to verify existing ADMS signs along the corridor.
- Arterial Dynamic Message Sign (ADMS) – The ADMS provide roadway information and travel times. The ADMS are located at select locations along the corridor. The ADMS are located on an approach of select major arterials of the roadway system.

## **S. Landscape Opportunity Plans:**

It is the intent of this work item to preserve the opportunity to provide for significant landscape planting areas within the Project limits that meet the intent of FDOT Highway Beautification Policy. The landscape opportunity design shall adhere to the FDOT Highway Beautification Policy with the intent of creating a unified landscape theme for the project.

The Design-Build Firm shall provide the necessary site inventory and site analysis and shall prepare a "Landscape Opportunity Plan" (Opportunity Plan) as part of the roadway plan set. The Landscape Opportunity Plan shall consider the Design-Build Firm's proposed roadway improvements, utilities, setbacks and clear zone dimensions, ITS, Signalization, community commitments and other Project needs in identifying future landscape planting areas. Landscape opportunity areas should be preserved in accordance with the Departments "Bold" initiative.

The Opportunity Plans shall include the following:

1. Proposed improvements and existing elements to remain as associated with the Project.
2. Vegetation disposition depicting existing plant material to be removed, relocated or to remain.
3. Wetland jurisdictional lines
4. Proposed drainage retention areas and easements
5. Proposed utilities and existing utilities to remain
6. Graphically depicted on-site and off-site desired or objectionable views.
7. Locations of landscape opportunity planting areas in a bubble format which identifies various vegetation groupings in a hatched or colored manner. Examples are: “trees/palms/shrubs”, “shrubs only”, “buffer plantings”, etc.
8. Provided and labeled applicable clear zone, horizontal clearance, setback dimensions on the plans and in chart form which reflect AASHTO, FDOT and Department guidelines for landscape installation and maintenance operations, including those that have been coordinated with other disciplines
9. Identified outdoor advertising locations, owners and contacts and shown 1000 ft. view zone.
10. Indicated potential area(s) for wildflower plantings.
11. Identify existing and proposed ITS infrastructure.
12. Identify proposed signalization elements.
13. Identify roadway and pedestrian lighting locations.

The Opportunity Plan shall match the scale and format used for the proposed roadway sheets. Should this format not convey design intent that is clearly legible, an alternate format may be considered.

Landscape construction documents and landscape installation are not included in this contract and shall be provided by others.

Disciplines that will have greatest impact to preserving landscape opportunities include environmental, drainage, utilities, signing, lighting and ITS. The DBLA shall identify potential conflicts relating to preserving opportunity landscape areas and provide suggested resolutions to preserve them. If conflicts cannot be resolved by the Design-Build Firm and the DBLA, they shall be discussed with the Department’s Project Manager and District Landscape Architect for coordination and resolution.

The DBLA shall research and confirm any legally permitted outdoor advertising billboard (ODA) within 1,000-feet of the Project limits. The ODA sign(s) and 1,000-foot maximum vegetation protection zone limit shall be indicated on the plans. The Design-Build Firm’s Landscape Architect shall provide a copy of all correspondence and attachments to the Department’s District Landscape Architect.

The DBLA shall conduct a visual survey of existing vegetation within and adjacent to the Right of Way of the project. General locations of existing vegetation that will remain after roadway and associated

improvements are completed shall be shown with notations of general plant species in each location on the Opportunity Plan. The DBLA shall identify proposed buffer areas as needed.

The DBLA shall meet with the District Landscape Architect prior to the beginning of work for the purposes of coordination and to discuss adherence to the Highway Beautification Policy. No proposed planting areas indicated on the Opportunity Plan can occur in: federal and/or state jurisdictional wetlands or other surface waters; within open water bodies; in the bottom of stormwater management facilities; or use obligate wetlands or facultative wetland species within 25 feet of the seasonal high water of wetlands or other surface waters. Limited plantings may occur on the slopes and bottom of stormwater management facilities once coordinated with the DEMO, District Drainage Engineer and the District Landscape Architect. Trees may not be planted within 5 feet of storm sewer pipes and utilities.

## **VII. Technical Proposal Requirements:**

### **A. General:**

Each Design-Build Firm being considered for this Project is required to submit a Technical Proposal. The Proposal shall include sufficient information to enable the Department to evaluate the capability of the Design-Build Firm to provide the desired services for the Project.

### **B. Submittal Requirements:**

The Technical Proposal shall be submitted using Form 700-010-21 Low Bid Design-Build Technical Proposal.

The Technical Proposal shall be submitted electronically and attached to a single email. The Department has a 10MB limit on email. Emails that exceed this 10MB email server limit may be rejected by the Department's email server. It is solely the Design Build Firm's responsibility to ensure that the Technical Proposal is received by the Department's server by the due date and time. Bookmarks which provide links to content within the Technical Proposal are allowed. Bookmarks which provide links to information not included within the content of the Technical Proposal shall not be utilized. No macros will be allowed.

The maximum number of pages shall be two (2), single-sided, typed pages including text, graphics, tables, charts, and photographs. Double-sided 8½" x 11" sheets will be counted as 2 pages. Larger sheets are prohibited.

Submit the Technical Proposal to: [d3.designbuild@dot.state.fl.us](mailto:d3.designbuild@dot.state.fl.us)

The minimum information to be included:

#### Section 1: Written Technical Proposal

- **Approach and Understanding of the Project:**

Present a plan for completing the specified work. The plan should address all significant design and construction issues and constraints and should demonstrate efficient use of manpower, materials, equipment, construction schemes, and techniques for completing the project. Coordination with the Department on public involvement, and affected utilities shall also be discussed in this section.

Describe changes that are anticipated from the conceptual plans.

If specialty geotechnical applications are to be utilized in your design, please describe the specialty application and the measurable parameters.

Describe proposed MOT plan.

- **Staffing:**

- Contractor Name & Applicable Prequalification Work Classes:
- Construction Project Manager:
- Construction Superintendent:
- Consulting Engineer Name and Applicable Prequalified Work Types:
- Subconsultant Name(s) and Applicable Prequalified Work Types:
- Design Project Manager:
- Design Engineer of Record:
- MOT Certified Designer:
- Specification Package Technician
- Utility Coordination Manager

- **Responsible Office:**

Design-Build Firms being considered for this Project may have more than one office location. The office assigned responsibility for the work shall be identified in the Technical Proposal. If different elements of the work will be done at different locations, those locations shall be listed.

Utility Coordinator's proposed office location.

### **C. Evaluation Criteria:**

The Department shall open all Bids received at a public Bid opening on the date found in Section II of this RFP. The Technical Review Committee will review the Technical Proposal of the Lowest Bidder. The Technical Review Committee will then establish if the Technical Proposal of the Lowest Bidder is responsive or non-responsive based on the criteria described in this RFP. If the Proposal is responsive, that Design-Build Firm will be awarded the Project. If the Proposal is found to be non-responsive, the Technical Review Committee will review the Technical Proposal of the next Lowest Bidder and establish if the Technical Proposal is responsive or non-responsive based on the criteria described in this RFP, and so on.

### **D. Final Selection Process:**

The Project shall be awarded to the responsive Bidder with the lowest Price Proposal.

## **VIII. BID PROPOSAL REQUIREMENTS.**

### **A. Bid Price Proposal:**

Bid Price Proposals shall be submitted on the Bid Blank form attached hereto and shall include one lump sum Price for the Project within which the Proposer will complete the Project. The lump sum price shall include all costs for all design, geotechnical surveys, architectural services, engineering services, Design-Build Firms quality plan, construction of the Project, and all other work necessary to fully and timely

complete that portion of the Project in accordance with the Contract Documents, as well as all job site and home office overhead, and profit, it being understood that payment of that amount for that portion of the Project will be full, complete, and final compensation for the work required to complete that portion of the Project. One (1) hard copy of the Bid Price Proposal shall be hand delivered in a separate sealed package to the following:

Steve Thames  
FDOT D3 Professional Services Administrator  
1074 Highway 90  
Chipley, FL 32428

The package shall indicate clearly that it is the Bid Price Proposal and shall identify clearly the Proposer's name, contract number, project number, and Project description. The Bid Price Proposal shall be secured and unopened until the date specified for opening of Bid Price Proposals.

**DESIGN-BUILD SPECIFICATIONS.**

**(9-25-19) (1-20)**

**FPID Number: 220440-1-52-01, 220440-1-56-01, 220440-1-56-04, 220440-1-56-05, &  
220440-1-56-06\_\_\_\_\_**

**DIVISION I  
GENERAL REQUIREMENTS AND COVENANTS**

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## SECTION 1 DEFINITIONS AND TERMS

### 1-1 General.

These Specifications are written to the bidder, prior to award of the Contract, and to the Contractor. Within Divisions I and II of the specifications, sentences that direct the Contractor to perform work are written in the active voice-imperative mood. These directions to the Contractor are written as commands. In the imperative mood, the subject “the bidder” or “the Contractor” is understood.

All other requirements to be performed by others, with the exception of the Method of Measurement and the Basis of Payment Articles, have been written in the active voice, but not in the imperative mood. Sentences written in the active voice identify the party responsible for performing the action. For example, “The Engineer will determine the density of the compacted material.” Certain requirements of the Contractor may also be written in the active voice, rather than active voice-imperative mood.

### 1-2 Abbreviations.

The following abbreviations, when used in the Contract Documents, represent the full text shown:

<b>AAN</b>	American Association of Nurserymen, Inc.
<b>AASHTO</b>	American Association of State Highway and Transportation Officials
<b>ACI</b>	American Concrete Institute
<b>AGC</b>	The Associated General Contractors of America, Inc.
<b>AGMA</b>	American Gear Manufacturers Association
<b>AIA</b>	American Institute of Architects.
<b>AISI</b>	American Iron and Steel Institute
<b>ANSI</b>	American National Standards Institute, Inc.
<b>AREA</b>	American Railway Engineering Association
<b>ASCE</b>	American Society of Civil Engineers
<b>ASME</b>	American Society of Mechanical Engineers
<b>ASTM</b>	American Society for Testing and Materials
<b>AWG</b>	American Wire Gauge
<b>AWPA</b>	American Wood Preservers Association
<b>AWS</b>	American Welding Society
<b>AWWA</b>	American Water Works Association
<b>CRSI</b>	Concrete Reinforcing Steel Institute
<b>EASA</b>	Electrical Apparatus Service Association
<b>EPA</b>	Environmental Protection Agency of the United States Government
<b>FDOT</b>	Florida Department of Transportation
<b>FHWA</b>	Federal Highway Administration
<b>FSS</b>	Federal Specifications and Standards
<b>IEEE</b>	Institute of Electrical and Electronics Engineers
<b>IES</b>	Illuminating Engineering Society
<b>IPCEA</b>	Insulated Power Cable Engineers Association



<b>ISO</b>	International Organization for Standards
<b>MASH</b>	AASHTO Manual for Assessing Safety Hardware
<b>MUTCD</b>	Manual on Uniform Traffic Control Devices
<b>NEC</b>	National Electrical Code
<b>NEMA</b>	National Electrical Manufacturers Association
<b>NFPA</b>	National Fire Protection Association
<b>NIST</b>	National Institute for Standards and Technology
<b>NOAA</b>	National Oceanic and Atmospheric Administration
<b>OSHA</b>	Occupational Safety and Health Administration
<b>SAE</b>	Society of Automotive Engineers
<b>SI</b>	International System of Units
<b>SSPC</b>	Society of Protective Coatings
<b>UL</b>	Underwriters' Laboratories

Each of the above abbreviations, when followed by a number or letter designation, or combination of numbers and letters, designates a specification, test method, or other code or recommendation of the particular authority or organization shown.

Use standards, specifications, test methods, or other codes as specified in the current edition at the time of the bid opening.

### **1-3 Definitions.**

The following terms, when used in the Contract Documents, have the meaning described:

#### **Adjusted Score-Design/Build.**

A Design/Build Contract on which the Contract award is based on the lowest adjusted score.

#### **Advertisement.**

The public announcement, as required by law, inviting bids for work to be performed or materials to be furnished, usually issued as "Notice to Contractors," or "Notice to Bidders".

#### **Architect.**

The Architect as defined in Section 481.203 (3) Florida Statutes.

#### **Architect of Record.**

The Architect or Architectural Firm registered in the State of Florida that performs services for the Design-Build Firm in connection with the design and construction of buildings.

#### **Architecture.**

The practice of architecture as defined in Section 481.203(6) Florida Statutes.

#### **Article.**

The numbered prime subdivision of a Section of these Specifications.

#### **Bid Proposal.**

Bid Proposal means a separate technical proposal and a sealed price proposal submitted by each Design-Build Firm.

**Bidder.**

An individual, firm, or corporation submitting a proposal for the proposed work. The word "Bidder" is also deemed to include a Design-Build Firm submitting a proposal for the proposed work.

**Bridge.**

A structure, including supports, erected over a depression or over an obstruction such as water, highway or railway, or for elevated roadway, for carrying traffic or other moving loads, and having a length, measured along the center of the roadway, of more than 20 feet between the inside faces of end supports. A multiple-span box culvert is considered a bridge, where the length between the extreme ends of the openings exceeds 20 feet.

**Calendar day.**

Every day shown on the calendar, ending and beginning at midnight.

**Consultant.**

The Professional Engineer or Engineering Firm, or the Architect or Architectural Firm, registered in the State of Florida to perform professional services. The consultant may be the Engineer or Architect of Record or may provide services through and be subcontracted to the Engineer or Architect of Record.

**Contract.**

The term "Contract" means the entire and integrated agreement between the parties thereunder and supersedes all prior negotiations, representations, or agreements, either written or oral. The Contract Documents form the Contract between the Department and the Contractor setting forth the obligations of the parties thereunder, including, but not limited to, the performance of the Work and the basis of payment.

**Contract Claim (Claim).**

A written demand submitted to the Department by the Contractor in compliance with Section 5-12.3 seeking additional monetary compensation, time, or other adjustments to the Contract, the entitlement or impact of which is disputed by the Department.

**Contract Documents.**

The term "Contract Documents" includes: Advertisement , Request for Proposal (RFP), the Design and Construction Criteria Package, the Technical and Price Proposal, Certification as to Publication and Notice of Advertisement for Proposal, Appointment of Agent by Nonresident Contractors, Noncollusion Affidavit, Warranty Concerning Solicitation of the Contract by Others, Resolution of Award of Contract, Executed Form of Contract, Performance Bond and Payment Bond, Design Liability Insurance, Specifications, plans (including revisions thereto issued during construction), Standard Plans, Addenda, written statements or transcripts or minutes of oral representation by Design-Build Firm made at oral presentations, or other information mailed or otherwise transmitted to the prospective bidders prior to the receipt of bids, work orders and supplemental agreements, all of which are to be treated as one instrument whether or not set forth at length in the form of contract.

Note: As used in Sections 2 and 3 only, Contract Documents do not include work orders, and supplemental agreements. As used in Section 2 only, Contract Documents do not include

Resolution of Award of Contract, Executed Form of Contract, and Performance and Payment Bond.

**Contract Bond.**

The security furnished by the Contractor and the surety as a guaranty that the Contractor shall fulfill the terms of the Contract and pay all legal debts pertaining to the construction of the project.

**Contract Letting.**

The date that the Department opened the sealed price proposal of the bid proposals.

**Contract Time.**

The number of calendar days allowed for completion of the Contract work, including authorized time extensions.

**Contractor.**

The individual, firm, joint venture, or company contracting with the Department to perform the work. The word “Contractor” is also deemed to include a Design-Build Firm contracting with the Department for performance of work, including all engineering services and furnishing of materials.

**Contractor’s Engineer of Record (EOR).**

A Professional Engineer registered in the State of Florida, who undertakes the design and drawing of components of the permanent structure for repair designs and details of the permanent work.

The Contractor’s Engineer of Record may also serve as the Engineer of Record. The Contractor’s Engineer of Record may also serve as the Specialty Engineer.

The Contractor’s Engineer of Record must be an employee of a pre-qualified firm. The firm shall be pre-qualified in accordance with the Rules of the Department of Transportation, Chapter 14-75. Any Corporation or Partnership offering engineering services must hold a Certificate of Authorization from the Florida Department of Business and Professional Regulation.

As an alternate to being an employee of a pre-qualified firm, the Contractor’s Engineer of Record may be a Department-approved Specialty Engineer. For items of the permanent work declared by the State Construction Office to be “major” or “structural”, the work performed by a Department-approved Specialty Engineer must be checked by another Department-approved Specialty Engineer. An individual may become a Department-approved Specialty Engineer if the individual meets the Professional Engineer experience requirements set forth within the individual work groups in the Rules of the Department of Transportation, Chapter 14-75. Department-approved Specialty Engineers are listed on the State Construction Office Website. Department-approved Specialty Engineers will not be authorized to perform redesigns or Cost Savings Initiative Proposal designs of items fully detailed in the Plans.

**Controlling Work Items.**

The activity or work item on the critical path having the least amount of total float. The controlling item of work will also be referred to as a Critical Activity.

**Culverts.**

Any structure not classified as a bridge that provides an opening under the roadway.

**Delay.**

Any unanticipated event, action, force or factor, which extends the Contractor's time of performance of any controlling work item under the Contract. The term "delay" is intended to cover all such events, actions, forces or factors, whether styled "delay", "disruption", "interference", "impedance", "hindrance", or otherwise, which are beyond the control of and not caused by the Contractor, or the Contractor's subcontractors, material men, suppliers or other agents. This term does not include "extra work".

**Department.**

State of Florida Department of Transportation.

**Design and Construction Criteria Package (DCC).**

Criteria for Contractor Prepared Design, Project Concept Report, Scope of Work and Service, and all other documents attached thereto; and which, together set forth the criteria for work to be provided to complete this Contract.

**Design-Build (D-B).**

Design-Build means combining the project's design and construction phases, and in some cases construction engineering and inspection, into a single Contract.

**Design-Build Firm.**

Design-Build Firm means any company, firm, partnership, corporation, association, joint venture, or other legal entity permitted by law to practice engineering, architecture, and construction contracting, as appropriate, in the State of Florida.

**Developmental Specification.**

See definition for Specifications.

**Engineer.**

The Director, Office of Construction, acting directly or through duly authorized representatives; such representatives acting within the scope of the duties and authority assigned to them.

Note: In order to avoid cumbersome and confusing repetition of expressions in these Specifications, it is provided that whenever anything is, or is to be done, if, as, or, when, or where "acceptable, accepted, approval, approved, authorized, condemned, considered necessary, contemplated, deemed necessary, designated, determined, directed, disapproved, established, given, indicated, insufficient, ordered, permitted, rejected, required, reserved, satisfactory, specified, sufficient, suitable, suspended, unacceptable, or unsatisfactory," it shall be understood as if the expression were followed by the words "by the Engineer," "to the Engineer," or "of the Engineer."

**Engineer of Record (EOR).**

The Professional Engineer or Engineering Firm registered in the State of Florida that develops the criteria and concept for the project, performs the analysis, and is responsible for the preparation of the Technical Proposal, Division II and III Specifications, Plans, and other

documents as required by the Request for Proposal. The EOR shall be a part of the Design Build Firm. The EOR may serve as the Contractor's EOR or as the Specialty Engineer.

**Equipment.**

The machinery and equipment, together with the necessary supplies for upkeep and maintenance thereof, and all other tools and apparatus necessary for the construction and acceptable completion of the work.

**Extra Work.**

Any "work" which is required by the Engineer to be performed and which is not otherwise covered or included in the project by the existing Contract Documents, whether it is in the nature of additional work, altered work, deleted work, work due to differing site conditions, or otherwise. This term does not include a "delay".

**Federal, State, and Local Rules and Regulations.**

The term "Federal, State and Local Rules and Regulations" includes: any and all Federal, State, and Local laws, bylaws, ordinances, rules, regulations, orders, permits, or decrees including environmental laws, rules, regulations, and permits.

**Highway, Street, or Road.**

A general term denoting a public way for purposes of vehicular travel, including the entire area within the right-of-way.

**Holidays.**

Days designated by the State Legislature or Cabinet as holidays, which include, but are not limited to, New Year's Day, Martin Luther King's Birthday, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day and the following Friday, and Christmas Day.

**Inspector.**

An authorized representative of the Engineer, assigned to make official inspections of the materials furnished and of the work performed by the Contractor.

**Laboratory.**

The official testing laboratory used by the Department.

**Low Bid Design Build.**

A Design/Build Contract on which the Contract award is based on the lowest responsive bid.

**Materials.**

Any substances to be incorporated in the work under the Contract.

**Median.**

The portion of a divided highway or street separating the traveled ways for traffic moving in opposite directions.

**Plans.**

The signed and sealed plans prepared by the EOR and accepted by the Department, including reproductions thereof, showing the location, character, dimensions, and details of the work. Upon review by the Department, the plans will be stamped "Released for Construction" dated and initialed by the reviewer.

**Project.**

Project means the project to be designed and constructed as described in the public advertisement.

**Project Manager.**

The Department's designee responsible for the administration of the Design-Build Contract.

**Proposal.**

**Technical Proposal:** The bidder's submittal in response to the technical requirements set forth in the Department's RFP.

**Price Proposal:** The bidder's submittal, on the prescribed form, in response to the price requirements set forth in the Department's RFP.

**Proposal Guaranty.**

The security furnished by the bidder as guaranty that the bidder will enter into the Contract for the work if the Department accepts the proposal.

**Request for Proposal. (RFP)**

The package to be provided to the short-listed design-build firms in the adjusted score design-build method and to those design-build firms requesting a RFP in the low bid design-build method. The RFP defines all functions and responsibilities of the firm.

**Right-of-Way.**

The land that the Department has title to, or right of use, for the road and its structures and appurtenances, and for material pits furnished by the Department.

**Roadbed.**

The portion of the roadway occupied by the subgrade and shoulders.

**Roadway.**

The portion of a highway within the limits of construction.

**Secretary.**

Secretary of Transportation, State of Florida Department of Transportation, acting directly or through an assistant or other representative authorized by him; the chief officer of the Department of Transportation.

**Section.**

A numbered prime division of these Specifications.

**Shoulder.**

The paved or unpaved portion of the roadbed outside the edges of the traveled way or back of curb, and extending to the top of front slopes.

**Special Event.**

Any event, including but not limited to, a festival, fair, run or race, motorcade, parade, civic activity, cultural activity, charity or fund drive, sporting event, or similar activity designated in the Contract Documents.

**Special Provisions.**

See definition for Specifications.

**Specialty Engineer.**

A Professional Engineer registered in the State of Florida, who undertakes the design and drawing preparation of components, systems, or installation methods and equipment for specific temporary portions of the project work or for special items of the permanent works not fully detailed in the plans and required to be furnished by the Contractor. The Specialty Engineer may also provide designs and details, repair designs and details, or perform Engineering Analysis for items of the permanent work declared by the State Construction Office to be “minor” or “non-structural”.

For items of work not specifically covered by the Rules of the Department of Transportation, a Specialty Engineer is qualified if he has the following qualifications:

1. Registration as a Professional Engineer in the State of Florida.
2. The education and experience necessary to perform the submitted design as required by the Florida Department of Business and Professional Regulation.

**Specifications.**

The directions, provisions, and requirements contained herein, together with all stipulations contained in the Contract Documents, setting out or relating to the method and manner of performing the work, or to the quantities and qualities of materials and labor to be furnished under the Contract.

Standard Specifications: “Standard Specifications for Road and Bridge Construction” an electronic book, applicable to all Department Contracts containing adopted requirements, setting out or relating to the method or manner of performing work, or to the quantities and qualities of materials and labor.

Supplemental Specifications: Approved additions and revisions to the Standard Specifications, applicable to all Department Contracts.

Special Provisions: Specific clauses adopted by the Department that add to or revise the Standard Specifications or supplemental specifications, setting forth conditions varying from or additional to the Standard Specifications applicable to a specific project.

Technical Special Provisions: Specifications, of a technical nature, prepared, signed, and sealed by an Engineer registered in the State of Florida other than the State Specifications Engineer or his designee, that are made part of the Contract as an attachment to the Contract Documents.

Developmental Specification: A specification developed around a new process, procedure, or material.

**Standard Plans.**

“Standard Plans for Road and Bridge Construction”, an electronic book describing and detailing aspects of the Work. Where the term Design Standards appear in the Contract Documents, it will be synonymous with Standard Plans.

**Standard Specifications.**

See definition for Specifications.

**State.**

State of Florida.

**Subarticle.**

A headed and numbered subdivision of an Article of a Section of these Specifications.

**Subgrade.**

The portion of the roadbed immediately below the base course or pavement, including below the curb and gutter, valley gutter, shoulder and driveway pavement. The subgrade limits ordinarily include those portions of the roadbed shown in the plans to be constructed to a design bearing value or to be otherwise specially treated. Where no limits are shown in the plans, the subgrade section extends to a depth of 12 inches below the bottom of the base or pavement and outward to 6 inches beyond the base, pavement, or curb and gutter.

**Substructure.**

All of that part of a bridge structure below the bridge seats, including the parapets, backwalls, and wingwalls of abutments.

**Superintendent.**

The Contractor’s authorized representative in responsible charge of the work.

**Superstructure.**

The entire bridge structure above the substructure, including anchorage and anchor bolts, but excluding the parapets, backwalls, and wingwalls of abutments.

**Supplemental Agreement.**

A written agreement between the Contractor and the Department, and signed by the surety, modifying the Contract within the limitations set forth in these Specifications.

**Supplemental Specifications**

See definition for Specifications.

**Surety.**

The corporate body that is bound by the Contract Bond with and for the Design Build Firm and responsible for the performance of the Contract and for payment of all legal debts pertaining thereto.

**Technical Special Provisions Requirements.**

See definition for Specifications.



**Traveled Way.**

The portion of the roadway for the movement of vehicles, exclusive of shoulders and bicycle lanes.

**Unilateral Payment.**

A payment of money made to the Contractor by the Department pursuant to Section 337.11(12), Florida Statutes (2009), for sums the Department determines to be due to the Contractor for work performed on the project, and whereby the Contractor by acceptance of such payment does not waive any rights the Contractor may otherwise have against the Department for payment of any additional sums the Contractor claims are due for the work.

**Work.**

All labor, materials and incidentals required executing and completing the requirements of the Contract including superintendence, use of equipment and tools, and all services and responsibilities prescribed or implied.

**Work Order.**

A written agreement between the Contractor and the Department modifying the Contract within the limitations set forth in these Specifications. Funds for this agreement are drawn against the Initial Contingency Pay Item or a Contingency Supplemental Agreement.

**Working Day.**

Any calendar day on which the Contractor works or is expected to work in accordance with the approved work progress schedule.

## **SECTION 2 PROPOSAL REQUIREMENTS AND CONDITIONS**

**2-1 Prequalification of Bidders.**

Bidders shall prequalify in accordance Section 337-14, Florida Statutes and Rule 14-22, Florida Administrative Code.

Pursuant to Section 287.133, Florida Statutes, a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit the following:

1. A bid on a contract to provide any goods or services to a public entity.
2. A bid on a contract with a public entity for the construction or repair of a public building or public work.
3. Bids on leases of real property to a public entity.

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime 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 Section 287.017 F.S., for Category Two. All restrictions apply for a period of 36 months from the date of placement on the convicted vendor list.

## **2-2 Proposals.**

Obtain Proposal Forms under the conditions stipulated in the Advertisement. The Advertisement states the location and description of the work to be performed; the estimate of the various quantities (if applicable); the pay items of work to be performed (if applicable); the Contract Time; the amount of Proposal Guaranty; and the date, time, and place of the opening of proposals.

The Plans, Specifications and other documents designated in the Advertisement are part of the Proposal, whether attached or not. Do not detach any papers bound with or attached to the Proposal.

## **2-3 Interpretation of Estimated Quantities.**

The Bidder is responsible for the determination of the quantities for those items constructed within the authorized plan limits or dimensions.

The Department does not assume any responsibility for any incidental information in bid documents that may be construed as a quantity of work and/or materials.

**2-3.1 Lump Sum Contracts:** Not applicable.

**2-3.2 Contracts other than Lump Sum:** Not applicable.

## **2-4 Examination of Contract Documents and Site of Work.**

Examine the Contract Documents and the site of the proposed work carefully before submitting a Proposal for the work contemplated. Investigate the conditions to be encountered, as to the character, quality, and quantities of work to be performed and materials to be furnished and as to the requirements of all Contract Documents.

Direct all questions to the Department by posting them to the Department's website at the following URL address:

<https://fdotwp1.dot.state.fl.us/BidQuestionsAndAnswers/Proposal.aspx/SearchProposal>.

Questions posted to this site before the deadlines shown in the Schedule of Events in the RFP will be responded to by the Department. For questions posted after the deadlines shown in the Schedule of Events in the RFP, an answer cannot be assured. For all questions posted before the deadlines shown in the Schedule of Events in the RFP, the Department will provide and post responses at the same website before the deadlines shown in the Schedule of Events in the RFP. Take responsibility to review and be familiar with all questions and responses posted to this website make any necessary adjustments in the proposal accordingly. If the Department's web site cannot be accessed, **contact Ranae Dodson at 850-330-1333 and [ranae.dodson@dot.state.fl.us](mailto:ranae.dodson@dot.state.fl.us).**

When, in the sole judgment of the Department, responses to questions require plans revisions, specifications revisions and/or addenda, the Contracts Office will issue them as necessary.

The Department does not guarantee the details pertaining to borings, as shown on the plans, to be more than a general indication of the materials likely to be found adjacent to holes bored at the site of the work, approximately at the locations indicated. The Bidder shall examine boring data, where available, and make their own interpretation of the subsoil investigations and other preliminary data, and shall base their bid solely on their own opinion of the conditions likely to be encountered.

The Bidder's submission of a Proposal is prima facie evidence that the Bidder has made an examination as described in this Article.

## **2-5 Preparation of Proposals.**

**2-5.1 General:** A proposal is irregular or non-responsive if it does not meet the requirements of the RFP and may be rejected by the Department.

If the proposal is made by an individual, either in the Bidder's own proper person or under a trade or firm name, the Bidder shall execute the proposal under the Bidder's signature and indicate the firm's bidding office street address. If the Proposal is made by a partnership, execute the Proposal by setting out in full, the names of the partners and the firm name of the partnership, if any, and have two or more of the general partners or authorized person sign the Proposal. Also, indicate the firm's bidding office street address. If the Proposal is made by a corporation, execute the Proposal by setting out in full the corporate name and have the president or other legally authorized corporate officer or agent sign the proposal. Also, affix the corporate seal, and indicate the corporation's bidding office street address. If the Proposal is made by a limited liability company, execute the Proposal by setting out the company name and have the manager or authorized member sign the Proposal. If the Proposal is made by a limited venture, execute the Proposal by setting out the joint venture name and have the authorized parties sign the Proposal.

If the Proposal is made by a joint venture, the individual so empowered by a properly executed Declaration of Joint Venture and Power of Attorney Form shall execute the Proposal.

The Bidder will be required to identify the EOR, who will be responsible for the engineering design portion on the Contract required in the RFP.

If required by the RFP, establish the number of Calendar Days necessary to complete the work in accordance with the Contract Documents and show this number of Calendar Days in the Proposal. For purposes of this Contract, this number of Calendar Days will serve as the Original Contract Time. For this Contract, the Department will reject any bid in which the Bidder submits proposed Contract Time in excess of the Department's established Maximum Contract Time identified in the RFP.

**2-5.2 Declaration of Noncollusion:** File with the Department Form 375-020-12, contained in the proposal, which includes an unsworn statement executed by, or on behalf of, the person, firm, association, or corporation submitting the bid certifying that such person, firm, association, or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the submitted bid. The Department will not consider any bid unless such form is properly completed in accordance with the requirements shown thereon.

## **2-6 Rejection of Irregular Proposals.**

A Proposal is irregular and the Department may reject such Proposal if the Proposal shows omissions, alterations of form, additions not specified or required, conditional or unauthorized alternate bids, or irregularities of any kind; or if the unit prices are obviously unbalanced, or if the cost is in excess of or below the reasonable cost analysis values.

When the Department provides for alternate bids in the Proposal Form and the bidder submits non-computer-generated proposal form sheets, make only one entry for each alternate. A Proposal that provides for alternative bids is irregular and the Department may reject such Proposal if the Bidder makes entries for more than one alternate.

## **2-7 Guaranty to Accompany Proposals.**

The Department will not consider any Proposal unless accompanied by a Proposal

Guaranty of the character and amount indicated in the Advertisement, and unless made payable to the Florida Department of Transportation. Submit the Proposals with the understanding that the successful Bidder shall furnish a Contract Bond pursuant to the requirements of 3-5.

The Bidder's Proposal Guaranty is binding for all projects included in the Contract awarded to the Contractor pursuant to the provisions of this Subarticle.

### **2-8 Delivery of Proposals.**

Submit all price proposals in a sealed envelope, bearing on the outside the name of the Bidder, the Bidder's address, and the Financial Project Number of the project for which the Bidder submitted the bid. For Proposals that are submitted by mail, enclose the Proposal in a sealed envelope, marked as directed above. Enclose the sealed envelope in a second outer envelope addressed to the Department, at the place designated in the RFP. For a Proposal that is not submitted by mail, deliver the Proposal to the Contracts Office of the Department, or to the place as designated in the RFP. The Department will return Proposals received after the time set for opening bids to the bidder unopened.

### **2-9 Withdrawal or Revision of Proposals. (Bid Proposal Only)**

A Bidder may withdraw a Proposal after submission, provided the Department receives a written request to withdraw the proposal prior to the time set for opening of bids. The resubmission of any Proposal withdrawn under this provision is subject to the provisions of 2-8. Legible facsimile (FAX) price proposal changes will be accepted if received in full at the fax number listed in the Bid Solicitation Notice by the time price proposals are due on the day of the bid opening and provided that all of the following conditions are met:

1. The Bidder's name is the same on the faxed Proposal change as shown on the original Proposal.
2. The proposal change includes the following:
  - a. The correct Proposal ID.
  - b. The correct bid item number for which the price is being changed and the respective unit price change.
  - c. The correct revised total per item.
  - d. The revised total bid amount.
  - e. The signature of the President or Vice President of the Company.

Faxed price proposal changes failing to meet all of these requirements will not be considered and will not change the original bid.

The Department will not be responsible for any communications or fax machine breakdowns, transmission interruptions, delays, or any other problems that interfere with the receipt of faxed price Proposal changes as required above either at the Bidder's fax location, at the Department's fax location, or anywhere between these locations. Receipt or non-receipt of a faxed price Proposal change will not be considered grounds for a bid protest.

### **2-10 Opening of Proposals.**

The Department will open and publicly announce technical scores (if applicable) and price proposals at the time and place indicated in the RFP. The Department invites Bidders, their authorized agents, and other interested parties to attend.

### **2-11 Disqualification of Bidders.**

The Department may disqualify any Bidder and reject the Bidder's Proposal or Proposals for any of the following reasons:

1. The submission of more than one Proposal for the same work from an individual, firm, or corporation under the same or a different name.
2. Evidence that one Bidder has a financial interest in the firm of another bidder for the same work.
3. Evidence of collusion among Bidders. The Department will not recognize a participant in such collusion as a Bidder for any future work of the Department until the Department reinstates such participant as a qualified Bidder.
4. Failure to qualify in accordance with 2-1.
5. Uncompleted work on other projects that, in the judgment of the Department, could hinder or prevent the prompt completion of the proposed work.
6. Failure to pay or satisfactorily settle all bills due for labor and material on other Contracts in force at the time of advertisement for bids.
7. Default under a previous Contract.
8. Employment of unauthorized aliens in violation of Section 274A (e) of the Immigration and Nationality Act.
9. Falsification on any form required by the Department.
10. The submission of a Proposal that was not solicited by the Department.
11. Design-Build Firms wherein the same EOR is identified in more than one proposal.

### **2-12 Material, Samples and Statement.**

The Department may require that the Bidder furnish a statement of the origin, composition, and manufacture of any and all materials to be used in the construction of the work, together with samples that may be subjected to the tests provided for in these Specifications to determine the materials' quality and fitness for the work.

## **SECTION 3 AWARD AND EXECUTION OF CONTRACT**

### **3-1 Consideration of Bids.**

1. Technical and price proposals will be received from those firms deemed to be the most highly qualified by the Selection Committee and Proposal Evaluators and approved under Rule 14-91 F.A.C. A pre-proposal conference may be held shortly after the posting of the short listed firms. Proposals shall be segmented into two packages:

- a. Technical Proposal. A technical proposal shall include preliminary design plans, preliminary specifications and special requirements, technical reports, calculations, proposed Contract Time along with schedules, and other data requested in response to the RFP, which includes the Design and Construction Criteria Package.
- b. Price Proposal. Price proposals shall include one lump sum price for all design, geotechnical surveys, and construction of the proposed project, preliminary design submittal reports, services, and all other data requested in response to the RFP, which includes the Design

and Construction Criteria Package. The price proposal shall also include the Design-Build Firm's proposed Contract Time, when required by the RFP.

1. Low Bid: For the purpose of award, after opening and reading the proposals, the Department will consider the total Contract Lump Sum Price as the bid. On this basis, the Department will compare the amounts of each bid and make the results of such comparison available to the public. Until the actual award of the Contract, however, the Department reserves the right to reject any or all proposals and to waive technical errors that the Department may deem best for the interest of the State. In the event of any discrepancy in the two entries of the Contract Lump Sum Price, the Department will evaluate the bid based on the lump sum price shown in words.

2. Adjusted Score: For the purposes of this Contract, the Daily Value in the pre-established, per day monetary amount stated in the RFP to which the Design-Build Firm is responding. The proposed Contract Time in days included in the Design-Build Firm's Price Proposal shall be multiplied times the Daily Value and the product added to the Lump Sum Price Proposal to determine the Time-Adjusted Price. The lowest responsive bid will be determined by the Department as the lowest Time-Adjusted Price. The Time-Adjusted Price will be used for selection purposes only and shall not affect the Department's liquidated damages schedule or constitute an incentive/disincentive to the Contract.

2. The Proposal Evaluators shall review the technical proposal submitted by each firm and shall establish a technical score for each firm based on the criteria identified in the RFP and any addenda. Scores are provided to Professional Services who use them in calculating the adjusted score, which is announced at the public opening. (For low-bid Design-Build projects the Review Committee will approve award to the lowest responsive bid).

### **3-1.1 Selection for Design-Build Contract:**

1. The Selection Committee shall be comprised of the District Secretary, the appropriate Director, the appropriate Office Head, or their designees.

2. The RFP shall set a date for publicly announcing the technical scores (if applicable) and opening the price proposals. The Department shall notify all firms submitting technical and price proposals at least three days prior to the opening date. The notification shall include the date, time, and place of the opening of the price proposals for the project.

3. The Department shall publicly announce the technical scores (if applicable) and open the sealed price proposals at the time and place indicated in the RFP. On Adjusted Score Design-Build Contracts, the firm selected will be the responsive firm that has the lowest adjusted score. On Low Bid Design-Build Contracts, the firm selected will be the responsive firm that has the lowest price proposal. Unless all proposals are rejected, the Final Selection Committee may approve an award to the responsive firm with the lowest adjusted score on Adjusted Score Design-Build Contracts or to the responsive firm with the lowest price proposal on Low Bid Design-Build Contracts and enter into a Contract for the price proposed. The Department reserves the right to reject all bid proposals. The Department invites bidders, their authorized agents, and other interested parties to attend.

4. The Department shall provide written notification by mail to each firm submitting a proposal of the award of the project or rejection of all proposals within 30 days of the opening of the bid proposals.

### **3-2 Award of Contract.**

**3-2.1 General:** If awarded, the Department will award the Contract within 50 days after the opening of the proposals, unless the Special Provisions change this time limit or the Bidder

and the Department extends the time period by mutual consent. Prior to award of the Contract by the Department, a Contractor must provide proof of authorization to do business in the State of Florida.

The award of the Contract shall be as described in Article 3-1.

**3-2.2 Bids Exceeding Bidder's Maximum Capacity Rating:** Prior to award of the Contract, the Department will address bids exceeding a Bidder's maximum capacity rating, and the resulting impact on the Bidder's qualification to bid, in accordance with Florida Administrative Code Rules 14-22.003 and 14-22.009.

### **3-3 Cancellation of Award.**

The Department reserves the right to cancel the award of any Contract at any time before the execution of the Contract by all parties, with no compensation due any of the Bidders.

### **3-4 Release of Proposal Guaranty.**

The Department will release all Proposal Guaranties except those of the lowest responsible Bidders (short listed firms not selected) immediately following the opening and checking of the Proposals. The Department will immediately release the Proposal Guaranties of the short listed firms not selected after the successful Bidder delivers the executed Contract and a satisfactory bond to the Department, except that the Department will not retain the Proposal Guaranty of the next-to-lowest responsible Bidder longer than 50 days after the opening of the Proposals unless the Department awards the Contract to the next lowest responsible Bidder prior to the expiration of this time limit.

### **3-5 Contract Bond Required.**

**3-5.1 General Requirements of the Contract Bond:** Upon award, furnish to the Department, and maintain in effect throughout the life of the Contract, an acceptable Contract Bond in a sum at least equal to the amount of the Contract. Execute such Contract Bond on Department Form 375-020-14. Obtain the Contract Bond from a Surety licensed to conduct business in the State of Florida, meeting all of the requirements of the laws of Florida and the regulations of the Department, and having the Department's approval. Ensure that the Surety's Florida Licensed Insurance Agent's name, address, and telephone number is clearly stated on the Contract Bond form.

The Department may waive the requirement for all or a portion of a Contract Bond if:

1. The Contract amount is \$250,000 or less, and the Department determines that the project is of a noncritical nature and that nonperformance will not endanger the public health, safety, or property;
2. The Contractor is a qualified nonprofit agency for the blind or for the other severely handicapped under Section 413.036(2), Florida Statutes; or,
3. The Contractor uses a subcontractor that is a qualified nonprofit agency for the blind or for the other severely handicapped under Section 413.036(2), Florida Statutes. However, the Department may not waive more than the amount of the subcontract.

The Department may require alternate means of security if it waives the requirement for a Contract Bond.

**3-5.2 Continued Acceptability of Surety:** Provide a Contract Bond that remains acceptable to the Department throughout the life of the Contract. In the event that the Surety executing the Contract Bond, although acceptable to the Department at the time of execution of

the Contract, subsequently becomes insolvent or bankrupt, or becomes unreliable or otherwise unsatisfactory due to any cause that becomes apparent after the Department's initial approval of the Surety, then the Department may require that the Contractor immediately replace the Contract Bond with a similar bond issued by a Surety that is reliable and acceptable to the Department. In such an event, the Department will bear all costs of the premium for the new Contract Bond, after deducting any amounts that are returned to the Contractor from their payment of premium on the original Contract Bond.

**3-5.3 Default by Contractor:** In case of default on the part of the Contractor, the Department will charge against the Contract Bond all expenses for services incidental to ascertaining and collecting losses under the Contract Bond, including accounting, engineering, and legal services, together with any and all costs incurred in connection with renegotiation of the Contract.

**3-5.4 Surety to Furnish Legal Defense as to Payment and Performance Claims or Suits:** The Surety shall indemnify and provide defense for the Department when called upon to do so for all claims or suits against the Department, by third parties, pertaining to Contractor payment or performance issues arising out of the Contract where the Contractor has failed to timely provide the Department such defense. It is expressly understood that the monetary limitation on the extent of the indemnification shall be the approved Contract amount, which shall be the original Contract amount as may be modified by subsequent Supplemental Agreements.

**3-5.5 Liability for Wrongful or Criminal Act by Contractor:** The principal and Surety executing the Contract Bond shall be liable to the State in any civil action that might be instituted by the Department or any officer of the State authorized in such cases, for double any amount in money or property the State might lose, or be overcharged, or otherwise be defrauded of by any wrongful or criminal act of the Contractor, their agent or their employee.

### **3-6 Execution of Contract and Contract Bond.**

Within 10 calendar days, excluding Saturdays, Sundays, and Holidays after receipt of the Contract award, execute the necessary agreements to enter into a Contract with the Department and return the Contract along with a satisfactory Contract Bond and documentation evidencing all insurance required by 7-13 to the Department's Contracts Office that awarded the Contract. For each calendar day, excluding Saturdays, Sundays, and state holidays, the Contractor is late in delivering to the Department's Contracts Office all required documents in properly executed form, the Department will deduct one day from the Contract Time. The Department will not be bound by any Proposal until the Department executes the associated Contract.

The Department will execute the Contract within 5 calendar days, excluding Saturdays, Sundays, and state holidays after receipt of the signed Contract, necessary agreements, Contract Bond, and all other required documents from the Contractor.

### **3-7 Failure by Contractor to Execute Contract and Furnish Bond.**

In the event that the Contractor fails to execute the awarded Contract and to submit an acceptable Contract Bond, as prescribed in 3-5 and 3-6, within 10 calendar days, excluding Saturdays, Sundays, and Holidays, of the receipt of the Contract award, the Department may annul the award, causing the Contractor to forfeit the Proposal Guaranty to the Department and any rights of receiving a stipend as liquidation of damages sustained. The Department may then award the Contract to the next lowest responsible Bidder, re-advertise, or accomplish the Work using alternate resources.



### **3-8 Audit of Contractor's Records.**

Upon execution of the Contract, the Department reserves the right to conduct an audit of the Contractor's records pertaining to the project. The Department or its representatives may conduct an audit, or audits, at any time prior to final payment, or thereafter pursuant to 5-13. The Department may also require submittal of the records from the Contractor or any subcontractor, or material supplier. As the Department deems necessary, records include all books of account, supporting documents, and papers pertaining to the cost of performance of the Work.

Retain all records pertaining to the Contract for a period of not less than three years from the date of the Engineer's final acceptance of the project, unless a longer minimum period is otherwise specified. Upon request, make all such records available to the Department or its representative(s). For the purpose of this Article, records include but are not limited to all books of account, supporting documents, and papers that the Department deems necessary to ensure compliance with the provisions of the Contract Documents.

If the Contractor fails to comply with these requirements, the Department may disqualify or suspend the Contractor from bidding on or working as a subcontractor on future Contracts.

Ensure that the subcontractors provide access to their records pertaining to the project upon request by the Department.

Comply with Section 20.005(5), Florida Statutes, and incorporate in all subcontracts the obligation to comply with Section 20.005(5), Florida Statutes.

### **3-9 Public Records.**

The Contractor shall comply with Chapter 119, Florida Statutes. Specifically, the Contractor shall:

1. Keep and maintain public records required by the Department to perform the service.

2. Upon request from the Department's custodian of public records, provide the Department public 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, Florida Statutes, or as otherwise provided by rule or 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 Department.

4. Upon completion of the Contract, transfer at no cost to the Department, all public records in possession of the Contractor or keep and maintain public records required by the Department to perform the service. If the Contractor transfers all public records to the Department 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 Department, upon request from the Department's custodian of public records, in a format that is compatible with the information technology systems of the Department.

Failure to comply with Chapter 119, Florida Statutes, and the Article 3-9, shall be grounds for immediate unilateral termination of this Contract by the Department pursuant to 8-9.1.

**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:**

**District 3  
850-330-1894  
[D3pcustodian@dot.state.fl.us](mailto:D3pcustodian@dot.state.fl.us)  
Florida Department of Transportation  
District 3 - Office of General Counsel  
1074 Highway 90 East  
Chipley, FL 32428**

#### **SECTION 4 SCOPE OF THE WORK**

##### **4-1 Intent of Contract.**

The intent of the Contract is to provide for the engineering services, furnishing of materials, construction, and completion in every detail of the work described in this Contract. The Design-Build Firm shall furnish all engineering and all of its associated direct and indirect costs, construction labor, materials, equipment, supervision, tools, transportation, and supplies required to complete the work in accordance with the requirements of the Contract Documents. The terms and conditions of this Contract are fixed price and fixed time. The Contractor's submitted bid (time and cost) is to be a lump sum bid for completing the scope of work detailed in the Contract.

The Design-Build Firm shall have all liability and responsibility for all unknowns and/or differing site conditions; and including but not limited to any or all utilities, subsoil conditions, permits, etc. of any nature or kind, unless otherwise stated in the Contract. In the event that unforeseeable work is provided for in the Contract, such work shall be paid for in accordance with 4-3.2.

No substantial change, as determined at the sole discretion of the Engineer, in general plan or character of the work shall be made without written agreement by the Engineer. The plans shall be dated, stamped, and signed and sealed by the EOR and shall be transmitted to the Engineer for the project records. The Design-Build Firm shall schedule the transmittal so that the Engineer receives the Plans and shop drawings at least 15 working days prior to commencement of any portion of work described in the Plans or as specifically required in the RFP.

Pay adjustments as shown in the Contract Documents, regardless of where those pay adjustments are referenced, shall not apply, except as provided in 9-2, Scope of Payments.

Upon execution of the Contract, conduct all written communication associated with the Contract using a paperless electronic means. When the Specifications require a

submission of documentation, such documents must be submitted and exchanged electronically using the Department provided web-based collaboration site.

All documents requiring a signature must be executed electronically by both parties in accordance with Chapter 668, Florida Statutes, and have the same force and effect as a written signature. All persons requiring access to the collaboration site shall be identified during the preconstruction conference. Persons may be added or removed during the life of the Contract on an as needed basis. All signatories must acquire digital signature certificates.

#### **4-2 Work not covered by Standard Specifications.**

Proposed construction and any contractual requirements not covered by these Standard Specifications may be covered by Contract Plan notes or by Supplemental Specifications, Special Provisions or Technical Specifications for the Contract and all requirements of such Supplemental Specifications, Special Provisions or Technical Specifications shall be considered as a part of these Specifications.

#### **4-3 Alteration of Plans or of Character of Work.**

**4-3.1 General:** The Engineer reserves the right to make, at any time prior to or during the progress of the work, alterations or changes, whether a significant change or not, and such alterations in the details of construction, whether a substantial change or not, including but not limited to alterations in the grade or alignment of the road or structure or both, as may be found necessary or desirable by the Engineer. Such alterations or changes shall not constitute a breach of Contract, shall not invalidate the Contract, nor release the Surety from any liability arising out of this Contract or the surety bond. The Contractor agrees to perform the work, as altered or changed, the same as if it had been a part of the original Contract.

The term “significant change” applies only when the Engineer determines that the character of the work as altered differs materially in kind or nature from that involved or included in the original proposed construction. The allowance due to the Contractor will be in accordance with 4-3.2, below.

In the instance of an alleged “significant change”, the determination by the Engineer shall be conclusive. If the determination is challenged by the Contractor in any proceeding, the Contractor must establish by clear and convincing proof that the determination by the Engineer was without any reasonable basis.

**4-3.2 Increase, Decrease or Alteration in the Work:** The Engineer reserves the right to make alterations in the character of the work which involve a substantial change in the nature of the design or in the type of construction or which materially increases or decreases the cost or time of performance. Such alteration shall not constitute a breach of Contract, shall not invalidate the Contract or release the Surety.

Notwithstanding that the Contractor shall have no formal right whatsoever to any extra compensation or time extension deemed due by the Contractor for any cause unless and until the Contractor follows the procedures set forth in 5-12.2 for preservation, presentation and resolution of the claim, the Contractor may at any time, after having otherwise timely submitted a notice of intent to claim or preliminary time extension request pursuant to 5-12.2 and 8-7.3.2, submit to the Department a request for equitable adjustment of compensation or time or other dispute resolution proposal. The Contractor shall in any request for equitable adjustment of compensation, time, or other dispute resolution proposal certify under oath and in writing, in accordance with the formalities required by Florida Law, that the request is made in good faith, that any supportive data submitted is accurate and complete to the Contractor’s best knowledge

and belief, and that the amount of the request accurately reflects what the Contractor in good faith believes to be the Department’s responsibility. Such certification must be made by an officer or director of the Contractor with the authority to bind the Contractor. Any such certified statements of entitlement and costs shall be subject to the audit provisions set forth in 5-12.14. While the submittal or review of a duly certified request for equitable adjustment shall neither create, modify, nor activate any legal rights or obligations as to the Contractor or the Department, the Department will review the content of any duly certified request for equitable adjustment or other dispute resolution proposal, with any further action or inaction by the Department thereafter being in its sole discretion. Any request for equitable adjustment that fails to fully comply with the certification requirements will not be reviewed by the Department.

The monetary compensation provided for below constitutes full and complete payment for such additional work and the Contractor shall have no right to any additional monetary compensation for any direct or indirect costs or profit for any such additional work beyond that expressly provided below. The Contractor shall be entitled to a time extension only to the extent that the performance of any portion of the additional work is a controlling work item and the performance of such controlling work item actually extends completion of the project due to no fault of the Contractor. All time related costs for actual performance of such additional work are included in the compensation already provided below and any time extension entitlement hereunder will be without additional monetary compensation. The Contractor shall have no right to any monetary compensation or damages whatsoever for any direct or indirect delay to a controlling work item arising out of or in any way related to the circumstances leading up to or resulting from additional work (but not relating to the actual performance of the additional work, which is paid for as otherwise provided herein), except only as provided for under 5-12.6.2.1.

**4-3.2.1 Allowable Costs for Extra Work:** The Engineer may direct in writing that extra work be done and, at the Engineer’s sole discretion, the Contractor will be paid pursuant to an agreed Supplemental Agreement or in the following manner:

1. Labor and Burden: The Contractor will receive payment for actual costs of direct labor and burden for the additional or unforeseen work. Labor includes foremen actually engaged in the work; and will not include project supervisory personnel nor necessary on-site clerical staff, except when the additional or unforeseen work is a controlling work item and the performance of such controlling work item actually extends completion of the project due to no fault of the Contractor. Compensation for project supervisory personnel, but in no case higher than a Project Manager’s position, shall only be for the pro-rata time such supervisory personnel spent on the contract. In no case shall an officer or director of the Company, nor those persons who own more than 1% of the Company, be considered as project supervisory personnel, direct labor or foremen hereunder.

Payment for burden shall be limited solely to the following:

Table 4-3.2.1	
Item	Rate
FICA	Rate established by Law
FUTA/SUTA	Rate established by Law
Medical Insurance	Actual
Holidays, Sick & Vacation benefits	Actual

Table 4-3.2.1	
Item	Rate
Retirement benefits	Actual
Workers Compensation	Rates based on the National Council on Compensation Insurance basic rate tables adjusted by Contractor's actual experience modification factor in effect at the time of the additional work or unforeseen work.
Per Diem	Actual but not to exceed State of Florida's rate
Insurance*	Actual

\*Compensation for Insurance is limited solely to General Liability Coverage and does not include any other insurance coverage (such as, but not limited to, Umbrella Coverage, Automobile Insurance, etc.).

At the Pre-construction conference, certify to the Engineer the following:

- a. A listing of on-site clerical staff, supervisory personnel and their pro-rated time assigned to the contract,
- b. Actual Rate for items listed in Table 4-3.2.1,
- c. Existence of employee benefit plan for Holiday, Sick and Vacation benefits and a Retirement Plan, and,
- d. Payment of Per Diem is a company practice for instances when compensation for Per Diem is requested.

Such certification must be made by an officer or director of the Contractor with authority to bind the Contractor. Timely certification is a condition precedent to any right of the Contractor to recover compensations for such costs, and failure to timely submit the certification will constitute a full, complete, absolute and irrevocable waiver by the Contractor of any right to recover such costs. Any subsequent changes shall be certified to the Engineer as part of the cost proposal or seven calendar days in advance of performing such extra work.

2. Materials and Supplies: For materials accepted by the Engineer and used on the project, the Contractor will receive the actual cost of such materials incorporated into the work, including Contractor paid transportation charges (exclusive of equipment as hereinafter set forth). For supplies reasonably needed for performing the work, the Contractor will receive the actual cost of such supplies.

3. Equipment: For any machinery or special equipment (other than small tools), including fuel and lubricant, the Contractor will receive 100% of the "Rental Rate Blue Book" for the actual time that such equipment is in operation on the work, and 50% of the "Rental Rate Blue Book" for the time the equipment is directed to standby and remain on the project site, to be calculated as indicated below. The equipment rates will be based on the latest edition (as of the date the work to be performed begins) of the "Rental Rate Blue Book for Construction Equipment" or the "Rental Rate Blue Book for Older Construction Equipment," whichever is applicable, as published by Machinery Information Division of PRIMEDIA Information, Inc. (version current at the time of bid), using all instructions and adjustments contained therein and as modified below. On all projects, the Engineer will adjust the rates using regional adjustments and Rate Adjustment Tables according to the instructions in the Blue Book.

Allowable Equipment Rates will be established as set out below:

- a. Allowable Hourly Equipment Rate = Monthly Rate/176  
x Adjustment Factors x 100%.

Cost x 100%.  
 b. Allowable Hourly Operating Cost = Hourly Operating  
 Equipment Rate + Allowable Hourly Operating Cost.  
 Rate x 50%.  
 c. Allowable Rate Per Hour = Allowable Hourly  
 Operating Cost.  
 d. Standby Rate = Allowable Hourly Equipment

The Monthly Rate is The Basic Machine Rate Plus Any Attachments. Standby rates will apply when equipment is not in operation and is directed by the Engineer to standby at the project site when needed again to complete work and the cost of moving the equipment will exceed the accumulated standby cost. Standby rates will not apply on any day the equipment operates for eight or more hours. Standby payment will be limited to only that number of hours which, when added to the operating time for that day equals eight hours. Standby payment will not be made on days that are not normally considered work days on the project.

The Department will allow for the cost of transporting the equipment to and from the location at which it will be used. If the equipment requires assembly or disassembly for transport, the Department will pay for the time to perform this work at the rate for standby equipment.

Equipment may include vehicles utilized only by Labor, as defined above.

4. Indirect Costs, Expenses, and Profit: Compensation for all indirect costs, expenses, and profit of the Contractor, including but not limited to overhead of any kind, whether jobsite, field office, division office, regional office, home office, or otherwise, is expressly limited to the greater of either (a) or (b) below:

a. Solely a mark-up of 17.5% on the payments in (1) through (3), above.

1. Bond: The Contractor will receive compensation for any premium for acquiring a bond for such additional or unforeseen work at the original Contract bond rate paid by the Contractor. No compensation for bond premium will be allowed for additional or unforeseen work paid by the Department via initial contingency pay item.

2. The Contractor will be allowed a markup of 10% on the first \$50,000 and a markup of 5% on any amount over \$50,000 on any subcontract directly related to the additional or unforeseen work. Any such subcontractor mark-up will be allowed only by the prime Contractor and a first tier subcontractor, and the Contractor must elect the markup for any eligible first tier subcontractor to do so.

b. Solely the formula set forth below and only as applied solely as to such number of calendar days of entitlement that are in excess of ten Cumulative Calendar Days as defined below.

$$D = \frac{A \times C}{B}$$

Where A = Original Contract Amount

B = Original Contract Time

C = 8%

D = Average Overhead Per Day

Cumulative Calendar Days is defined as the combined total number of calendar days granted as time extensions due to either extra work, excluding overruns to existing Contract items, that extend the duration of the project or delay of a controlling work item caused solely by the Department, or the combined total number of calendar days for which a claim of entitlement to a time extension due to delay of a controlling work item caused solely by the Department is otherwise ultimately determined to be in favor of the Contractor.

No compensation, whatsoever, will be paid to the Contractor for any jobsite overhead and other indirect impacts when the total number of calendar days granted for time extension due to delay of a controlling work item caused solely by the Department is, or the total number of calendar days for which entitlement to a time extension due to delay of a controlling work item caused solely by the Department is otherwise ultimately determined in favor of the Contractor to be, equal to or less than ten calendar days and the Contractor also fully assumes all monetary risk of any and all partial or single calendar day delay periods, due to delay of a controlling work item caused solely by the Department, that when combined together are equal to or less than ten calendar days and regardless of whether monetary compensation is otherwise provided for hereunder for one or more calendar days of time extension entitlement for each calendar day exceeding ten calendar days. All calculations under this provision shall exclude weather days, Holidays, and Special Events.

Engineering Services: For professional engineering services, the Contractor will receive negotiated costs of such engineering services necessary to perform the work. Negotiated cost of such engineering services shall be prepared utilizing the current “Standard Scope and Staff Hour Estimation Handbook” developed jointly between the Florida Institute of Consulting Engineers (FICE) and the FDOT, and the Department’s “Negotiation Handbook” for professional services contracts. The Standard Scope and Staff Estimate Guidelines are available at the following link:

<https://www.fdot.gov/designsupport/Scope/Default.shtm> . The Negotiation Handbook can be accessed at the following link: [https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/procurement/pdf/negot.pdf?sfvrsn=69800d16\\_20](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/procurement/pdf/negot.pdf?sfvrsn=69800d16_20) . Should the Engineering Firm be a Joint Venture Partner of the Contractor, no markup will be allowed on engineering services.

Further, for a or b, above, in the event there are concurrent delays to one or more controlling work items, one or more being caused by the Department and one or more being caused by the Contractor, the Contractor shall be entitled to a time extension for each day that a controlling work item is delayed by the Department but shall have no right to nor receive any monetary compensation for any indirect costs for any days of concurrent delay.

**4-3.2.2 Subcontracted Work:** Compensation for the additional or unforeseen work performed by a subcontractor shall be limited solely to that provided for in 4-3.2.1 (1), (2), (3) and (4)(a). In addition, the Contractor compensation is expressly limited to the greater of the total provided in either 4-3.2.1(4)(a) or (4)(b), except that the Average Overhead Per Day calculation is as follows:

$$D_s = \frac{A_s \times C}{B}$$

Where  $A_s$  = Original Contract Amount minus Original Subcontract amounts(s)\*

B = Original Contract Time  
C = 8%  
Ds = Average Overhead Per-Day

\* deduct Original Subcontract Amount(s) of subcontractor(s) performing the work

The subcontractor may receive compensation for any premium for acquiring a bond for the additional or unforeseen work; provided, however, that such payment for additional subcontractor bond will only be paid upon presentment to the Department of clear and convincing proof that the subcontractor has actually submitted and paid for separate bond premiums for such additional or unforeseen work in such amount and that the subcontractor was required by the Contractor to acquire a bond.

The Contractor shall require the subcontractor to submit a certification, in accordance with 4-3.2.1(1), as part of the cost proposal and submit such to the Engineer. Such certification must be made by an officer or director of the subcontractor with authority to bind the subcontractor. Timely certification is a condition precedent to any right of the Contractor to recover compensation for such subcontractor costs, and failure to timely submit the certification will constitute a full, complete, absolute and irrevocable waiver by the Contractor of any right to recover such subcontractor costs.

**4-3.3 No Waiver of Contract:** Changes made by the Engineer will not be considered to waive any of the provisions of the Contract, nor may the Contractor make any claim for loss of anticipated profits because of the changes, or by reason of any variation between the approximate quantities and the quantities of work actually performed. All work shall be performed as directed by the Engineer and in accordance with the Contract Documents.

**4-3.4 Conditions Requiring a Supplemental Agreement:** A Supplemental Agreement will be used to settle documented Contract claims in accordance with the intent of the original Contract and subsequent amendments thereto.

No payment will be made on a Supplemental Agreement or Unilateral payment prior to the Department's approval of the document.

**4-3.5 Extra Work:** Extra work authorized in writing by the Engineer will be paid in accordance with the formula in 4-3.2. Such payment will be the full extent of all monetary compensation entitlement due to the Contractor for such extra work. Any entitlement to a time extension due to extra work will be limited solely to that provided for in 4-3.2 for additional work.

**4-3.6 Connections to Existing Pavement, Drives and Walks:** Generally adhere to the limits of construction at the beginning and end of the project as detailed in the plans. However, if the Engineer determines that it is necessary to extend the construction in order to make suitable connections to existing pavement, the Engineer will authorize such a change in writing. For necessary connections to existing walks and drives that are not indicated on the plans, the Engineer will submit direction regarding the proper connections in accordance with the Standard Plans.

**4-3.7 Differing Site Conditions:** During the progress of the work, if subsurface or latent physical conditions are encountered at the site differing materially from those indicated in the Contract, or if unknown physical conditions of an unusual nature differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the Contract are encountered at the site, the party discovering such conditions shall promptly notify



the other party in writing of the specific differing conditions before the Contractor disturbs the conditions or performs the affected work. Upon receipt of written notification of differing site conditions from the Contractor, the Engineer will investigate the conditions, and if it is determined that the conditions materially differ and cause an increase or decrease in the cost or time required for the performance of any work under the Contract, an adjustment will be made, excluding loss of anticipated profits, and the Contract will be modified in writing accordingly. The Engineer will notify the Contractor whether or not an adjustment of the Contract is warranted. The Engineer will not allow a Contract adjustment for a differing site condition unless the Contractor has submitted the required written notice. The Engineer will not allow a Contract adjustment under this clause for any effects caused to any other Department or non-Department projects on which the Contractor may be working.

**4-3.8 Changes Affecting Utilities:** The Contractor shall be responsible for identifying and assessing any potential impacts to a utility that may be caused by the changes proposed by the Contractor, and the Contractor shall at the time of making the request for a change notify the Department in writing of any such potential impacts to utilities. Department approval of a Contractor proposed change does not relieve the Contractor of sole responsibility for all utility impacts, costs, delays or damages, whether direct or indirect, resulting from Contractor initiated changes in the design or construction activities from those in the original Contract Specifications, design plans (including traffic control plans) or other Contract Documents and which effect a change in utility work different from that shown in the utility plans, or joint project agreements.

**4-3.9 Cost Savings Initiative Proposal:**

**4-3.9.1 Intent and Objective:**

1. This Subarticle applies to any cost reduction proposal (hereinafter referred to as a Proposal) that the Contractor initiates and develops, following the submission of technical and price proposals, for the purpose of refining the Contract to increase cost effectiveness or significantly improve the quality of the end result. A mandatory Cost Savings Initiative Workshop for the Contractor and Department to discuss potential Proposals will be held within 30 calendar days following the issuance of the Notice to Proceed. This mandatory workshop can only be eliminated if agreed to in writing by both the Contractor and Department.

2. The Department will consider Proposals that would result in net savings to the Department by providing a decrease in the cost of the Contract. Proposals must result in savings without impairing essential functions and characteristics such as safety, service, life, reliability, economy of operation, ease of maintenance, aesthetics and necessary standard design features. Deletions of work, approved by the Engineer which are not directly associated with or integral to a Proposal will be handled as full credits to the Department for the work deleted.

3. The Department shall have the right to reject at its discretion any Proposal submitted that proposes a change in the design of the pavement system or that would require additional right-of-way. Pending the Department's execution of a formal supplemental agreement implementing an approved Proposal, the Contractor shall remain obligated to perform the work in accordance with the terms of the existing Contract. The Department may grant time extensions to allow for the time required to develop and review a Proposal.

4. The Department reserves the right to reject at its discretion any Proposal submitted which is based on or related to a previously rejected Alternative Technical Concept proposal submitted during the procurement process.

5. Prior to the development of a potential Proposal, a mandatory concept meeting will be held for the Contractor and Department to discuss the potential Proposal. This

mandatory meeting can only be eliminated if agreed to in writing by both the Contractor and Department.

**4-3.9.2 Subcontractors:** The Department encourages the Contractor to include the provisions of this Subarticle in Contracts with subcontractors and to encourage submission of Proposals from subcontractors. However, it is not mandatory to submit Proposals to the Department or to accept or transmit subcontractor proposed Proposals to the Department.

**4-3.9.3 Data Requirements:** As a minimum, submit the following information with each Proposal:

1. A description of the difference between the existing Contract requirement, including any time extension request, and the proposed change, and the comparative advantages and disadvantages.
2. Separate detailed cost estimates for both the existing Contract requirement and the proposed change. Break down the cost estimates by pay item numbers indicating quantity increases or decreases. Identify additional proposed work not covered by using pay item numbers in the Basis of Estimates Manual. In preparing the estimates, include overhead, profit, and bond costs within pay items.
3. An itemization of the changes, deletions or additions to plan details, plan sheets, Standard Plans and Specifications that are required to implement the Proposal if the Department adopts it. Submit preliminary plan drawings sufficient to describe the proposed changes.
4. Engineering or other analysis in sufficient detail to identify and describe specific features of the Contract that must be changed if the Department accepts the Proposal with a proposal as to how these changes can be accomplished and an assessment of their effect on other project elements. The Department may require that Engineering Analysis be performed by a prequalified consultant in the applicable class of work. Support all design changes that result from the Proposal with drawings and computations signed and sealed by the Engineer of Record. Written documentation or drawings will be submitted clearly delineating the responsibility of the Engineer of Record.
5. The date by which the Department must approve the Proposal to obtain the total estimated cost reduction during the remainder of the Contract, noting any effect on the Contract completion time or delivery schedule.
6. A revised project schedule that would be followed upon approval of the Proposal. This schedule would include submittal dates and review time for the Department and Peer reviews.

**4-3.9.4 Processing Procedures:** Submit Proposal to the Engineer or his duly authorized representative. The Department will process Proposals expeditiously; however, the Department is not liable for any delay in acting upon a Proposal submitted pursuant to this Subarticle. The Contractor may withdraw, in whole or in part, a Proposal not accepted by the Department within the period specified in the Proposal. The Department is not liable for any Proposal development cost in the case where the Department rejects or the Contractor withdraws a Proposal.

The Engineer is the sole judge of the acceptability of a Proposal and of the estimated net savings in construction costs from the adoption of all or any part of such proposal.

Prior to approval, the Engineer may modify a Proposal, with the concurrence of the Contractor, to make it acceptable. If any modification increases or decreases the net savings resulting from the Proposal, the Department will determine the Contractor's fair

share upon the basis of the Proposal as modified. The Department will compute the net savings by subtracting the revised total cost affected by the Proposal from the total cost represented in the original Contract.

Prior to approval of the Proposal that initiates the supplemental agreement, submit acceptable Contract-quality plan sheets revised to show all details consistent with the Proposal design.

**4-3.9.5 Computations for Change in Contract Cost of Performance:** If the Proposal is adopted, the Contractor's share of the net savings as defined hereinafter represents full compensation to the Contractor for the Proposal.

The Department will not include its costs to process and implement a Proposal in the estimate. However, the Department reserves the right, where it deems such action appropriate, to require the Contractor to pay the Department's cost of investigating and implementing a Proposal as a condition of considering such proposal. When the Department imposes such a condition, the Contractor shall accept this condition in writing, authorizing the Department to deduct amounts payable to the Department from any monies due or that may become due to the Contractor under the Contract.

**4-3.9.6 Conditions of Acceptance for Major Design Modifications of Category 2 Bridges:** A Proposal that proposes major design modifications of a category 2 bridge, as determined by the Engineer, shall have the following conditions of acceptance:

All bridge plans relating to the Proposal shall undergo an independent peer review conducted by a single independent engineering firm referred to for the purposes of this article as the Independent Review Engineer pre-qualified by the Department in accordance with Rule 14-75 and who is not the originator of the Proposal design Florida Administrative Code. The independent peer review is intended to be a comprehensive, thorough verification of the original work, giving assurance that the design is in compliance with all Department requirements. The Independent Review Engineer's comments, along with the resolution of each comment, shall be submitted to the Department. The Independent Review Engineer shall sign and seal the submittal cover letter stating that all comments have been adequately addressed and the design is in compliance with the Department requirements. If there are any unresolved comments the Independent Review Engineer shall specifically list all unresolved issues in the signed and sealed cover letter.

The Contractor shall designate a primary engineer responsible for the Proposal design and as such will be designated as the Contractors Engineer of Record for the Proposal design.

New designs and independent peer reviews shall be in compliance with all applicable Department, FHWA and AASHTO criteria requirements including bridge load ratings.

**4-3.9.7 Sharing Arrangements:** If the Department approves a Proposal for sharing the savings in reimbursable costs for utility relocation, the Contractor shall receive a share of the savings. The savings will be the new difference between the estimated relocation cost shown in the RFP and the actual billed reimbursable amount for each utility. The savings will be determined for each utility individually and not the net of any decrease and increase in relocation costs combined for all utilities. The Contractor will receive 50% of the first \$250,000 in savings and 20% of the amount of the savings in excess of \$250,000.

For all other Proposals, if the Department approves a Proposal, the Contractor shall receive 50% of the net reduction in the cost of performance of the Contract as

determined by the final negotiated agreement between the Contractor and the Department. The net reduction will be determined by subtracting from the savings of the construction costs the reasonable documented engineering costs incurred by the contractor to design and develop a Proposal. Engineering costs will be based on the consultant's certified invoice and may include the costs of the Independent Review Engineer in 4-3.9.6. The total engineering costs to be subtracted from the savings to determine the net reduction will be limited to 25% of the construction savings and shall not include any markup by the Contractor or the costs for engineering services performed by the Contractor. Engineering costs shall only be considered for Proposals initiated after plans have been stamped "Released for Construction" by the Department as described in the RFP.

**4-3.9.8 Notice of Intellectual Property Interests and Department's Future Rights to a Proposal:**

**4-3.9.8.1 Notice of Intellectual Property Interests:** The Contractor's Proposal submittal shall identify with specificity any and all forms of intellectual property rights that either the Contractor or any officer, shareholder, employee, consultant, or affiliate, of the Contractor, or any other entity who contributed in any measure to the substance of the Contractor's Proposal development, have or may have that are in whole or in part implicated in the Proposal. Such required intellectual property rights notice includes, but is not limited to, disclosure of any issued patents, copyrights, or licenses; pending patent, copyright or license applications; and any intellectual property rights that though not yet issued, applied for or intended to be pursued, could nevertheless otherwise be subsequently the subject of patent, copyright or license protection by the Contractor or others in the future. This notice requirement does not extend to intellectual property rights as to stand-alone or integral components of the Proposal that are already on the Department's Approved Product List (APL) or Standard Plans, or are otherwise generally known in the industry as being subject to patent or copyright protection.

**4-3.9.8.2 Department's Future Rights to a Proposal:** Notwithstanding 7-3 nor any other provision of the Standard Specifications, upon acceptance of a Proposal, the Contractor hereby grants to the Department and its contractors (such grant being expressly limited solely to any and all existing or future Department construction projects and any other Department projects that are partially or wholly funded by or for the Department) a royalty-free and perpetual license under all forms of intellectual property rights to manufacture, to use, to design, to construct, to disclose, to reproduce, to prepare and fully utilize derivative works, to distribute, display and publish, in whole or in part, and to permit others to do any of the above, and to otherwise in any manner and for any purpose whatsoever do anything reasonably necessary to fully utilize any and all aspects of such Proposal on any and all existing and future construction projects and any other Department projects.

Contractor shall hold harmless, indemnify and defend the Department and its contractors and others in privity therewith from and against any and all claims, liabilities, other obligations or losses, and reasonable expenses related thereto (including reasonable attorneys' fees), which are incurred or are suffered by any breach of the foregoing grants, and regardless of whether such intellectual property rights were or were not disclosed by the Contractor pursuant to 4-3.9.8.1, unless the Department has by express written exception in the Proposal acceptance process specifically released the Contractor from such obligation to hold harmless, indemnify and defend as to one or more disclosed intellectual property rights.

#### **4-4 Unforeseeable Work.**

When the Department requires work that is not covered by a price in the Contract and such work does not constitute a “Significant Change” as defined in 4-3.1, and the Department finds that such work is essential to the satisfactory completion of the Contract within its intended scope, the Department will make an adjustment to the Contract. Such adjustment will be made by Work Order when the Contract Documents provide for Contingency Work. When the Contract Documents do not provide for Contingency Work or the available funds for Contingency Work are insufficient, such adjustment will be made by Supplemental Agreement. The cost of unforeseeable work will be a negotiated amount or, in lieu of negotiations or other agreement, an amount based on material invoices, equipment costs, labor payrolls, and markups provided in 4-3.2.

Contingency Work, as used in this Article, is defined as possible additional work required to satisfactorily complete the Contract within its intended scope.

#### **4-5 Rights in and Use of Materials Found on the Site of the Work.**

**4-5.1 Ownership and Disposal of Existing Materials:** Take ownership and dispose of all materials that are not designated as the property of other parties, in both roadway and structures, found on the right-of-way, and all material in structures designated for removal. Such materials do not include earth or other excavated material required for the construction of the project. The Contractor is responsible to determine if any existing materials are the property of others and so indicate it on the plans. Additionally it is the Contractor’s responsibility to coordinate with the property owner for proper removal and storage to perform the work.

Disposal of the existing bridge components shall be the responsibility of the Design-Build Firm.

**4-5.2 Ornamental Trees and Shrubs:** Take ownership of all ornamental trees or shrubs existing in the right-of-way that is required to be removed for the construction operations. Coordinate with adjacent property owners concerning disposition of ornamental trees and shrubs. Designate on the plans those to be reset, or to be removed by others prior to the Construction operations.

#### **4-6 Final Cleaning Up of Right-of-Way.**

Upon completion of the work, and before the Department accepts the work and makes final payment, remove from the right-of-way and adjacent property all falsework, equipment, surplus and discarded materials, rubbish and temporary structures; restore in an acceptable manner all property, both public and private, that has been damaged during the prosecution of the work; and leave the waterways unobstructed and the roadway in a neat and presentable condition throughout the entire length of the work under Contract. Do not dispose of materials of any character, rubbish or equipment, on abutting property, with or without the consent of the property owners. The Engineer will allow the Contractor to temporarily store equipment, surplus materials, usable forms, etc., on a well-kept site owned or leased by the Contractor, adjacent to the project. However, do not place or store discarded equipment, materials, or rubbish on such a site.

Shape and dress areas adjacent to the project right-of-way that were used as plant sites, materials storage areas or equipment yards when they are no longer needed for such purposes. Restore these areas in accordance with 7-11.1 and 7-11.2. Grass these areas as necessary.

When working adjacent to or over travel lanes, ensure that dust, mud and other debris does not interfere with normal traffic operations or adjacent properties.

## SECTION 5 CONTROL OF THE WORK

### 5-1 Plans and Working Drawings.

**5-1.1 Contract Documents:** Have available the Contract Documents on the worksite, at all times. All reference to separate payment for individual items of work will not apply. The cost for various items of work will be included and paid for under the Contract Lump Sum Price.

**5-1.2 Plans:** Plans consist of general drawings showing such details as are necessary to give a comprehensive idea of the construction contemplated. In general, roadway plans will show alignment, profile grades, typical cross-sections and general cross-sections. In general, structure plans will show in detail all dimensions of the work contemplated. When the structure plans do not show the dimensions in detail, they will show general features and such details as are necessary to give a comprehensive idea of the structure.

Grades shown are finished grades, and B.M. Datum is North American Vertical Datum 1988 (NAVD-1988), National Geodetic Vertical Datum of 1929 (NGVD-1929), or other datum as noted in the plans.

In addition to the work and materials specifically called for in the Contract Documents and any additional incidental work, not specifically mentioned, when so shown in the plans, or if indicated, or obvious and apparent, as being necessary for the proper completion of the work will be included in the Contract Lump Sum Price.

**5-1.3 Alterations in Plans:** Not applicable.

### **5-1.4 Shop Drawings:**

#### **5-1.4.1. Definitions:**

1. Shop Drawings: All working, shop and erection drawings, associated trade literature, calculations, schedules, manuals and similar documents submitted by the Contractor to define some portion of the project work. The type of work includes both permanent and temporary works as appropriate to the project.

2. Permanent Works: All the permanent structures and parts thereof required of the completed Contract.

3. Temporary Works: Any temporary construction work necessary for the construction of the permanent works. This includes but is not limited to bracing, falsework, formwork, scaffolding, shoring, temporary earthworks, sheeting, cofferdams, and special erection equipment.

4. Construction Affecting Public Safety: Construction that may jeopardize public safety such as structures spanning functioning vehicular roadways, demolition of a continuous span structure while traffic is under any span, pedestrian walkways, railroads, navigation channels of navigable waterways and walls or other structure foundations located in embankments immediately adjacent to functioning roadways. It does not apply to those areas of the site under the Contractor's control and outside the limits of normal public access.

5. Major and Unusual Structures: Bridges of complex geometry and/or complex design. Generally, this includes the following types of structures:

- a. Bridges with an individual span longer than 300 feet.
- b. Structurally continuous superstructures with spans over 150 feet.
- c. Steel box and plate girder bridges.

- d. Steel truss bridges.
  - e. Concrete segmental and longitudinally post-tensioned continuous girder bridges.
  - f. Cable stayed or suspension bridges.
  - g. Arch bridges.
  - h. Tunnels.
  - i. Movable bridges (specifically electrical and mechanical components).
  - j. Rehabilitation, widening, or lengthening of any of the above.
6. Special Erection Equipment includes launching gantries, beam and winch equipment, form travelers, stability towers, strong-backs, erection trusses, launching noses or similar items made purposely for construction of the structure. It does not apply to commonly available proprietary construction equipment such as cranes.
7. Falsework includes any temporary construction work used to support the permanent structure until it becomes self-supporting. Falsework includes steel or timber beams, girders, columns, piles and foundations, and any proprietary equipment including modular shoring frames, post shores, and adjustable horizontal shoring.
8. Formwork includes any structure or mold used to retain plastic or fluid concrete in its designated shape until it hardens. Formwork comprises common materials such as wood or metal sheets, battens, soldiers and walers, ties, proprietary forming systems such as stay-in-place metal forms, and proprietary supporting bolts, hangers and brackets. Formwork may be either permanent formwork requiring a shop drawing submittal such as stay-in-place metal or concrete forms, or may be temporary formwork which requires certification by the Specialty Engineer for Construction Affecting Public Safety and for Major and Unusual Structures.
9. Scaffolding is an elevated work platform used to support workmen, materials and equipment, but not intended to support the structure.
10. Shoring is a component of falsework such as horizontal, vertical or inclined support members. In this Section, this term is interchangeable with falsework.
11. Bracing is a temporary structural member(s) placed between beams, girders, piles columns, etc. to provide stability during construction activities.
12. Contractor Originated Designs: Items which the Contract Documents require the Contractor to design, detail and incorporate into the permanent works.

**5-1.4.2 Work Items Requiring Shop Drawings:** In general, the Department requires shop drawings for items of work not fully detailed in the plans which require additional drawings and coordination prior to constructing the item, including but not limited to:

- 1. Bridge components not fully detailed in the plans, i.e. segments, steel girder details, post-tensioning details, handrails, etc.
- 2. Retaining wall systems
- 3. Precast Box Culverts
- 4. Non-standard structures and components for drainage, lighting, signalization and signing
- 5. Building structures
- 6. Non-standard crash cushions and other nonstructural items
- 7. Design and structural details furnished by the Contractor in compliance

with the Contract

#### 8. Temporary Works affecting public safety

Additional clarification for certain types of bridge structures is provided in 5-1.4.7. Other provisions of the Contract Documents may waive the requirement for submittals for certain items; i.e., items constructed from standard drawings or those complying with alternate details for prestressed members under Section 450. Review the Contract Documents to determine the submittals required.

**5-1.4.3 Schedule of Submittals:** Prepare and submit a schedule of submittals that identifies the work for which shop drawings apply. For each planned submittal, define the type, and approximate number of drawings or other documents that are included and the planned submittal date, considering the processing requirements herein. Submit the schedule of submittals to the Engineer within 60 days of the start of construction operations, and prior to the submission of any shop drawings.

Coordinate subsequent submittals with construction schedules to allow sufficient time for review and re-submittal as necessary.

#### **5-1.4.4 Style, Numbering, and Material of Submittals:**

**5-1.4.4.1 Drawings:** Submit all shop drawings that are necessary to complete the structure in compliance with the design shown on the plans. Prepare all shop drawings using English Units. Consecutively number each sheet in the submittal series, and indicate the total number in the series (i.e., 1 of 12, 2 of 12, . . . , 12 of 12). Include on each sheet the following items as a minimum requirement: the complete Financial Project Identification Number, Bridge Number(s), drawing title and number, a title block showing the names of the fabricator or producer and the Contractor for which the work is being done, the initials of the person(s) responsible for the drawing, the date on which the drawing was prepared, the location of the item(s) within the project, the Contractor's approval stamp with date and initials, and, when applicable, the signature and embossed seal of the Specialty Engineer or Contractor's Engineer of Record. A re-submittal will be requested when any of the required information is not included.

Shop drawings shall be submitted in Portable Document Format (PDF) files, formatted in 11 inch by 17 inch sheets.

**5-1.4.4.2 Other Documents:** Submit PDF files of other documents (such as trade literature, catalogue information, calculations, and manuals). Provide sheets no larger than 11 by 17 inches. Clearly label and number each sheet in the submittal to indicate the total number of sheets in the series (i.e., 1 of 12, 2 of 12, . . . 12 of 12).

Prepare all documents using English units and include a Table of Contents cover sheet. List on the cover sheet the total number of pages and appendices, and include the complete Financial Project Identification Number, a title referencing the submittal item(s), the name of the firm and person(s) responsible for the preparation of the document, the Contractor's approval stamp with date and initials, and, when applicable, the signature and embossed seal of the Specialty Engineer or Contractor's Engineer of Record.

Submit appropriately prepared and checked calculations and manuals that clearly outline the design criteria. Include on the internal sheets the complete Financial Project Identification Number and the initials of the person(s) responsible for preparing and checking the document.

Clearly label trade literature and catalogue information on the front cover with the title, Financial Project Identification Number, date and name of the firm and person(s) responsible for that document.



#### **5-1.4.5 Submittal Paths:**

##### **5-1.4.5.1 General:** Shop drawings are not required for prequalified items.

At the preconstruction conference, the Department will notify the Contractor in writing of any changes in the submittal path and whether the Department's review stamp will signify an officially reviewed shop drawing.

Submit shop drawings to the Engineer. Shop drawings shall be in conformance with the Department's Plans Preparation Manual. When submitted to the Engineer for review by the Department, the shop drawings must bear the stamp and signature of the Contractor, EOR, and signature and seal of the Specialty Engineer, as appropriate. Only forward shop drawings stamped "Approved" or "Approved as Noted" to the Engineer for review by the Department. Shop drawings submitted without the stamps of the Contractor and the EOR will be returned for re-submittal. In the case where the EOR generates the shop drawings for the project, another engineer with the EOR's firm, not involved in the production of the shop drawing, will review and stamp the drawings per the requirements stated herein. Shop drawings shall not be submitted, processed reviewed, or approved until the component plan set for the particular item is stamped "released for Construction". For work requiring other information (e.g., catalog data, procedure manuals, fabrication/welding procedures, and maintenance and operating procedures), submit the required number of copies to the Engineer. Submit material certifications and material tests to the Engineer.

**5-1.4.5.2 Building Structures:** Submit working, shop and erection drawings, and all correspondence related to building structures, such as Rest Area Pavilions, Office Buildings, and Maintenance Warehouses, to the Engineer for review by the Department. All shop drawings for building structures shall bear the stamp and signature of the Contractor, Design-Build Firm's Architect of Record, and Specialty Engineer, as appropriate. Only forward shop drawings stamped "Approved" or "Approved as Noted" to the Engineer for Review.

**5-1.4.5.3 Temporary Works:** For Construction Affecting Public Safety, the Engineer of Record shall review all shop drawings and the applicable calculations for the design of special erection equipment, bracing, falsework, scaffolding, etc. The shop drawings and the applicable calculations will be signed and sealed by the Specialty Engineer. Submit the submittal and copies of the transmittal letters in accordance with the requirements of 5-1.4.5.1 through 5-1.4.5.2, as appropriate.

**5-1.4.5.4 Falsework Founded on Shallow Foundations:** When vertical displacement limits are provided in the Plans for falsework founded on shallow foundations such as spread footings and mats, the Engineer of Record shall review all shop drawings and applicable calculations of the falsework system including subsurface conditions and settlement estimates. The shop drawings and the applicable calculations will be signed and sealed by the Specialty Engineer. Submit in accordance with the requirements of 5-1.4.5.1 through 5-1.4.5.2, as appropriate.

**5-1.4.5.5 Formwork and Scaffolding:** The Contractor is solely responsible for the safe installation and use of all formwork and scaffolding. The Department does not require any formwork or scaffolding submittals unless such work would be classified as Construction Affecting Public Safety. For formwork, scaffolding, or other temporary works affecting public safety, develop the required designs in accordance with the AASHTO Guide Design Specifications for Bridge Temporary Works, the AASHTO Construction Handbook for Bridge Temporary Works, and Chapter 11 of the Structures Design Guidelines (SDG) using wind loads specified in the SDG.

**5-1.4.5.6 Beam and Girder Temporary Bracing:** The Contractor is solely responsible for ensuring stability of beams and girders during all handling, storage, shipping and erection. Adequately brace beams and girders to resist wind, weight of forms and other temporary loads, especially those eccentric to the vertical axis of the products, considering actual beam geometry and support conditions during all stages of erection and deck construction. At a minimum, provide temporary bracing at each end of each beam or girder. Develop the required bracing designs in accordance with the AASHTO LRFD Bridge Design Specifications (LRFD) and Chapter 11 of the SDG using wind loads specified in the SDG. For information not included in the SDG or LRFD, refer to the AASHTO Guide Design Specifications for Bridge Temporary Works and the AASHTO Construction Handbook for Bridge Temporary Works.

For Construction Affecting Public Safety, when temporary bracing requirements are shown in the plans, submit plans and calculations signed and sealed by a Specialty Engineer for the design of temporary bracing members and connections based on the forces shown in the plans. In addition, submit a written certification that construction loads do not exceed the assumed loads shown in the plans.

For Construction Affecting Public Safety, when temporary bracing requirements are not shown in the plans or an alternate temporary bracing system is proposed, submit plans and calculations signed and sealed by a Specialty Engineer including the stability analysis and design of temporary bracing members and connections.

**5-1.4.5.7 Erection Plan:** Submit, for the Engineer's review, an Erection Plan that meets the specific requirements of Sections 450, 452 and 460 and this section. Refer to Standard Plans, Index 102-600 for construction activities not permitted over traffic.

**5-1.4.5.8 Other Miscellaneous Design and Structural Details**  
**Furnished by the Contractor in Compliance with the Contract:** The Engineer of Record shall review all shop drawings and the applicable calculations for miscellaneous design and structural details as required by the contract. The shop drawings and the applicable calculations will be signed and sealed by the Specialty Engineer. Submit in accordance with the requirements of 5-1.4.5.1 through 5-1.4.5.2, as appropriate.

**5-1.4.6 Processing of Shop Drawings:**

**5-1.4.6.1 Contractor Responsibility for Accuracy and Coordination of Shop Drawings:** Coordinate, schedule, and control all submittals, with a regard for the required priority, including those of the various subcontractors, suppliers, and engineers, to provide for an orderly and balanced distribution of the work.

Coordinate, review, date, stamp, approve and sign all shop drawings prepared by the Contractor or agents (subcontractor, fabricator, supplier, etc.) prior to submitting them to the Engineer for review. Submittal of the drawings confirms verification of the work requirements, units of measurement, field measurements, construction criteria, sequence of assembly and erection, access and clearances, catalog numbers, and other similar data. Indicate on each series of drawings the specification section and sheet or drawing number of the Contract plans to which the submission applies. Indicate on the shop drawings all deviations from the Contract drawings and itemize all deviations in the letter of transmittal. Likewise, whenever a submittal does not deviate from the Contract plans, clearly state so in the submittal.

Schedule the submission of shop drawings to allow for a review period as described in the RFP. The review period commences upon the Engineer's receipt of the

valid submittal or valid re-submittal and terminates upon the transmittal of the submittal back to the Contractor. A valid submittal includes all the minimum requirements outlined in 5-1.4.4.

Submit shop drawings to facilitate expeditious review. The Contractor is discouraged from transmitting voluminous submittals of shop drawings at one time. For submittals transmitted in this manner, allow for the additional review time that may result.

Only shop drawings distributed with the approval stamps are valid and all work that the Contractor performs in advance of approval will be at the Contractor's risk.

**5-1.4.6.2 Scope of Review by Engineer of Record:** The Engineer of Record's review of the shop drawings is for conformity to the requirements of the Contract Documents and to the intent of the design. The Engineer of Record's review of shop drawings which include means, methods, techniques, sequences, and construction procedures are limited to the effects on the permanent works. The Engineer of Record's review of submittals which include means, methods, techniques, sequences, and construction procedures does not include an in-depth check for the ability to perform the work in a safe or efficient manner.

**5-1.4.6.3 Special Review of Shop Drawings by the Engineer of Record for Construction Affecting Public Safety:** For Construction Affecting Public Safety, the Engineer of Record will perform an independent review of all relevant shop drawings and similar documents. Do not proceed with construction of the permanent works until receiving the Engineer of Record's written approval.

#### **5-1.4.7 Other Requirements for Shop Drawings for Bridges:**

**5-1.4.7.1 Shop Drawings for Structural Steel and Miscellaneous Metals:** Submit shop drawings for structural steel and miscellaneous metals. Shop drawings shall consist of working, shop, and erection drawings, welding procedures, and other working plans, showing details, dimensions, sizes of material, and other information necessary for the complete fabrication and erection of the metal work.

**5-1.4.7.2 Shop Drawings for Concrete Structures:** Submit shop drawings for concrete components that are not cast-in-place and are not otherwise exempted from submittal requirements. Also, submit shop drawings for all details that are required for the effective prosecution of the concrete work and are not included in the Contract Documents such as: special erection equipment, masonry layout diagrams, and diagrams for bending reinforcing steel, in addition to any details required for concrete components for the permanent work.

**5-1.4.7.3 Shop Drawings for Major and Unusual Structures:** In addition to any other requirements, within 60 days from the notice to proceed, submit information to the Engineer outlining the integration of the Major and Unusual Structure into the overall approach to the project. Where applicable to the project, include, but do not limit this information to:

1. The overall construction program for the duration of the Contract. Clearly show the Milestone dates. (For example, the need to open a structure by a certain time for traffic operations.)
2. The overall construction sequence. The order in which individual structures are to be built, the sequence in which individual spans of girders or cantilevers are erected, and the sequence in which spans are to be made continuous.
3. The general location of any physical obstacles to construction that might impose restraints or otherwise affect the construction, and an outline of how to deal with such obstacles while building the structure(s). (For example, obstacles might include road, rail and waterway clearances, temporary diversions, transmission lines, utilities, property, and

the Contractor's own temporary works, such as haul roads, cofferdams, plant clearances and the like.)

4. The approximate location of any special lifting equipment in relation to the structure, including clearances required for the operation of the equipment. (For example, crane positions, operating radii and the like.)

5. The approximate location of any temporary falsework, and the conceptual outline of any special erection equipment. Provide the precise locations and details of attachments, fixing devices, loads, etc. in later detailed submittals.

6. An outline of the handling, transportation, and storage of fabricated components, such as girders or concrete segments. Provide the precise details in later detailed submittals.

7. Any other information pertinent to the proposed scheme or intended approach.

Clearly and concisely present the above information on as few drawings as possible in order to provide an overall, integrated summary of the intended approach to the project. The Department will use these drawings for information, review planning, and to assess the Contractor's approach in relation to the intent of the original design. Submittal to and receipt by the Engineer does not constitute any Department acceptance or approval of the proposals shown thereon. Include the details of such proposals on subsequent detailed shop drawing submittals. Submit timely revisions and re-submittals for all variations from these overall scheme proposals.

**5-1.4.8 Modifications for Construction:** Where the Engineer allows the Contractor to make modifications to the permanent works for the purposes of expediting the Contractor's chosen construction methods, the Contractor shall submit proposals to the Engineer of Record for review and approval prior to modifying the works. Submit proposals for minor modifications under the shop drawing process. Indicate on all drawings the deviations from the Contract Documents and itemize all deviations in the letter of transmittal. The Department will require additional submittals and/or submittal under a Cost Savings Initiative Proposal for major modifications.

Minor modifications are those items that, in the opinion of the Engineer, do not significantly affect the quantity of measured work, or the integrity or maintainability of the structure or its components. (For example, adjusting concrete dimensions, substituting steel plate sizes, changing reinforcing bar size and spacing, etc., all within the acceptable limits of the design.)

Major modifications are any modifications that, in the opinion of the Engineer, significantly affect the quantity of measured work, or the integrity or maintainability of the structure or its' components. (For example, substituting alternative beam sizes and spacings, changing material strength or type, and the like.). Submit signed and sealed revised sheets to the Engineer for any such revisions to the Contract plans prior to submitting shop drawings.

The Engineer's decision on the delineation between a minor and a major modification and the disposition of a proposal is final.

**5-1.4.9 Cost of Shop Drawings:** Include the cost of shop and working drawings submittal in the Contract prices for the work requiring the shop and working drawings. The Department will not pay the Contractor additional compensation for such drawings.

#### **5-1.5 Certifications:**

**5-1.5.1 Special Erection Equipment:** Prior to its use, ensure that the Specialty Engineer personally inspects the special erection equipment and submits a written certification to the Engineer that the equipment has been fabricated in accordance with the submitted drawings and calculations. In addition, after assembly, ensure that the Specialty Engineer observes the equipment in use and submits a written certification to the Engineer that such equipment is being used as intended and in accordance with the submitted drawings and calculations. In each case, the Specialty Engineer will sign and seal the letter of certification.

**5-1.5.2 Falsework and Shoring Requiring Shop Drawings:** After its erection or installation but prior to the application of any superimposed load, ensure that a Specialty Engineer or a designee inspects the falsework and certifies to the Engineer in writing that the falsework has been constructed in accordance with the materials and details shown on the submitted drawings and calculations. The letter of certification will be signed and sealed by the Specialty Engineer. Where so directed in the shop drawings, ensure all welds are performed by welders qualified under AWS D1.5 for the type of weld being performed.

**5-1.5.3 Temporary Formwork:** For Construction Affecting Public Safety and for Major and Unusual Structures, prior to the placement of any concrete, ensure that a Specialty Engineer or a designee inspects the formwork and submits a written certification to the Engineer that the formwork has been constructed to safely withstand the superimposed loads to which it will be subjected. Ensure that the Specialty Engineer signs and seals the letter of certification.

**5-1.5.4 Erection:** For Construction Affecting Public Safety, submit a signed and sealed erection plan to the Engineer prior to erection commencing in accordance with the submittal timeframes described in the RFP. Include as part of this submittal signed and sealed calculations and details for any falsework, bracing or other connection(s) supporting the structural elements shown in the erection plan. Unless otherwise specified in the Plans, erection plans are not required for simple span precast prestressed concrete girder bridges with spans of 170 feet or less.

At least two weeks prior to beginning erection, conduct a Pre-erection meeting to review the details of the plan with the Specialty Engineer that signed and sealed the plan, and any Specialty Engineers that may inspect the work, and the Engineer.

After erection of the elements, but prior to opening of the facility below the structure, ensure that a Specialty Engineer or a designee has inspected the erected member. Ensure that the Specialty Engineer has submitted a written certification to the Engineer that the structure has been erected in accordance with the signed and sealed erection plan.

For structures without temporary supports but with temporary girder bracing systems, perform, as a minimum, weekly inspections of the bracing until all the diaphragms and cross frames are in place. For structures with temporary supports, perform daily inspections until the temporary supports are no longer needed as indicated in the erection plans. Submit written documentation of the inspections to the Engineer within 24 hours of the inspection

**5-1.6 Corrections for Construction Errors:** For work that the Contractor constructs incorrectly or does not meet the requirements of the Contract Documents, the Contractor has the prerogative to submit an acceptance proposal to the Engineer for review and disposition. The acceptance proposal shall describe the error or defect and either describe remedial action for its correction or propose a method for its acceptance. In either case, the acceptance proposal shall address structural integrity, aesthetics, maintainability, and the effect on Contract Time. The

Department will judge any such proposal for its effect on these criteria and also for its effect on Contract Administration.

When the Engineer judges that a proposal infringes on the structural integrity or maintainability of the structure, the Contractor's Engineer of Record will perform a technical assessment and submit it to the Engineer for approval. Do not take any corrective action without the Engineer's written approval.

Carry out all approved corrective construction measures at no expense to the Department.

Notwithstanding any disposition of the compensation aspects of the defective work, the Engineer's decision on the technical merits of a proposal is final.

### **5-2 Coordination of Contract Documents.**

These Specifications, the plans, Special Provisions, and all supplementary documents are integral parts of the Contract; a requirement occurring in one is as binding as though occurring in all. In addition to the work and materials specifically called for in the Contract Documents and any additional incidental work, not specifically mentioned, when so shown in the plans, or if indicated, or obvious and apparent, as being necessary for the proper completion of the work, will be included in the Contract Lump Sum Price.

In cases of discrepancy, the governing order of the documents is as follows:

1. Request for Proposal Packages
2. Special Provisions
3. Technical Special Provisions
4. Plans
5. Standard Plans
6. Developmental Specifications
7. Supplemental Specifications
8. Standard Specifications

Computed dimensions govern over scaled dimensions.

### **5-3 Conformity of Work with Contract Documents.**

Perform all work and furnish all materials in conformity with the lines, grades, cross-sections, dimensions, and material requirements, including tolerances, as specified in the Contract Documents.

In the event that the Engineer finds that the Contractor has used material or produced a finished product that is not in reasonably close conformity with the Contract Documents, but that the Contractor has produced reasonably acceptable work, the Engineer will determine if the Department will accept the work in place. In this event, the Engineer will document the basis of acceptance by Contract modification, which provides for an appropriate reduction in the Contract price for such work or materials included in the accepted work as deemed necessary to conform to the determination based on engineering judgment.

In the event that the Engineer finds that the Contractor has used material or produced a finished product that is not in reasonably close conformity with the Contract Documents, and that the Contractor has produced an inferior or unsatisfactory product, the Contractor shall remove and replace or otherwise correct the work or materials at no expense to the Department.

For base and surface courses, the Department will allow the finished grade to vary as much as 0.1 foot from the grade shown in the plans, provided that the Contractor's work meets all templates and straightedge requirements and contains suitable transitions.

#### **5-4 Errors or Omissions in Contract Documents.**

Errors and omissions discovered in the plans or specifications are the total responsibility of the Design-Build Firm. The errors and omissions shall be brought to the attention of the Engineer of Record as well as the Engineer. Resolution of the question by the Engineer of Record is intended, and will be at no additional cost to the Department. All such modifications are subject to approval of the Engineer.

#### **5-5 Authority of the Engineer.**

Perform all work to the satisfaction of the Engineer.

The Director, Office of Construction, will decide all questions, difficulties, and disputes, of whatever nature that may arise relative to the interpretation of the plans, construction, prosecution, and fulfillment of the Contract, and as to the character, quality, amount, and value of any work done, and materials furnished, under or by reason of the Contract.

#### **5-6 Authority and Duties of Engineer's Assistants.**

The Director, Office of Construction, may appoint such assistants and representatives, as desired. These assistants and representatives are authorized to inspect all work done and all materials furnished. Such inspection may extend to all or any part of the work and to the manufacture, preparation, or fabrication of the materials to be used. Such assistants and representatives are not authorized to revoke, alter, or waive any requirement of these Specifications. Rather, they are authorized to call to the attention of the Contractor any failure of the work or materials to meet the Contract Documents, and have the authority to reject materials or suspend the work until any questions at issue can be referred to and decided by the Engineer. The Engineer will immediately submit written notification to the Contractor of any such suspension of the work, stating in detail the reasons for the suspension. The presence of the inspector or other assistant in no way lessens the responsibility of the Contractor.

#### **5-7 Engineering and Layout.**

Not Applicable.

#### **5-8 Contractor's Supervision.**

**5-8.1 Prosecution of Work:** Give the work the constant attention necessary to ensure the scheduled progress, and cooperate fully with the Engineer and with other Contractors at work in the vicinity.

**5-8.2 Contractor's Superintendent:** Maintain a competent superintendent at the site at all times while work is in progress to act as the Contractor's agent. Provide a superintendent who is a competent superintendent capable of properly interpreting the Contract Documents and is thoroughly experienced in the type of work being performed. Provide a superintendent with the full authority to receive instructions from the Engineer and to execute the orders or directions of the Engineer, including promptly supplying any materials, tools, equipment, labor, and incidentals that may be required. Provide such superintendence regardless of the amount of work sublet.

Provide a superintendent who speaks and understands English, and maintain at least one other responsible person who speaks and understands English, on the project during all working hours.

**5-8.3 Supervision for Emergencies:** Provide a responsible person, who speaks and understands English, and who is available at or reasonably near the worksite on a 24-hour basis,

seven days a week. Designate this person as the point of contact for emergencies and in cases that require immediate action to maintain traffic or to resolve any other problem that might arise. Submit the phone numbers and names of personnel designated to be contacted in cases of emergencies, along with a description of the project location, to the Florida Highway Patrol and all other local law enforcement agencies.

## **5-9 General Inspection Requirements.**

**5-9.1 Cooperation by Contractor:** Do not perform work or furnish materials without obtaining inspection by the Engineer. Provide the Engineer with safe means of access to the work, so the Engineer can determine whether the work performed and materials used are in accordance with the requirements and intent of the Contract Documents. For bridge projects with construction operations accessible only by watercraft, provide safe passage and transport to facilitate the Engineer's inspection of the Work. If the Engineer so requests at any time before final acceptance of the work, remove or uncover such portions of the finished work as directed. After examination, restore the uncovered portions of the work to the standard required by the Contract Documents. If the Engineer determines that the work so exposed or examined is unacceptable, perform the uncovering or removal, and the replacing of the covering or making good of the parts removed, at no expense to the Department. However, if the Engineer determines that the work thus exposed or examined is acceptable, the Department will pay for the uncovering or removing, and the replacing of the covering or making good of the parts removed in accordance with 4-4.

**5-9.2 Failure of Engineer to Reject Work During Construction:** If, during or prior to construction operations, the Engineer fails to reject defective work or materials, whether from lack of discovery of such defect or for any other reason, such initial failure to reject in no way prevents the later rejection when such defect is discovered, or obligates the Department to final acceptance. The Department is not responsible for losses suffered due to any necessary removals or repairs of such defects.

**5-9.3 Failure to Remove and Renew Defective Materials and Work:** If the Contractor fails or refuses to remove and renew any defective materials used or work performed, or to make any necessary repairs in an acceptable manner and in accordance with the requirements of the Contract within the time indicated in writing, the Engineer has the authority to repair, remove, or renew the unacceptable or defective materials or work as necessary, all at the Contractor's expense. The Department will obtain payment for any expense it incurs in making these repairs, removals, or renewals, that the Contractor fails or refuses to make, by deducting such expenses from any moneys due or which may become due the Contractor, or by charging such amounts against the Contract bond.

**5-9.4 Inspection by Federal Government:** When the United States Government pays a portion of the cost of construction, its representatives may inspect the construction work, as they deem necessary. However, such inspection will in no way make the Federal Government a party to the Contract.

## **5-10 Final Inspection.**

**5-10.1 Maintenance until Acceptance:** Maintain all Work until the Engineer has given final acceptance in accordance with 5-11.

**5-10.2 Inspection for Acceptance:** Upon submittal of written notification that all Contract Work, or all Contract Work on the portion of the Contract scheduled for acceptance, has been completed, the Engineer will make an inspection for acceptance. The inspection will be



made within seven days of such notification. If the Engineer finds that all work has been satisfactorily completed, the Department will consider such inspection as the final inspection. If any or all of the Work is found to be unsatisfactory, the Engineer will detail the remedial work required to achieve acceptance. Immediately perform such remedial work. Subsequent inspections will be made on the remedial work until the Engineer accepts all Work.

Upon satisfactory completion of the Work, the Department will submit written notice of acceptance, partial or final, to the Contractor.

Until final acceptance in accordance with 5-11, replace or repair any damage to the accepted Work. Payment of such work will be as provided in 7-14.

**5-10.3 Partial Acceptance:** At the Engineer's sole discretion, the Engineer may accept any portion of the Work under the provisions of 5-10.2.

**5-10.4 Conditional Acceptance:** The Engineer will not make, or consider requests for conditional acceptance of a project.

### **5-11 Final Acceptance.**

When, upon completion of the final construction inspection of the entire project, the Engineer determines that the Contractor has satisfactorily completed the work, the Engineer will submit written notice of final acceptance to the Contractor.

### **5-12 Claims by Contractor.**

**5-12.1 General:** When the Contractor deems that extra compensation or a time extension is due beyond that agreed to by the Engineer, whether due to delay, additional work, altered work, differing site conditions, breach of Contract, or for any other cause, the Contractor shall follow the procedures set forth herein for preservation, presentation and resolution of the claim.

Submission of timely notice of intent to file a claim, preliminary time extension request, time extension request, and the certified written claim, together with full and complete claim documentation, are each a condition precedent to the Contractor bringing any circuit court, arbitration, or other formal claims resolution proceeding against the Department for the items and for the sums or time set forth in the Contractor's certified written claim. The failure to provide such notice of intent, preliminary time extension request, time extension request, certified written claim and full and complete claim documentation within the time required shall constitute a full, complete, absolute and irrevocable waiver by the Contractor of any right to additional compensation or a time extension for such claim.

#### **5-12.2 Notice of Claim:**

**5-12.2.1 Claims For Extra Work:** Where the Contractor deems that additional compensation or a time extension is due for work or materials not expressly provided for in the Contract or which is by written directive expressly ordered by the Engineer pursuant to 4-3, the Contractor shall submit written notification to the Engineer of the intention to make a claim for additional compensation before beginning the work on which the claim is based, and if seeking a time extension, the Contractor shall also submit a preliminary request for time extension pursuant to 8-7.3.2 within ten calendar days after commencement of a delay and a request for Contract Time extension pursuant to 8-7.3.2 within thirty calendar days after the elimination of the delay. If such written notification is not submitted and the Engineer is not afforded the opportunity for keeping strict account of actual labor, material, equipment, and time, the Contractor waives the claim for additional compensation or a time extension. Such notice by the Contractor, and the fact that the Engineer has kept account of the labor, materials and equipment, and time, shall not in any way be construed as establishing the validity of the claim or method

for computing any compensation or time extension for such claim. On projects with an original Contract amount of \$3,000,000 or less within 90 calendar days after final acceptance of the project in accordance with 5-11, and on projects with an original Contract amount greater than \$3,000,000 within 180 calendar days after final acceptance of the project in accordance with 5-11, the Contractor shall submit full and complete claim documentation as described in 5-12.3 and duly certified pursuant to 5-12.9. However, for any claim or part of a claim that pertains solely to final estimate quantities disputes the Contractor shall submit full and complete claim documentation as described in 5-12.3 and duly certified pursuant to 5-12.9, as to such final estimate claim dispute issues, within 90 or 180 calendar days, respectively, of the Contractor's receipt of the Department's final estimate.

If the Contractor fails to submit a certificate of claim as described in 5-12.9, the Department will so notify the Contractor in writing. The Contractor shall have ten calendar days from receipt of the notice to resubmit the claim documentation, without change, with a certificate of claim as described in 5-12.9, without regard to whether the resubmission is within the applicable 90 or 180 calendar day deadline for submission of full and complete claim documentation. Failure by the Contractor to comply with the ten calendar day notice shall constitute a waiver of the claim.

**5-12.2.2 Claims For Delay:** Where the Contractor deems that additional compensation or a time extension is due on account of delay, differing site conditions, breach of Contract, or any other cause other than for work or materials not expressly provided for in the Contract (Extra Work) or which is by written directive of the Engineer expressly ordered by the Engineer pursuant to 4-3, the Contractor shall submit a written notice of intent to the Engineer within ten days after commencement of a delay to a controlling work item expressly notifying the Engineer that the Contractor intends to seek additional compensation, and if seeking a time extension, the Contractor shall also submit a preliminary request for time extension pursuant to 8-7.3.2 within ten calendar days after commencement of a delay to a controlling work item, as to such delay and providing a reasonably complete description as to the cause and nature of the delay and the possible impacts to the Contractor's work by such delay, and a request for Contract Time extension pursuant to 8-7.3.2 within thirty calendar days after the elimination of the delay. On projects with an original Contract amount of \$3,000,000 or less within 90 calendar days after final acceptance of the project in accordance with 5-11, and on projects with an original Contract amount greater than \$3,000,000 within 180 calendar days after final acceptance of the project in accordance with 5-11, the Contractor shall submit full and complete documentation as described in 5-12.3 and duly certified pursuant to 5-12.9.

If the Contractor fails to submit a certificate of claim as described in 5-12.9, the Department will so notify the Contractor in writing. The Contractor shall have ten calendar days from receipt of the notice to resubmit the claim documentation, without change, with a certificate of claim as described in 5-12.9, without regard to whether the resubmission is within the applicable 90 or 180 calendar day deadline for submission of full and complete claim documentation. Failure by the Contractor to comply with the ten calendar day notice shall constitute a waiver of the claim.

There shall be no Contractor entitlement to any monetary compensation or time extension for any delays or delay impacts, whatsoever, that are not to a controlling work item, and then as to any such delay to a controlling work item entitlement to any monetary compensation or time extension shall only be to the extent such is otherwise provided for expressly under 4-3 or 5-12, except that in the instance of delay to a non-controlling item of

work the Contractor may be compensated for the direct costs of idle labor or equipment only, at the rates set forth in 4-3.2.1 (1) and (3), and then only to the extent the Contractor could not reasonably mitigate such idleness.

**5-12.3 Content of Written Claim:** As a condition precedent to the Contractor being entitled to additional compensation or a time extension under the Contract, for any claim, the Contractor shall submit a certified written claim to the Department which will include for each individual claim, at a minimum, the following information:

1. A detailed factual statement of the claim providing all necessary dates, locations, and items of work affected and included in each claim;
2. The date or dates on which actions resulting in the claim occurred or conditions resulting in the claim became evident;
3. Identification of all pertinent documents and the substance of any material oral communications relating to such claim and the name of the persons making such material oral communications;
4. Identification of the provisions of the Contract which support the claim and a statement of the reasons why such provisions support the claim, or alternatively, the provisions of the Contract which allegedly have been breached and the actions constituting such breach;
5. A detailed compilation of the amount of additional compensation sought and a breakdown of the amount sought as follows:
  - a. Documented additional job site labor expenses;
  - b. Documented additional cost of materials and supplies;
  - c. A list of additional equipment costs claimed, including each piece of equipment and the rental rate claimed for each;
  - d. Any other additional direct costs or damages and the documents in support thereof;
  - e. Any additional indirect costs or damages and all documentation in support thereof.
6. A detailed compilation of the specific dates and the exact number of calendar days sought for a time extension, the basis for entitlement to time for each day, all documentation of the delay, and a breakout of the number of days claimed for each identified event, circumstance or occurrence.

Further, the Contractor shall be prohibited from amending either the bases of entitlement or the amount of any compensation or time stated for any and all issues claimed in the Contractor's written claim submitted hereunder, and any circuit court, arbitration, or other formal claims resolution proceeding shall be limited solely to the bases of entitlement and the amount of any compensation or time stated for any and all issues claimed in the Contractor's written claim submitted hereunder. This shall not, however, preclude a Contractor from withdrawing or reducing any of the bases of entitlement and the amount of any compensation or time stated for any and all issues claimed in the Contractor's written claim submitted hereunder at any time.

**5-12.4 Action on Claim:** The Engineer will respond in writing on projects with an original Contract amount of \$3,000,000 or less within 90 calendar days of receipt of a complete claim submitted by a Contractor in compliance with 5-12.3, and on projects with an original Contract amount greater than \$3,000,000 within 120 calendar days of receipt of a complete claim submitted by a Contractor in compliance with 5-12.3. Failure by the Engineer to respond in writing to a claim within 90 or 120 days, respectively, after receipt of a complete claim

submitted by the Contractor in compliance with 5-12.3 constitutes a denial of the claim by the Engineer. If the Engineer finds the claim or any part thereof to be valid, such partial or whole claim will be allowed and paid for to the extent deemed valid and any time extension granted, if applicable, as provided in the Contract. No circuit court or arbitration proceedings on any claim, or a part thereof, may be filed until after final acceptance per 5-11 of all Contract work by the Department or denial hereunder, whichever occurs last.

**5-12.5 Pre-Settlement and Pre-Judgment Interest:** Entitlement to any pre-settlement or prejudgment interest on any claim amount determined to be valid subsequent to the Department's receipt of a certified written claim in full compliance with 5-12.3, whether determined by a settlement or a final ruling in formal proceedings, the Department shall pay to the Contractor simple interest calculated at the Prime Rate (as reported by the Wall Street Journal as the base rate on corporate loans posted by at least 75% of the Nation's 30 largest banks) as of the 60th calendar day following the Department's receipt of a certified written claim in full compliance with 5-12.3, such interest to accrue beginning 60 calendar days following the Department's receipt of a certified written claim in full compliance with 5-12.3 and ending on the date of final settlement or formal ruling.

**5-12.6 Compensation for Extra Work or Delay:**

**5-12.6.1 Compensation for Extra Work:** Notwithstanding anything to the contrary contained in the Contract Documents, the Contractor shall not be entitled to any compensation beyond that provided for in 4-3.2.

**5-12.6.2 Compensation for Delay:** Notwithstanding anything to the contrary contained in the Contract Documents, the additional compensation set forth in 5-12.6.2.1 shall be the Contractor's sole monetary remedy for any delay other than to perform extra work caused by the Department unless the delay shall have been caused by acts constituting willful or intentional interference by the Department with the Contractor's performance of the work and then only where such acts continue after Contractor's written notice to the Department of such interference. The parties anticipate that delays may be caused by or arise from any number of events during the term of the Contract, including, but not limited to, work performed, work deleted, supplemental agreements, work orders, disruptions, differing site conditions, utility conflicts, design changes or defects, time extensions, extra work, right-of-way issues, permitting issues, actions of suppliers, subcontractors or other Contractors, actions by third parties, suspensions of work by the Engineer pursuant to 8-6.1, shop drawing approval process delays, expansion of the physical limits of the project to make it functional, weather, weekends, Holidays, Special Events, suspension of Contract Time, or other events, forces or factors sometimes experienced in construction work. Such delays or events and their potential impacts on the performance by the Contractor are specifically contemplated and acknowledged by the parties in entering into this Contract, and shall not be deemed to constitute willful or intentional interference with the Contractor's performance of the work without clear and convincing proof that they were the result of a deliberate act, without reasonable and good-faith basis, and specifically intended to disrupt the Contractor's performance.

**5-12.6.2.1 Compensation for Direct Costs, Indirect Costs, Expenses, and Profit thereon, of or from Delay:** For any delay claim, the Contractor shall be entitled to monetary compensation for the actual idle labor and equipment, and indirect costs, expenses, and profit thereon, as provided for in 4-3.2.1(4) and solely for costs incurred beyond what reasonable mitigation thereof the Contractor could have undertaken.

**5-12.7 Mandatory Claim Records:** After submitting to the Engineer a notice of intent to file a claim for extra work or delay, the Contractor must keep daily records of all labor, material and equipment costs incurred for operations affected by the extra work or delay. These daily records must identify each operation affected by the extra work or delay and the specific locations where work is affected by the extra work or delay, as nearly as possible. The Engineer may also keep records of all labor, material and equipment used on the operations affected by the extra work or delay. The Contractor shall, once a notice of intent to claim has been timely filed, and not less than weekly thereafter as long as appropriate, submit the Contractor's daily records to the Engineer and be likewise entitled to receive the Department's daily records. The daily records to be submitted hereunder shall be done at no cost to the recipient.

**5-12.8 Claims For Acceleration:** The Department shall have no liability for any constructive acceleration of the work, nor shall the Contractor have any right to neither make any claim for constructive acceleration nor include the same as an element of any claim the Contractor may otherwise submit under this Contract. If the Engineer gives express written direction for the Contractor to accelerate its efforts, such written direction will set forth the prices and other pertinent information and will be reduced to a written Contract Document promptly. No payment will be made on a Supplemental Agreement for acceleration prior to the Department's approval of the documents.

**5-12.9 Certificate of Claim:** When submitting any claim, the Contractor shall certify under oath and in writing, in accordance with the formalities required by Florida law, that the claim is made in good faith, that the supportive data are accurate and complete to the Contractor's best knowledge and belief, and that the amount of the claim accurately reflects what the Contractor in good faith believes to be the Department's liability. Such certification must be made by an officer or director of the Contractor with the authority to bind the Contractor.

**5-12.10 Non-Recoverable Items:** The parties agree that for any claim the Department will not have liability for the following items of damages or expense:

1. Loss of profit, incentives or bonuses;
2. Any claim for other than extra work or delay;
3. Consequential damages, including, but not limited to, loss of bonding capacity, loss of bidding opportunities, loss of credit standing, cost of financing, interest paid, loss of other work or insolvency;
4. Acceleration costs and expenses, except where the Department has expressly and specifically directed the Contractor in writing, "to accelerate at the Department's expense"; nor
5. Attorney fees, claims preparation expenses and costs of litigation.

**5-12.11 Exclusive Remedies:** Notwithstanding any other provision of this Contract, the parties agree that the Department shall have no liability to the Contractor for expenses, costs, or items of damages other than those, which are specifically identified as payable under 5-12. In the event any legal action for additional compensation, whether on account of delay, acceleration, breach of Contract, or otherwise, the Contractor agrees that the Department's liability will be limited to those items which are specifically identified as payable in 5-12.

**5-12.12 Settlement Discussions:** The content of any discussions or meetings held between the Department and the Contractor to settle or resolve any claims submitted by the Contractor against the Department shall be inadmissible in any legal, equitable, arbitration or administrative proceedings brought by the Contractor against the Department for payment of

such claim. Dispute Resolution Board, State Arbitration Board and Claim Review Committee proceedings are not settlement discussions, for purposes of this provision.

**5-12.13 Personal Liability of Public Officials:** In carrying out any of the provisions of the Contract or in exercising any power or authority granted to the Secretary of Transportation, Engineer or any of their respective employees or agents, there shall be no liability on behalf of any employee, officer or official of the Department for which such individual is responsible, either personally or as officials or representatives of the Department. It is understood that in all such matters such individuals act solely as agents and representatives of the Department.

**5-12.14 Auditing of Claims:** All claims filed against the Department shall be subject to audit at any time following the filing of the claim, whether or not such claim is part of a suit pending in the Courts of this State. The audit may be performed, at the Department's sole discretion, by employees of the Department or by any independent auditor appointed by the Department, or both. The audit may begin after ten days written notice to the Contractor, subcontractor, or supplier. The Contractor, subcontractor, or supplier shall make a good faith effort to cooperate with the auditors. As a condition precedent to recovery on any claim, the Contractor, subcontractor, or supplier must retain sufficient records, and provide full and reasonable access to such records, to allow the Department's auditors to verify the claim and failure to retain sufficient records of the claim or failure to provide full and reasonable access to such records shall constitute a waiver of that portion of such claim that cannot be verified and shall bar recovery thereunder. Further, and in addition to such audit access, upon the Contractor submitting a written claim, the Department shall have the right to request and receive, and the Contractor shall have the affirmative obligation to submit to the Department any and all documents in the possession of the Contractor or its subcontractors, materialmen or suppliers as may be deemed relevant by the Department in its review of the basis, validity or value of the Contractor's claim.

Without limiting the generality of the foregoing, the Contractor shall upon written request of the Department make available to the Department's auditors, or upon the Department's written request, submit at the Department's expense, any or all of the following documents:

1. Daily time sheets and foreman's daily reports and diaries;
2. Insurance, welfare and benefits records;
3. Payroll register;
4. Earnings records;
5. Payroll tax return;
6. Material invoices, purchase orders, and all material and supply acquisition Contracts;
7. Material cost distribution worksheet;
8. Equipment records (list of company owned, rented or other equipment used);
9. Vendor rental agreements and subcontractor invoices;
10. Subcontractor payment certificates;
11. Canceled checks for the project, including, payroll and vendors;
12. Job cost report;
13. Job payroll ledger;

14. General ledger, general journal, (if used) and all subsidiary ledgers and journals together with all supporting documentation pertinent to entries made in these ledgers and journals;

15. Cash disbursements journal;

16. Financial statements for all years reflecting the operations on this project;

17. Income tax returns for all years reflecting the operations on this project;

18. All documents which reflect the Contractor's actual profit and overhead during the years this Contract was being performed and for each of the five years prior to the commencement of this Contract;

19. All documents related to the preparation of the Contractor's bid including the final calculations on which the bid was based;

20. All documents which relate to each and every claim together with all documents, which support the amount of damages as to each claim;

21. Worksheets used to prepare the claim establishing the cost components for items of the claim including, but not limited to, labor, benefits and insurance, materials, equipment, subcontractors, and all documents that establish which time periods and individuals were involved, and the hours and rates for such individuals.

### **5-13 Recovery Rights, Subsequent to Final Payment.**

The Department reserves the right, if it discovers an error in the partial or final estimates, or if it discovers that the Contractor performed defective work or used defective materials, after the final payment has been made, to claim and recover from the Contractor or his surety, or both, by process of law, such sums as may be sufficient to correct the error or make good the defects in the work and materials.

### **5-14 Value Added Project Features.**

**5-14.1 Description:** Construct Value Added Project Features consisting of those features provided for in the Design and Construction Criteria and/or the Technical Proposal.

The Contractor shall assume responsibility for all the associated guaranteed work specified in this Article for a minimum period of five years, unless otherwise stated in the Contract, after final acceptance of the Contract in accordance with 5-11, including continued responsibility as to any deficiencies to which notice was provided to the Contractor within such guarantee period until all such pre-existing deficiencies are resolved.

**5-14.2 Responsible Party:** For the purpose of this Specification, the Contractor shall be the responsible party unless otherwise agreed to in writing by the Department.

Upon final acceptance of the Contract in accordance with 5-11, the Contractor's responsibility for maintenance of all the work or facilities within the project limits of the Contract will terminate in accordance with 5-11; with the sole exception that the obligations set forth in this Article for Value Added Project Features shall continue thereafter to be responsibility of the Contractor as otherwise provided in this Article.

**5-14.3 Evaluation and Remedial Work:** Identify in the Technical Proposal each guaranteed feature with its associated type of distress and threshold values defining the extent and magnitude of such distresses that will necessitate remedial work. The Contractor will conduct a review of the Value Added Project Features during the guarantee period in accordance with the frequency established in the contract, but in any case, at least once annually. The

Department may conduct a review at intermediate times as determined necessary by the Department. Conduct final review, no later than forty five calendar days before the end of guarantee period for each item.

All reviews by the Contractor will be conducted at no cost to the Department. The Department will be advised of the review schedule at least seven calendar days prior to the review-taking place. The results of the review, intermediate or final, shall be made available to the Department within fifteen calendar days after completion of the review.

If the review findings, intermediate or final, are not accepted by the Department, the Department will provide written notification to the Contractor within thirty calendar days of the date of receipt of the results of the review.

During the guarantee period, the Contractor may monitor the project using nondestructive procedures. The Contractor shall not conduct any coring, milling or other destructive procedures without prior approval by the Department.

If a measured distress value indicates remedial action is required per the contract, the Contractor shall begin remedial work within forty five calendar days of the Contractor's review or a ruling of the Statewide Disputes Review Board that the Contractor is responsible for the remedial action required to correct the measured distress, whichever is later. The Department will determine the allowable duration for the completion of the remedial work.

In the event remedial action is necessary and forensic information is required to determine the source of the distress, obtain approval of the Department prior to starting any forensic activities. All forensic activities shall be at no cost to the Department. The Department will not be responsible for damages to the Value Added Project Features as a result of any forensic activities conducted by the Contractor.

The Contractor has the first option to perform all remedial work that is determined by the Department to be the Contractor's responsibility. If, in the opinion of the Department, the feature showing distress poses an immediate danger to the traveling public and the Contractor cannot begin remedial work within the time frame established by the Department, the Department has the authority to have the remedial work performed by other forces. The Contractor is responsible for all incurred costs of the work performed by other forces should the problem (remedial work) be determined to be its responsibility. Remedial work performed by other forces does not alter any of the requirements, responsibilities or obligations of the Contractor.

The Contractor shall complete all remedial work to the satisfaction of the Department. Any disputes regarding the adequacy of the remedial work will be resolved by the Statewide Disputes Review Board in accordance with 5-14.4. Approval of remedial work does not relieve the Contractor from continuing responsibility under the provisions of this specification.

Notify the Department in writing prior to beginning any remedial work. Meet the requirements of the Contract when performing any remedial work.

Perform all remedial work at no cost to the Department. If remedial work necessitates a corrective action to the pavement markings, adjacent lane (s), roadway shoulders, or any other elements, perform these corrective actions using similar products at no additional cost to the Department.

**5-14.4 Disputes Resolution:** The Statewide Disputes Review Board in accordance with 8-3.8 will be utilized to resolve any and all disputes that may arise involving administration and enforcement of this Specification.



**5-14.5 Value Added Work:** During the guarantee period, the Contractor shall perform all necessary remedial work described in the Contract. Should an impasse develop in any regard as to the need for remedial work or the extent required, the Statewide Disputes Review Board would render a final decision.

The maintenance obligation for Value Added Project Features will not apply to deficiencies if any one of the following factors is found to be beyond the control of the Contractor:

1. Determination that the deficiency was due to the failure of the other features not a part of the contract.
2. Determination that the deficiency was the responsibility of a third party performing work not included in the contract.

**5-14.6 Failure to Perform:** Should the Contractor fail to timely submit any dispute to the Statewide Dispute Review Board, refuse to submit any dispute to the Statewide Dispute Review Board, fail to satisfactorily perform any remedial work within the duration allowed by the Department, or fail to compensate the Department for any remedial work performed by the Department, as determined by the Statewide Disputes Review Board to be the Contractor's responsibility, the Department shall suspend, revoke or deny the Contractor's certificate of qualification under the terms of Section 337.16(d)(2), Florida Statutes, until the remedial work has been satisfactorily performed or full and complete payment for the remedial work made to the Department.

In no case shall the period of suspension, revocation, or denial of the Contractor's certificate of qualification be less than six months. Should the Contractor choose to challenge the Department's notification of intent for suspension, revocation or denial of qualification and the Department's action is upheld, the Contractor shall have its qualification suspended for a minimum of six months or until the remedial action is satisfactorily performed, whichever is longer.

**5-14.7 Traffic Control:** During maintenance work operations, perform all signing and traffic control in accordance with the current edition of the Department's Roadway and Traffic Design Standards for Design, Construction, Maintenance and Utility Operations on the State Highway System. Provide Maintenance of Traffic during remedial work at no additional cost to the Department. Lane closure restrictions listed in the original Contract will apply to remedial work. Notification of lane closure for remedial work must be made to the Department forty eight hours in advance. Obtain a Maintenance Permit prior to performing any guarantee work operations.

## **SECTION 6 CONTROL OF MATERIALS**

### **6-1 Acceptance Criteria.**

**6-1.1 General:** Acceptance of materials is based on the following criteria. All requirements may not apply to all materials. Use only materials in the work that meet the requirements of these Specifications. The Engineer may inspect and test any material, at points of production, distribution and use.

**6-1.2 Sampling and Testing:** Use the Department's current sample identification and tracking system to provide related information and attach the information to each sample.

Restore immediately any site from which material has been removed for sampling purposes to the pre-sampled condition with materials and construction methods used in the initial construction, at no additional cost to the Department.

Ensure when a material is delivered to the location as described in the Contract Documents, there is enough material delivered to take samples, at no expense to the Department.

**6-1.2.1 Pretest by Manufacturers:** Submit certified manufacturer's test results to the Engineer for qualification and use on Department projects. Testing will be as specified in the Contract Documents. The Department may require that manufacturers submit samples of materials for independent verification purposes.

**6-1.2.2 Point of Production Test:** Test the material during production as specified in the Contract Documents.

**6-1.2.3 Point of Distribution Test:** Test the material at Distribution facilities as specified in the Contract Documents.

**6-1.2.4 Point of Use Test:** Test the material immediately following placement as specified in the Specifications. After delivery to the project, the Department may require the retesting of materials that have been tested and accepted at the source of supply, or may require the testing of materials that are to be accepted by manufacturer certification. The Department may reject all materials that, when retested, do not meet the requirements of these Specifications.

### **6-1.3 Certification:**

**6-1.3.1 Manufacturer Material Certification:** Submit material certifications for all materials to the Engineer for approval when required by the Specifications. Materials will not be considered for payment when not accompanied by a material certification. Sample material certification forms are available on the Department's website at the following URL: <https://www.fdot.gov/materials/administration/resources/library/publications/certifications/sampleforms.shtm>. Ensure that the material certification follows the format of the sample form, is submitted on the manufacturer's letterhead, and is signed by a legally responsible person employed by the manufacturer.

**6-1.3.1.1 Approved Product List:** This list provides assurance to Contractors, consultants, designers, and Department personnel that specific products and materials are approved for use on Department facilities. The Department will limit the Contractor's use of products and materials that require use of APL items to those listed on the APL effective at the time of placement. Where the terms "Qualified Products List" or "QPL" appear in Contract Documents, they will be synonymous with "Approved Product List" and "APL".

Manufacturers seeking to have a product evaluated for the APL must submit a Request for Product Consideration application, available on the Department's website at the following URL:

<https://www.fdot.gov/programmanagement/ProductEvaluation/Default.shtm>. Applications must include supporting documentation required by the Specifications, Standard Plans, and APL approval process. Required test reports must be conducted by an independent laboratory or other independent testing facility and required drawings and calculations must be signed and sealed by a Professional Engineer licensed in the State of Florida, unless defined otherwise in the Specifications, Design Standards, and APL approval process requirements. Applications must be signed by a legally responsible person employed by the manufacturer of the product. Manufacturer name and material designation (product name, product model/part number/style number, etc.) submitted on the application must be as identified on the product, product

packaging and product labels as required by the Specifications.

Products that have successfully completed the Department's evaluation process are eligible for inclusion on the APL. Unless defined otherwise in the Specifications, Standard Plans, or APL approval process requirements, products listed on the APL must have an associated photograph, drawing, or product label submitted by the product manufacturer before listing on the APL. Manufacturers are required to submit requests to the Department for approval of any modifications or alterations made to a product listed on the APL. This includes, but is not limited to, design, materials, fabrication methods or operational modifications. Modification or alteration requests must be submitted along with supporting documentation that the product continues to meet the Specification or Standard Plans requirements. A sample and additional product testing may be required for the modification evaluation. Any marked variations from original test values, failure to notify the Department of any modifications or alterations, or any evidence of inadequate performance of a product as a result of product modification or alteration, may result in removal of the product from the APL.

Manufacturers must submit supporting documentation to the Department for a periodic review and re-approval of their APL products on or before the product's original approval anniversary. APL products that are not re-approved may be removed from the APL. Documentation requirements for the product review and re-approval, including schedule and criteria are available on the Department's website at the following URL: <https://www.fdot.gov/programmanagement/ProductEvaluation/Default.shtm>

**6-1.3.2 Contractor Installation Certification:** Submit installation certifications as required by the Contract Documents.

**6-1.3.3 Lump Sum Project General Requirements:** Material is accepted by material sampling and testing requirements for the following work activities: Earthwork and Related Operations, Base Courses, Hot Bituminous Mixtures, Portland Cement Concrete, and Reinforcing Steel as stated in 9-11.1. Fabricated metal acceptance will be in accordance with 9-11.2. All other material acceptance will be in accordance with 6-1.

**6-1.3.4 Certification on Approved Product List (APL) Products:** Submit to the Engineer a notarized manufacturer's certification on each APL product that will be incorporated in the project. Submit the certification prior to utilization of the material on the project. Each certification will have the manufacturer letterhead, product name, batch number, FPID, Contract Number, category, county, title of certification person and test results in each product listed in the Department Specification. This letter will also provide the following statement: "This product meets the material specifications as provided in the Contract Documents." Ensure that the date of the manufacturer's certification is current to the shelf life of the product. This letter will be delivered to the jobsite prior to placement or utilization. Retain test results for a minimum of three years.

**6-1.3.5 Certification on all Other Materials Not Specified:** Submit to the Engineer a notarized manufacturer's certification on each product that will be incorporated in the project. Submit the certification prior to utilization on the project. Each certification will have the manufacturer letterhead, identification and type of material, FPID, Contract Number, county, test results of the material and notarized signature from the manufacturer. This letter will also provide the following statement: "This product meets the material specifications as provided in the Contract Documents." Ensure that the date of the manufacturer's certification is current to the shelf life of the product. Retain test results for a minimum of three years.

## **6-2 Applicable Documented Authorities other than Specifications.**

**6-2.1 General:** Details on individual materials are identified in various material specific Sections of the Specifications that may refer to other documented authorities for requirements. When specified, meet the requirements as defined in such references.

**6-2.2 Test Methods:** Methods of sampling and testing materials are in accordance with the Florida Methods (FM). If a Florida Method does not exist for a particular test, perform the testing in accordance with the method specified in the Specification. When test methods or other standards are referenced in the Specifications without identification of the specific time of issuance, use the most current issuance, including interims or addendums thereto, at the time of bid opening.

**6-2.3 Construction Aggregates:** Aggregates used on Department projects must be in accordance with Rule 14-103, FAC.

## **6-3 Storage of Materials and Samples.**

**6-3.1 Method of Storage:** Store materials in such a manner as to preserve their quality and fitness for the work, to facilitate prompt inspection, and to minimize noise impacts on sensitive receivers. More detailed specifications concerning the storage of specific materials are prescribed under the applicable Specifications. The Department may reject improperly stored materials.

**6-3.2 Use of Right-of-Way for Storage:** If the Engineer allows, the Contractor may use a portion of the right-of-way for storage purposes and for placing the Contractor's plant and equipment. Use only the portion of the right-of-way that is outside the clear zone, which is the portion not required for public vehicular or pedestrian travel. When used, restore the right-of-way to pre-construction condition at no additional cost to the Department or as specified in the Contract Documents. Provide any additional space required at no expense to the Department.

**6-3.3 Responsibility for Stored Materials:** Accept responsibility for the protection of stored materials. The Department is not liable for any loss of materials, by theft or otherwise, or for any damage to the stored materials.

**6-3.4 Storage Facilities for Samples:** Provide facilities for storage of samples as described in the Contract Documents and warranted by the test methods and Specifications.

## **6-4 Defective Materials.**

Materials not meeting the requirements of these Specifications will be considered defective. The Engineer will reject all such materials, whether in place or not. Remove all rejected material immediately from the site of the work and from storage areas, at no expense to the Department.

Do not use material that has been rejected, until the Engineer has approved the material's use. Upon failure to comply promptly with any order of the Engineer made under the provisions of this Article, the Engineer has the authority to have the defective material removed and replaced by other forces and deduct the cost of removal and replacement from any moneys due or to become due the Contractor.

**6-4.1 Engineering Analysis:** As an exception to the above, within 30 calendar days of the termination of the LOT or rejection of the material, the Contractor may submit to the Engineer a proposed Engineering Analysis Scope to determine the disposition of the material. The Engineering Analysis Scope must contain at a minimum:

1. Description of the defective materials.

2. Supporting information, testing or inspection reports with nonconformities, pictures, drawings, and accurately dimensioned deficiency maps as necessary. For cracked elements, provide drawings showing the location, average width, depth, length, and termination points of each crack along the surfaces. Provide the distance from each termination point to a fixed reference point on the component, such as beam end or edge of flange.

3. Proposed approach of investigation and analysis.

4. Name and credentials of the proposed Specialty Engineer or Contractor's Engineer of Record who will perform the Engineering Analysis.

5. Proposed testing laboratories, qualified in accordance with Section 105-7.

Upon approval of the Engineering Analysis Scope by the Engineer, the Specialty Engineer or Contractor's Engineer of Record may perform the Engineering Analysis as defined in the approved scope and submit a signed and sealed Engineering Analysis Report (EAR) to the Engineer. The EAR must contain at a minimum:

1. The approved Engineering Analysis Scope.

2. Any investigations performed and the associated results obtained.

3. Analysis and conclusion.

4. Proposed disposition of the material, addressing the performance and durability of the proposed action.

Provide as appropriate:

1. Written evidence of a previously approved comparable deficiency and its repair.

2. Documented research demonstrating the effectiveness of the proposed repair.

3. Engineering calculations.

A Specialty Engineer, who is an independent consultant, or the Contractor's Engineer of Record as stated within each individual Section shall perform any such analysis within 45 calendar days of the Engineer's approval of the Engineering Analysis Scope, complete and submit the EAR. The EAR must be signed and sealed by the Specialty Engineer or the Contractor's Engineer of Record that performed the Engineering Analysis. The Engineer will determine the final disposition of the material after review of the EAR. No additional monetary compensation or time extension will be granted for the impact of any such analysis or review.

## **6-5 Products and Source of Supply.**

**6-5.1 Source of Supply—Convict Labor (Federal-Aid Contracts Only):** Do not use materials that were produced after July 1, 1991, by convict labor for Federal-aid highway construction projects unless the prison facility has been producing convict-made materials for Federal-aid highway construction projects before July 1, 1987.

Use materials that were produced prior to July 2, 1991, by convicts on Federal-aid highway construction projects free from the restrictions placed on the use of these materials by 23 U.S.C. 114. The Department will limit the use of materials produced by convict labor for use in Federal-aid highway construction projects to:

1. Materials produced by convicts on parole, supervised release, or probation from a prison or,

2. Materials produced in a qualified prison facility.

The amount of such materials produced for Federal-aid highway construction during any 12-month period shall not exceed the amount produced in such facility for use in such construction during the 12-month period ending July 1, 1987.

**6-5.2 Source of Supply-Steel:** Use steel and iron manufactured in the United States, in accordance with the Buy America provisions of 23 CFR 635.410, as amended. Ensure that all manufacturing processes for this material occur in the United States. As used in this specification, a manufacturing process is any process that modifies the chemical content, physical shape or size, or final finish of a product, beginning with the initial melting and continuing through the final shaping and coating. If a steel or iron product is taken outside the United States for any process, it becomes foreign source material. When using steel or iron as a component of any manufactured product (e.g., concrete pipe, prestressed beams, corrugated steel pipe, etc.), these same provisions apply. Foreign steel and iron may be used when the total actual cost of such foreign materials does not exceed 0.1% of the total Contract amount or \$2,500, whichever is greater. These requirements are applicable to all steel and iron materials incorporated into the finished work, but are not applicable to steel and iron items that the Contractor uses but does not incorporate into the finished work. Submit a certification from the manufacturer of steel or iron, or any product containing steel or iron, stating that all steel or iron furnished or incorporated into the furnished product was produced and manufactured in the United States or a statement that the product was produced within the United States except for minimal quantities of foreign steel and iron valued at \$ (actual cost). Submit each such certification to the Engineer prior to incorporating the material or product into the project. Prior to the use of foreign steel or iron materials on a project, submit invoices to document the actual cost of such material, and obtain the Engineer's written approval prior to incorporating the material into the project. For work involving relocation of utilities within the Department's right-of-way in which the Contractor is performing the relocation the Contractor and Utility Agency/Owner (UAO) must comply with this subarticle. For work involving relocation of utilities within the Department's right-of-way in which the Utility Agency/Owner (UAO)'s relocation is reimbursed by the Department, require the UAO to comply with this subarticle.

**6-5.3 Contaminated, Unfit, Hazardous, and Dangerous Materials:** Do not use any material that, after approval and/or placement, has in any way become unfit for use. Do not use materials containing any substance that has been determined to be hazardous by the State of Florida Department of Environmental Protection or the U.S Environmental Protection Agency (EPA). Provide workplaces free from serious recognized hazards and to comply with occupational safety and health standards, as determined by the U.S. Department of Labor Occupational Safety and Health Administration (OSHA).

## **SECTION 7 LEGAL REQUIREMENTS AND RESPONSIBILITY TO THE PUBLIC**

### **7-1 Laws to be Observed.**

**7-1.1 General:** Become familiar with and comply with all Federal, State, and Local Rules and Regulations that control the action or operation of those engaged or employed in the work or that affect material used. Pay particular attention called to the safety regulations

promulgated by the U.S. Department of Labor, Occupational Safety and Health Administration (OSHA). In addition, comply with Chapter 403, of the Florida Statutes, regarding control of air pollution. Direct special attention to that portion of Chapter 62-256, Rules of the Department of Environmental Protection, Florida Administrative Code, pertaining to open burning in land clearing operations. Where work or structures included in the Contract are in "Navigable Waters of the U.S.," (reference 33 of the Code of Federal Regulations, Part 329); "Waters of the U.S.," (reference 33 of the Code of Federal Regulations, Parts 323 and 328); or "Waters of the State," (reference Part 4, Chapters 253 and 373 of the Florida Statutes and Section 62-340 of the Florida Administrative Code); comply with the regulatory provisions of Section 404 of the Federal Clean Water Act of 1977; Sections 9 and 10 of the Federal River and Harbor Act of 1899; Chapter 161 of the Florida Statutes; and any local authority having jurisdiction over such waters.

Comply with Part IV, Chapter 378, of the Florida Statutes regarding land reclamation. Direct special attention to Chapters 62C-36 and 62C-39 of the Florida Administrative Code. Submit the Notice of Intent to Mine to

Department of Environmental Protection  
Collins Building  
2051 East Dirac Drive  
Tallahassee, Florida 32310-3760

with a copy to the Engineer. The Engineer will determine consistency with the environmental documents prior to commencement of mining.

Obtain certification from the Construction Industry Licensing Board as required by Chapter 489, Part I, Florida Statutes, regardless of exemptions allowed by subsection 489.103, Florida Statutes prior to removing underground pollutant storage tanks. Dispose of tanks and pollutants in accordance with the requirements and regulations of any Federal, State, or local, agency having jurisdiction.

Prior to building construction or renovation, submit copies of current registrations or certifications issued by the Florida Construction Industry Licensing Board in accordance with Chapter 489, Florida Statutes, for the appropriate category of construction.

Corporations must be registered with the State of Florida, Department of State, Division of Corporations, and hold a current State Corporate Charter Number in accordance with Chapter 607, Florida Statutes.

The Contractor or the authorized subcontractor applying the roofing material must be licensed or be an approved dealer and applicator of the proposed roofing material.

Indemnify, defend, and save harmless the Department and all of its officers, agents, and employees, in the amount of the Contract price, against all claims or liability arising from or based on the violation of any such Federal, State, and Local Rules and Regulations; whether by himself or his employees.

The Contractor shall comply with all environmental permits, including measures identified in the National Pollutant Discharge Elimination System (NPDES) Stormwater Pollution Prevention Plan and Sediment and Erosion Control Plan for the work.

The Contractor shall exert every reasonable and diligent effort to ensure that all labor employed by the Contractor and his subcontractors for work on the project work harmoniously and compatibly with all labor used by other building and construction contractors now or hereafter on the site of the work covered by this Contract. Include this provision in all subcontracts, and require all subcontractors to include it in their subcontracts with others. However, do not interpret or enforce this provision so as to deny or abridge, on account of

membership or non-membership in any labor union or labor organization, the right of any person to work as guaranteed by Article I, Section 6 of the Florida Constitution.

Comply with Chapter 556 of the Florida Statutes during the performance of excavation or demolition operations.

The Executive Order 11246 Electronic version, dated September 24, 1965 is posted on the Department's website at the following URL address:

[https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/programmanagement/implemented/urlinspecs/files/deo112468a91904c88e94148b94569982fdff3d2.pdf?sfvrsn=6b78d1d6\\_2](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/programmanagement/implemented/urlinspecs/files/deo112468a91904c88e94148b94569982fdff3d2.pdf?sfvrsn=6b78d1d6_2)

Take responsibility to obtain the information posted on this website up through five calendar days before the opening of bids and comply with the provisions contained in Executive Order 11246.

The FHWA-1273 Electronic version, dated May1, 2012 is posted on the Department's website at the following URL address:

[https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/programmanagement/implemented/urlinspecs/files/fhwa1273.pdf?sfvrsn=a8c7d8c8\\_2](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/programmanagement/implemented/urlinspecs/files/fhwa1273.pdf?sfvrsn=a8c7d8c8_2)

Take responsibility to obtain this information and comply with all requirements posted on this website up through five calendar days before the opening of bids.

Comply with the provisions contained in FHWA-1273.

If the Department's website cannot be accessed, contact the Department's Specifications Office Web Coordinator at (850) 414-4101.

**7-1.2 Plant Quarantine Regulations:** The U.S. Department of Agriculture and the Florida Department of Agriculture and Consumer Services have issued quarantine regulations pertaining to control of the nematodes of citrus, Rule 5B-44, Florida Administrative Code, and other plant pests. Contact the local (or other available) representatives of the Animal and Plant Health Inspection Service of the U.S. Department of Agriculture, and the Division of Plant Industry of the Florida Department of Agriculture and Consumer Services to ascertain all current restrictions regarding plant pests that are imposed by these agencies. Keep advised of current quarantine boundary lines throughout the construction period.

These restrictions may affect operations in connection with such items as clearing and grubbing, earthwork, grassing and mulching, sodding, landscaping, and other items which might involve the movement of materials containing plant pests across quarantine lines.

Obtain quarantine regulations and related information from the following:

Animal and Plant Health Inspection Service  
U.S. Department of Agriculture  
3031 Lake Alfred Road  
Winter Haven, Florida 33881

Director, Division of Plant Industry  
Florida Department of Agriculture and Consumer Services  
Post Office Box 147100  
Gainesville, Florida 32614-7100

**7-1.3 Introduction or Release of Prohibited Aquatic Plants, Plant Pests, or Noxious Weeds:** Do not introduce or release prohibited aquatic plants, plant pests, or noxious weeds into the project limits as a result of clearing and grubbing, earthwork, grassing and mulching, sodding, landscaping, or other such activities. Immediately notify the Engineer upon discovery of all prohibited aquatic plants, plant pests, or noxious weeds within the project limits. Do not



move prohibited aquatic plants, plant pests, or noxious weeds within the project limits or to locations outside of the project limits without the Engineer's permission. Maintain all borrow material brought onto the project site free of prohibited aquatic plants, plant pests, noxious weeds, and their reproductive parts. Refer to Rule 6C-52 and Rule 5B-57, of the Florida Administrative Code for the definition of prohibited aquatic plants, plant pests, and noxious weeds.

#### **7-1.4 Compliance with Federal Endangered Species Act and other Wildlife**

**Regulations:** The Federal Endangered Species Act requires that the Department investigate the potential impact to a threatened or endangered species prior to initiating an activity performed in conjunction with a highway construction project. If the Department's investigation determines that there is a potential impact to a protected, threatened or an endangered species, the Department will conduct an evaluation to determine what measures may be necessary to mitigate such impact. When mitigation measures and/or special conditions are necessary, these measures and conditions will be addressed on the Contract Documents or in permits as identified in 7-2.1.

In addition, in cases where certain protected, threatened or endangered species are found or appear within close proximity to the project boundaries, the Department has established guidelines that will apply when interaction with certain species occurs, absent of any special mitigation measures or permit conditions otherwise identified for the project.

These guidelines are posted at the following URL address:

[https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/programmanagement/implemented/urlinspecs/files/endangeredwildlifeguidelines.pdf?sfvrsn=e27baf3f\\_4](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/programmanagement/implemented/urlinspecs/files/endangeredwildlifeguidelines.pdf?sfvrsn=e27baf3f_4)

Take responsibility to obtain this information and take all actions and precautions necessary to comply with the conditions of these guidelines during all project activities.

Prior to establishing any off-project activity in conjunction with a project, notify the Engineer of the proposed activity. Covered activities include but are not necessarily limited to borrow pits, concrete or asphalt plant sites, disposal sites, field offices, and material or equipment storage sites. Include in the notification the Financial Project ID, a description of the activity, the location of the site by township, range, section, county, and city, a site location map including the access route, the name of the property owner, and a person to contact to arrange a site inspection. Submit this notification at least 30 days in advance of planned commencement of the off-site activity, to allow for the Department to conduct an investigation without delaying job progress.

Do not perform any off-project activity without obtaining written clearance from the Engineer. In the event the Department's investigation determines a potential impact to a protected, threatened or endangered species and mitigation measures or permits are necessary, coordinate with the appropriate resource agencies for clearance, obtain permits and perform mitigation measures as necessary. Immediately notify the Engineer in writing of the results of this coordination with the appropriate resource agencies. Additional compensation or time will not be allowed for permitting or mitigation, associated with Contractor initiated off-project activities.

The Department has determined that Florida black bears (*Ursus americanus floridanus*) occur in the project area. Unless stored overnight in a sealed, manufacturer-labeled bear-resistant container or in a locked metal container, remove garbage and food debris from the construction site daily to eliminate possible sources of food that could encourage and attract bears. Human bear conflicts are to be reported to the FWC Hotline at 1-888-404-3922.

#### **7-1.4.1 Additional Requirements for Gopher Tortoises (*Gopherus Polyphemus*):**

Certain gopher tortoise burrows are to remain within the project area, as shown in the Plans, and must be protected. Avoid ground disturbing impacts within a 25 foot radius of each burrow. Install and maintain silt fence in accordance with Section 104 as a means of burrow avoidance, ensuring that it opens towards the offsite project limits, does not herd tortoises toward an obstacle, and that burrows are not fully encircled. Install fence prior to any other construction activity. Replace fence in the same location as the original fence. Remove fence upon completion of construction.

Silt fence intended for burrow avoidance may also be used as silt fence for erosion control but shall not be considered as the only silt fence needed for erosion control purposes within the project limits.

Follow the gopher tortoise species requirements posted in the URL address in 7-1.4 when gopher tortoises are observed or previously unidentified burrows are discovered.

**7-1.5 Occupational Safety and Health Requirements:** Take all precautions necessary for the protection of life, health, and general occupational welfare of all persons, including employees of both the Contractor and the Department, until the Contractor has completed the work required under the Contract as provided in 5-10 and 5-11.

Comply at all times with applicable Federal, State, and local laws, provisions, and policies governing safety and health, including 29 CFR 1926, including all subsequent revisions and updates.

**7-1.6 Discovery of an Unmarked Human Burial:** When an unmarked human burial is discovered, immediately cease all activity that may disturb the unmarked human burial and notify the Engineer. Do not resume activity until specifically authorized by the Engineer.

#### **7-1.7 Insecticides, Herbicides and Fertilizers:**

**7-1.7.1 Insecticides and Herbicides:** Use products found on the following website, <http://state.ceris.purdue.edu/>. Only use products registered with the Florida Department of Agriculture and Consumer Services. The use of restricted products is prohibited. Do not use any products in the sulfonyleurea family of chemicals. Herbicide application by broadcast spraying is not allowed.

Procure any necessary licenses, pay all charges and fees, and give all notices necessary for lawful performance of the work.

Ensure that all insecticides and herbicides are applied in accordance with Chapter 5E-9, Florida Administrative Code. Submit a copy of current certificates to the Engineer upon request.

Ensure that employees who work with herbicides comply with all applicable Federal, State, and local regulations.

Comply with all regulations and permits issued by any regulatory agency within whose jurisdiction work is being performed. Post all permit placards in a protected, conspicuous location at the work site.

Acquire any permits required for work performed on the rights-of-way within the jurisdiction of National Forests in Florida. Contact the Local National Forest Ranger District, or the United States Department of Agriculture (USDA) office for the proper permits and subsequent approval.

Acquire all permits required for aquatic plant control as outlined in Chapter 62C-20, Florida Administrative Code, Rules of the Florida Department of Environmental Protection. Contact the Regional Field Office of Bureau of Invasive Plant Management of the Florida Department of Environmental Protection for proper permits and subsequent approval. If application of synthetic organo-auxin herbicides is necessary, meet the requirements of Chapter 5E-2, Florida Administrative Code.

**7-1.7.2 Fertilizer:** Ensure that all employees applying fertilizer possess a current Florida Department of Agriculture and Consumer Services Commercial Applicator license in accordance with Section 482.1562, F.S. Upon request, submit the current certificates to the Engineer.

**7-1.8 Compliance with Section 4(f) of the USDOT Act:** Section 4(f) of the USDOT Act prohibits the U. S. Secretary of Transportation from approving a project which requires the use of publicly owned land of a public park, recreation area or a wildlife and waterfowl refuge, or of any historic site of national, state, or local significance unless there is no prudent or feasible alternative to using that land and the program or project includes all possible planning to minimize the harm to the site resulting from the use.

Before undertaking any off-project activity associated with any federally assisted undertaking, ensure that the proposed site does not represent a public park, recreation area, wildlife or waterfowl refuge, or a historic site (according to the results of the Cultural Resources Survey discussed in 120-6.2). If such a site is proposed, notify the Engineer and provide a description of the proposed off-site activity, the Financial Project ID, the location of the site by township, range, section, a county or city map showing the site location, including the access route and the name of the property. It is the Contractor's responsibility to submit justification for use of Section 4(f) property that is sufficient for the Florida Department of Transportation and the Federal Highway Administration to make a Section 4(f) determination. Submit this notification sufficiently in advance of planned commencement of the off-site activity to allow a reasonable time for the Engineer to conduct an investigation without delaying job progress. Do not begin any off-project activity without obtaining written clearance from the Engineer.

**7-1.9 Florida Minority Business Loan Mobilization Program:** The Loan Mobilization Program is established by Section 288.706 of the Florida Statutes, and has as its goal to assist minority business enterprises by facilitating working capital loans to those eligible businesses that are Contractors or subcontractors on Department contracts.

The limits of such advances under this program shall be as specified in Section 288.706 of the Florida Statutes. In the case of a subcontractor, the amount of the advance will be based on the subcontract unit prices, not the contract unit prices.

All prime Contractor vendors shall be required to incorporate the designated loan mobilization payment procedures in subcontract agreements with minority business enterprise vendors participating in this program and to cooperate in the release of designated loan mobilization payments to achieve the objective of providing working capital for minority business enterprise subcontract vendors.

When the Contract has been awarded or, in the case of a subcontractor, a subcontract has been signed with the prime Contractor, application for participation in this program will be submitted in writing to the Engineer. Such application must be made prior to commencement of the work. If the application is made on behalf of a subcontractor, it shall be considered incomplete if the subcontract with the unit prices of the work clearly delineated is not included in the submittal.

When all applicable conditions have been met, approval for participation will be made by the Office of the Comptroller and the applicant will be notified of the approval action taken.

Once approval has been obtained and the Notice to Proceed has been issued, disbursement of the monies will be made at the request of the applicant. The designated loan mobilization payment may be paid prior to the commencement of work on the Contract. However, if the work on the Contract has not commenced and the payment has not been made, then the Contract Time may not commence until the payment is made. All designated loan mobilization payments will be made payable jointly to the prime Contractor and the participating financial institution. When a subcontractor is the participant in the program, such payments shall be paid to the participant within 10 business days after receipt of the funds from the Department.

Repayment of monies advanced through this program will be made after the value of the work accomplished by the participant reaches 50 percent. Contractors are encouraged to make weekly or bi-weekly payments to subcontractors participating in this program.

## **7-2 Permits and Licenses.**

**7-2.1 General:** Except for permits procured by the Department, procure all permits and licenses, pay all charges and fees, and give all notices necessary and incidental to the due and lawful prosecution of the work.

Permits procured by the Department are posted on the Department's web site at the following URL address:

<https://ftp.fdot.gov/public/folder/HkSWIK59G0qRNsAJUh3xXg/permitsandorutilityworkschedules>.

Take responsibility to obtain this information and comply with all requirements posted on this web site up through five calendar days before the opening of bids.

Comply with the provisions contained in these permits. If the Department's web site cannot be accessed, contact the Department's Specifications Office Web Coordinator at (850) 414-4101.

Acquire all permits for work performed outside the right-of-way or easements for the project.

In carrying out the work in the Contract, when under the jurisdiction of any environmental regulatory agency, comply with all regulations issued by such agencies and with all general, special, and particular conditions relating to construction activities of all permits issued to the Department as though such conditions were issued to the Contractor. Post all permit placards in a protected location at the worksite.

In case of a discrepancy between any permit condition and other Contract Documents, the more stringent condition shall prevail.

**7-2.2 Work or Structures in Navigable Waters of the U.S., Waters of the U.S., and Waters of the State:** In general, one or more governmental agencies will exercise regulatory authority over work or structures, including related construction operations, in all tidal areas (channelward of the mean high water lines on the Atlantic and Gulf Coast); in the ocean and gulf waters to the outer limits of the continental shelf; in all rivers, streams, and lakes to the ordinary high water line; in marshes and shallows that are periodically inundated and normally characterized by aquatic vegetation capable of growth and reproduction; in all artificially created channels and canals used for recreational, navigational, or other purposes that are connected to navigable waters; and in all tributaries of navigable waters up to their headwaters.

Whenever the work under or incidental to the Contract requires structures or dredge/fill/construction activities in “Navigable Waters of the U.S.,” “Waters of the U.S.,” and “Waters of the State,” the Federal, State, county, and local regulatory agencies may require a permit.

Acquire any modifications or revisions to an original permit when such modifications or revisions are necessary to complete the construction operations specified in the Contract Documents and within the right-of-way limits.

Acquire all permits for work performed outside the right-of-way or easements for the project.

In carrying out the work in the Contract, when under the jurisdiction of any environmental regulatory agency, comply with all regulations issued by such agencies and with all general, special, and particular conditions relating to construction activities of all permits issued to the Department as though such conditions were issued to the Contractor. Post all permit placards in a protected location at the worksite.

In case of a discrepancy between any permit condition and other Contract Documents, the more stringent condition shall prevail.

The “State of Florida Department of Environmental Protection (DEP) Generic Permit for Stormwater Discharge from Large and Small Construction Activities” applies to this Contract. Obtain a copy of the permit through the Department’s website and comply with the requirements of the permit. The URL for obtaining a copy of the permit is [http://www.dep.state.fl.us/water/stormwater/npdes/permits\\_forms.htm](http://www.dep.state.fl.us/water/stormwater/npdes/permits_forms.htm).

In accordance with the requirements of the DEP generic permit, accept responsibility for the following:

1. Preparation, execution and submission of DEP Generic Permit Notice of Intent (NOI) and payment of associated fee(s)
2. Preparation and submission of Erosion Control Plan as outlined in Section 104.
3. Any Contractor initiated SWPPP modifications
4. Performing inspections using a qualified inspector
5. Completion of SWPPP construction inspection reports
6. Executing associated certification forms provided by the Engineer
7. Preparation, execution and submission of Notice of Termination (NOT) of the DEP Generic Permit coverage.

Use the SWPPP Construction Inspection Form provided by the Engineer to report all inspection findings and to document all corrective actions taken as a result of the inspection. Sign each inspection report and submit it weekly to the Engineer.

### **7-2.3 As-Built Drawings and Certified Surveys**

#### **7-2.3.1 Surface Water Management Systems for Water Management**

**Districts:** As a condition precedent to final acceptance of the project, submit to the Engineer the as-built drawings and a certified survey verifying the as-built conditions for all installed and constructed surface water management systems. The as-built drawings and certified survey be PDF files in the same scale as the Contract Plans, formatted on 11 inch by 17 inch sheets, and must satisfy all the requirements and special conditions listed in the Water Management District’s Environmental Resource Permit (ERP) and any applicable local permit. The as-built drawings and certified survey must be signed and sealed by an appropriately licensed professional registered in the State of Florida.

If the ERP does not contain specific requirements, submit as-built drawings with the following information as a minimum:

1. Discharge structures: structure identification number, type, locations (latitude and longitude), dimensions and elevations of all, including weirs, bleeders, orifices, gates, pumps, pipes, and oil and grease skimmers.

2. Side bank and underdrain filters, or exfiltration trenches: locations, dimensions and elevations of all, including clean-outs, pipes, connections to control structures and points of discharge to receiving waters.

3. Storage areas for treatment and attenuation: storage area identification number, dimensions, elevations, contours or cross-sections of all, sufficient to determine stage-storage relationships of the storage area and the permanent pool depth and volume below the control elevation for normally wet systems.

4. System grading: dimensions, elevations, contours, final grades or cross-sections to determine contributing drainage areas, flow directions and conveyance of runoff to the system discharge points.

5. Conveyance: dimensions, elevations, contours, final grades or cross-sections of systems utilized to divert off-site runoff around or through the new system.

6. Water levels: existing water elevations and the date determined.

7. Benchmarks: location and description (minimum of one per major water control structure).

**7-2.3.2 Bridge Clearances for Projects under the Authority of a U.S. Coast Guard Permit:** As a condition precedent to final acceptance of the project, submit to the Engineer a certified survey verifying the as-built clearances described in the U.S. Coast Guard Owner's Certification of Bridge Completion. The certified survey must be signed and sealed by a Professional Engineer or Professional Surveyor and Mapper registered in the State of Florida.

**7-2.3.3 Projects under the Authority of a U.S. Army Corps of Engineers Permit:** As a condition precedent to final acceptance of the project, submit to the Engineer the as-built drawings and a certified survey verifying the as-built conditions. The as-built drawings and certified survey must be submitted in PDF files formatted in the same scale as the Contract Plans, formatted on 11 inch by 17 inch sheets, and satisfy all of the requirements and special conditions listed in the U.S. Army Corps of Engineers permit. The as-built drawings and certified survey must be signed and sealed by a Professional Engineer or Professional Surveyor and Mapper registered in the State of Florida.

### **7-3 Patented Devices, Materials and Processes.**

Include all royalties and costs arising from patents, trademarks, and copyrights, in any way involved in the work in the Contract price. Whenever using any design, device, material, or process covered by letters patent or copyright, obtain the right for such use by suitable legal agreement with the patentee or owner of the copyright. File a copy of such agreement with the Engineer. However, whether or not such agreement is made or filed as noted, the Contractor and the surety in all cases shall indemnify, defend, and save harmless, the Department from all claims for infringement by reason of the use of any such patented design, device, material, or process on work under the Contract, and shall indemnify the Department for all costs, expenses, and damages that it may be obliged to pay by reason of any such infringement, at any time during the prosecution or after the completion of the work.

#### **7-4 Right-of-Way Furnished by the Department.**

Except as otherwise stipulated in the Contract documents, the Department will furnish all rights-of-way necessary for the proper completion of the work at no expense to the Contractor.

Use of Department owned right-of-way for the purpose of equipment or material storage, lay-down facilities, pre-cast material fabrication sites, batch plants for the production of asphalt, concrete or other construction related materials, or other similar activities, shall require advance written approval by the Department prior to making use of said Department owned right of way. Use of Department owned right of way for these purposes is expressly limited to storage of equipment and materials for the Project or production of materials or products for the Project.

**7-4.1 Right-of-Way Furnished by the Department:** Should Department-furnished areas for obtaining borrow material, contain limerock material; do not remove such material from the pit unless the Engineer gives specific approval.

**7-4.2 Right-of-Way Furnished by the Contractor:** Comply with the Department's Right of Way Manual for all right of way activities, with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, with 23 CFR 710, and with 49 CFR 24.

**7-4.2.1 Notice to Commence Right of Way Acquisition:** If right of way services are included in the Contract, the Department must issue a Notice to Commence Right of Way Acquisition prior to any offer being made to acquire right of way. Environmental approval (NEPA) and completion of right of way maps, title information and legal descriptions are required prior to the "Notice to Commence" being issued.

**7-4.2.2 Notice to Commence Construction Activities:** On Contracts that require additional right of way to be furnished by the Contractor, the Department must issue a Notice to Commence Construction Activities prior to the start of any construction activities on the project or any portion thereof. This requirement is applicable whether the right of way services are included in the Design Build Contract or will be handled separately. The notice to commence may not be issued until such time as the right of way necessary to support those construction activities is acquired and a right of way certification for construction is issued.

**7-4.2.3 Hold-Off Zones Around Occupied Properties:** At the time that a portion of a project is to be certified for construction, a determination of the need for hold-off zones must be made by the Department. When a notice to commence construction activities has been issued on a portion of the project, there must be a provision in the Contract that requires a hold-off zone between the property on which construction activities are to take place and any occupied properties adjacent thereto for which a notice to commence construction has not yet been issued. The notice to commence construction activities must also contain the details of the hold-off zone, including the location and limits established by the Department. The location and the limits of the hold-off zone must consider that for all occupied properties the Contractor must: maintain reasonable access; maintain utility services; not cause any excessive vibration, dust or noise; or have any open burning within 1,000 feet. The Department's Project Manager will make a decision regarding the extent of the hold-off zone on a case-by-case basis with input from the Right of Way Project Manager and the design build firm.

**7-4.2.4 Quality Assurance/Quality Control Plan:** Provide a Right of Way Quality Assurance/Quality Control Plan. This plan must provide details of the right of way consultant's plan to control, monitor, report on and assure the quality of the delivery of the right of way services.

### **7-5 Restoration of Surfaces Opened by Permit.**

Upon the presentation of a duly authorized and satisfactory permit that provides that all necessary repair work will be paid for by the party holding such permit, the Engineer may authorize the Contractor to allow parties bearing such permits to make openings in the highway. Upon the Engineer's written order, perform, in an acceptable manner, all necessary repairs due to such openings, and such necessary work that the Engineer orders, subject to the same conditions as the original work performed. The Department will pay the Contractor for such work either under applicable Contract items or in accordance with 4-3 when Contract items are not applicable.

### **7-6 Sanitary Provisions.**

The Contractor shall provide and maintain, in a neat and sanitary condition, such accommodations for the use of his employees as are necessary to comply with the requirements and regulations of the State and local boards of health. Commit no public nuisance.

### **7-7 Control of the Contractor's Equipment.**

**7-7.1 Traffic Interference:** Do not allow equipment, while it is on or traversing a road or street, to unreasonably interfere with traffic. The Contractor's equipment on Department right-of-way shall clearly and legibly identify the Design-Build Firm.

**7-7.2 Overloaded Equipment:** Do not operate on any road, street or bridge, including a Department owned temporary bridge any hauling unit or equipment loaded in excess of:

1. the maximum weights specified in the Florida Highway Patrol, Commercial Motor Vehicle Manual (Trucking Manual), or
2. lower weight limits legally established and posted for any section of road or bridge by the Department or local authorities.

The governmental unit having jurisdiction over a particular road or bridge may provide exceptions by special permit under the provisions of 7-7.3.

This restriction applies to all roads and bridges inside and outside the Contract limits as long as these roads and bridges are open for public use. The Contractor may overload roads and bridges, which are to be demolished after they are permanently closed to the public. The Contractor is responsible for all loss or damages resulting from equipment operated on a structure permanently closed to the public.

**7-7.3 Crossings:** Where it is necessary to cross an existing road or street, including specifically the existing traveled lanes of a divided highway within the limits of the project; obtain permits from the Department, for crossing overloaded or oversized equipment. Cross-existing roads or streets only at Engineer-designated points. The Engineer may require the Contractor to protect the pavement or Roadway at the crossing by using lumber, planks, or fill. Movement of equipment around the project site must be in accordance with requirements of the Standard Plans and not create an undue hazard to the traveling public or workers. Provide flagging and watchman service, or approved signal devices, for the protection of traffic at all such crossings, in accordance with an approved written plan for that activity.

**7-7.4 Protection from Damage by Tractor-Type Equipment:** Take positive measures to ensure that tractor-type equipment does not damage the road. If any such damage should occur, repair it without delay, at no expense to the Department and subject to the Engineer's approval.



**7-7.5 Contractor's Equipment on Bridge Structures:** The Contractor's Engineer of Record shall analyze the effect of imposed loads on bridge structures, within the limits of a construction Contract, resulting from the following operations:

1. Overloaded Equipment as defined in 7-7.2:
  - a. Operating on or crossing over completed bridge structures.
  - b. Operating on or crossing over partially completed bridge structures.
2. Equipment within legal load limits:
  - a. Operating on or crossing over partially completed bridge structures.
3. Construction cranes:
  - a. Operating on completed bridge structures.
  - b. Operating on partially completed bridge structures.

Any pipe culvert(s) or box culvert(s) qualifying as a bridge under 1-3 is excluded from the requirements above.

A completed bridge structure is a bridge structure in which all elemental components comprising the load carrying assembly have been completed, assembled, and connected in their final position. The components to be considered shall also include any related members transferring load to any bridge structure.

The Contractor's Engineer of Record shall determine the effect that equipment loads have on the bridge structure and develop the procedures for using the loaded equipment without exceeding the structure's design load capacity.

Submit to the Department for approval the design calculations, layout drawings, and erection drawings showing how the equipment is to be used so that the bridge structure will not be overstressed. The Contractor's Engineer of Record shall sign and seal the drawings and the cover sheet of the calculations for the Department's Record Set.

**7-7.6 Posting of the Legal Gross Vehicular Weight:** Display the maximum legal gross weight, as specified in the Florida Uniform Traffic Code, in a permanent manner on each side of any dump truck or dump type tractor-trailer unit hauling embankment material, construction aggregates, road base material, or hot bituminous mixture to the project over any public road or street. Display the weight in a location clearly visible to the scale operator, in numbers that contrast in color with the background and that are readily visible and readable from a distance of 50 feet.

## **7-8 Structures over Navigable Waters.**

**7-8.1 Compliance with Federal and Other Regulations:** When working on structures in, adjacent to, or over, navigable waters, observe all regulations and instructions of Federal and other authorities having control over such waters. Do not obstruct navigation channels without permission from the proper authority, and provide and maintain navigation lights and signals in accordance with the Federal requirements for the protection of the structure, of false work, and of navigation.

In the event of accidental blocking of the navigation channel, immediately notify the U.S. Coast Guard of the blockage and upon removal of the blockage. When working on moveable bridges, request for temporarily changing the operating requirements for the moveable bridge must be submitted in writing to the appropriate Coast Guard District Bridge Branch, 90 days before the start of any action.

For all other bridges m, notify the appropriate Coast Guard District Bridge Branch, at least 60 days prior to the start of any operations including construction and 30 days prior to any channel operations, closures, or opening restrictions.

When work platforms are indicated in the permit for construction, submit work platform construction plans to the appropriate Coast Guard District for approval. Obtain approval prior to beginning construction on the platform.

**7-8.2 Maintenance of Channel:** Where the work includes the excavation of a channel or other underwater areas to a required section, maintain the section from shoaling or other encroachment until final acceptance of the project.

Submit work platform construction plans to the appropriate Coast Guard District for approval. Obtain approval prior to beginning construction on the platform.

In the event of accidental blocking of the navigation channel, immediately notify the U.S. Coast Guard of the blockage and upon removal of the blockage.

### **7-9 Use of Explosives.**

When using explosives for the prosecution of the work, exercise the utmost care not to endanger life or property, including new work. The Contractor is responsible for all damage resulting from the use of explosives.

Store all explosives in a secure manner in compliance with all laws and ordinances, and clearly mark all such storage places with the words: "DANGEROUS - EXPLOSIVES". Place such storage in the care of a competent watchman. Where no local laws or ordinances apply, provide storage satisfactory to the Engineer and, in general, not closer than 1,000 feet from the road or from any building, camping area, or place of human occupancy.

Notify each public utility company having structures in proximity to the site of the work of the intention to use explosives. Give such notice sufficiently in advance to enable the companies to take precautionary steps to protect their property from injury.

### **7-10 Forest Protection.**

**7-10.1 Compliance with State and Federal Regulations:** In carrying out work within or adjacent to State or National forests or parks, comply with all of the regulations of the State or Federal authority having jurisdiction, governing the protection of and the carrying out of work in forests or parks, and observe all sanitary laws and regulations with respect to the performance of work in these areas. Keep the areas in an orderly condition, dispose of all refuse, and obtain permits for the construction, installation, and maintenance of any construction camps, living quarters, stores, warehouses, sanitary facilities, and other structures; all in accordance with the requirements of the forest or park official.

**7-10.2 Prevention and Suppression of Forest Fires:** Take all reasonable precautions to prevent and suppress forest fires. Require employees and subcontractors, both independently and at the request of forest officials, to do all reasonably within their power to prevent and suppress forest fires. Assist in preventing and suppressing forest fires, and make every possible effort to notify a forest official at the earliest possible moment of the location and extent of all fires. Extinguish the fire if practicable.

### **7-11 Preservation of Property.**

**7-11.1 General:** Preserve from damage all existing property within the project limits of or in any way affected by the Work, the removal or destruction of which is not specified in the plans. This applies to, but is not limited to, public and private property, public and private utilities (except as modified by the provisions of 7-11.5), trees, shrubs, crops, sod, signs, monuments, fences, guardrail, pipe and underground structures, Intelligent Transportation Systems (ITS) facilities, traffic control signals and devices, highway lighting, and public

highways (except natural wear and tear of highway resulting from legitimate use thereof by the Contractor).

Department owned underground facility locations shown in the Plans are approximate. Unless otherwise shown on the Plans Department owned underground facilities will not be located by the Department nor through notification to "Sunshine 811".

Whenever the Contractor's activities damage such existing property, immediately restore it to a condition equal to or better than that existing at the time such damage occurred, at no expense to the Department. Temporary repairs may be used to immediately restore ITS facilities and traffic control signals and devices. Permanent repairs to ITS facilities and traffic control signals and devices shall be made within 90 days of any temporary repairs and prior to final acceptance of the project. Submit permanent ITS facility repair plans to the Engineer prior to beginning repair work.

Protect existing bridges during the entire construction period from damage caused by the Work. Immediately repair, at no expense to the Department, all damage to existing bridges caused by the Work, prior to continuing the Work. The Department will not require the Contractor to provide routine repairs or maintenance for such structures.

Direct special attention to the protection of all geodetic monuments, horizontal or vertical, and Public Land Survey Corners located within the project. If any geodetic monument or Public Land Survey Corner, located within the project, is at risk of being damaged or destroyed, immediately notify the Engineer. Locate and replace any damaged or destroyed geodetic monuments or Public Land Survey Corners under the direction of a Professional Surveyor and Mapper registered in the State of Florida.

Whenever the actions of a third party damage such existing property and is not otherwise due to any fault or activities of the Contractor, either restore it to a condition equal to or better than that existing at the time such damage occurred or provide access and coordinate with the Department's maintenance Contractor in accordance with 8-4.4 as directed by the Engineer. The Department will compensate the Contractor for the costs associated with the repairs for restoring the existing property in accordance with 4-4. Theft and vandalism are considered damage caused by a third party.

**7-11.2 Failure to Restore Damaged Existing Property:** In case of failure on the part of the Contractor to restore such property, bridge, road or street, or to make good such damage or injury, the Engineer may, upon 48 hours' notice, proceed to repair, rebuild, or otherwise restore such property, road, or street as may be deemed necessary, and the Department will deduct the cost thereof from any monies due or which may become due the Contractor under the Contract. Nothing in this clause prevents the Contractor from receiving proper compensation for the removal, damage, or replacement of any public or private property, not shown on the plans, that is made necessary by alteration of grade or alignment. The Engineer will authorize such work, provided that the Contractor, or his employees or agents, have not, through their own fault, damaged such property.

**7-11.3 Contractor's Use of Streets and Roads:**

**7-11.3.1 On Systems Other than the State Highway System:** When hauling materials or equipment to the project over roads and bridges on the State park road system, county road system, or city street system, and such use causes damage, immediately, at no expense to the Department, repair such road or bridge to as good a condition as before the hauling began.

The Department may modify the above requirement in accordance with any agreement the Contractor might make with the governmental unit having jurisdiction over a particular road or bridge, provided that the Contractor submits written evidence of such agreement to the Engineer.

**7-11.3.2 On the State Highway System:** The Department is responsible for the repair of any damage that hauling materials to the site causes to roads outside the limits of the project, that are either on the State highway system (roads under the jurisdiction of the Department) or specifically designated in the Contract Documents as haul roads from Department-furnished material pits, except in the event damage is due to failure to comply with 7-7.2. The Contractor is responsible for all damages to any road or bridge caused by the Contractor's failure to comply with 7-7.2.

**7-11.3.3 Within the Limits of a Construction Project:** The Department will not allow the operation of equipment or hauling units of such weight as to cause damage to previously constructed elements of the project, including but not necessarily limited to bridges, drainage structures, base course, and pavement. Do not operate hauling units or equipment loaded in excess of the maximum weights specified in 7-7.2 on existing pavements that are to remain in place (including pavement being resurfaced), cement-treated subgrades and bases, concrete pavement, any course of asphalt pavement, and bridges. The Engineer may allow exceptions to these weight restrictions for movement of necessary equipment to and from its worksite, for hauling of offsite fabricated components to be incorporated into the project, and for crossings as specified in 7-7.3.

**7-11.4 Operations within Railroad Right-of-Way:**

**7-11.4.1 Notification to the Railroad Company:** Notify the superintendent of the railroad company, as shown on the plans, and the Engineer at least 72 hours before beginning any operation within the limits of the railroad right-of-way; any operation requiring movement of employees, trucks, or other equipment across the tracks of the railroad company at other than an established public crossing; and any other work that may affect railroad operations or property.

**7-11.4.2 Contractor's Responsibilities:** Comply with whatever requirements an authorized representative of the railroad company deems necessary in order to safeguard the railroad's property and operations. The Contractor is responsible for all damages, delays, or injuries and all suits, actions, or claims brought on account of damages or injuries resulting from the Contractor's operations within or adjacent to railroad company right-of-way.

**7-11.4.3 Watchman or Flagging Services:** The railroad company will furnish protective services (i.e., watchman or flagging services) to ensure the safety of railroad operations during certain periods of the project. The Department will reimburse the railroad company for the cost thereof. Schedule work that affects railroad operations so as to minimize the need for protective services by the railroad company.

**7-11.5 Utilities:**

**7-11.5.1 Arrangements for Protection or Adjustment:** Do not commence work at points where the construction operations are adjacent to utility facilities until all necessary arrangements have been made with the utility facilities owner for the protection, removal, temporary removal, relocation, de-energizing, deactivation or adjustment to protect against damage that might result in expense, loss, disruption of service, or other undue inconvenience to the public or to the owners.

Do not commence work until the agreement in 7-11.5.5 is executed and copy provided to the Department and if the protection, removal, temporary removal, relocation,

de-energizing, deactivation or adjustment is going to be accomplished it must be in accordance with a Department approved utility Permit. Coordinate such work as to cause the least impediment to the overall construction operations and utility service. The Department is not responsible for utility removal, temporary removal, relocation, de-energizing, deactivation, or adjustment work where such work is determined not necessary by the Engineer or done solely for the benefit or convenience of the utility owner or its contractor, or the Contractor.

**7-11.5.2 Cooperation with Utility Owners:** In the event of interruption of water or other utility services as a result of accidental breakage, exposure, or lack of support, promptly notify the proper authority and cooperate with the authority in the prompt restoration of service. If water service is interrupted and the Contractor is performing the repair work, the Contractor shall work continuously until the service is restored. Do not begin work around fire hydrants until the local fire authority has approved provisions for continued service.

**7-11.5.3 Utility Adjustments:** Certain utility adjustments and reconstruction work may be underway during the progress of the Contract. Cooperate with the various utility construction crews who are maintaining utility service. Exercise due caution when working adjacent to relocated utilities. Repair at no expense to the Department all damage to the relocated utilities resulting from Contractor operations. The requirements of 7-11.1 and 7-11.5.2 outline the Contractor's responsibility for protecting utility facilities.

**7-11.5.4** Intentionally left blank.

**7-11.5.5 General Requirements:** The Design-Build Firm shall be responsible for coordinating with all existing utility companies that have facilities within the job limits or which will be affected in any way by the Project and for coordinating all utility work with the Project schedule. Coordinate with the Utility Agency/Owner (UA/O) in order that these operations may progress in a reasonable manner, that duplication or rearrangement work may be reduced to a minimum, and that services rendered by the utility owners will not be unnecessarily interrupted. The Design-Build Firm shall make every attempt to design around existing utilities, minimizing impacts. Plans shall be provided to the Department showing existing and proposed utility locations and their relationship to the proposed construction. All utility work shall be done in accordance with the Department approved utility Permit.

Pursuant to Section 337.11(7)(a), Florida Statutes, construction activities may not begin on any portion of the Project for which utility agreements have not yet been executed. Design-Build Agreements referenced in 7-11.5.6 below are sufficient to meet this requirement. For utilities where no agreement has been executed by the Department, a separate agreement between the utility and the Design-Build Firm must be executed in order to comply with this statutory requirement.

The agreement executed by the UAO and the Design-Build Firm shall include a description of the work activities and the utilities affected and shall include the following clause; "Coordination has been sufficient to proceed with construction in the area of the affected utility." The agreement shall also include the following clause attested to by the Design-Build Firm's EOR; "The proposed work and the utility protection, adjustment or relocation are compatible with the Contract Documents."

**7-11.5.6 Utility Agreements for Design-Build:** The Department has entered into agreements with certain utility companies that may have utility facilities located within the limits of the Project. Copies of those agreements are provided to the Design-Build Firm as part of the Contract Documents. Those agreements govern the coordination and performance of the utility work for the Project as to the utility entities that have entered into them. The Design-Build Firm

shall fully comply with all obligations of the Firm under those agreements.

The Design-Build Firm acknowledges and agrees that the Utility Agency Owners under those agreements are hereby made intended third party beneficiaries of this provision and the provisions of 7-11.5.10 with full rights of enforcement under that status as if they were a party to this Contract as to these provisions. This provision is made a part of the Contract notwithstanding Section 337.11(1), Florida Statutes, it being agreed by the Design-Build Firm and the Department that said statutory provision prohibits a non-party hereto from claiming incidental third party beneficiary rights, but does not prohibit the express creation of an intended third party beneficiary.

**7-11.5.7 Utilities Without Executed Utility Agreements:** The Department makes no representation that agreements have been executed with all utilities that have facilities located within the limits of the Project. For any utility that has not entered into an executed agreement with the Department, the Design-Build Firm shall be responsible for performing or arranging for the performance of all utility work. The Design-Build Firm's responsibilities shall include, but shall not be limited to the following:

1. Locate, by physical exposure and establishment of both vertical and horizontal limits, all existing facilities within right-of-way limits affected by the proposed design or impacted by the Project not within right-of-way.

2. Notify and keep informed all Utility Agency/Owner of all relevant information related to their facilities.

3. Determine what work is necessary for utilities that are impacted, including, but not limited to:

- a. Design around if possible,
- b. Protect,
- c. Adjust,
- d. Relocate,
- e. Remove.

4. Make arrangements for any work necessary, including entering into the required utility agreement.

5. Obtain necessary Department permits from all other applicable agencies, and otherwise comply with other applicable laws, including, but not limited to, one call obligations under Chapter 556, Florida Statutes.

6. Coordinate the issuance of utility permits within the project limits for new utility work not necessarily related to the Project in order to assure consistency with the Project.

**7-11.5.8 Cost of Utility Work and Conflict Resolution:** Costs of utility reimbursements shall be paid in accordance with the resolution methodology established in Section VI, C, of the Request for Proposal, based on the final design of the Design-Build Firm.

The Design-Build Firm shall not impact any utility except those identified in the RFP where coordination has been completed and either the UAO or the DB Firm is shown as responsible for the relocation as contemplated by the Department's conceptual plans. However, if the Design-Build Firm desires to impact a utility not contemplated, the Design-Build Firm may do so if the utility agrees and there is no additional cost to the Department or time added to the Project as a result thereof. If the project cannot be constructed without impacting additional utilities and the cost of the utility work is not legally the responsibility of the utility, or

if the Department's determination as set forth in the RFP that utility work is to be done at the expense of the utility is in error, the Department will bear the expense of any such utility work.

If a utility is not being impacted by the Project, but the utility owner desires to have utility work performed in connection with the Project, the cost of the utility work will be the responsibility of the utility company. It will be the Design-Build Firm's responsibility to coordinate and resolve all utility impacts with each of the utility companies. In the event of a dispute with or lack of cooperation from a utility that does not arise out of or relate to an agreement between the Design Build Firm and the utility, the matter shall be referred to the Department for resolution.

**7-11.5.9 Utility Schedules:** The utility work to be accomplished concurrently with the highway construction Contract will involve facilities owned by other UAOs. Utility Schedules (Utility Relocation and/or Work Schedules) for these agencies may have already been developed. Any existing Utility Schedules are posted on the Department's web site at the following URL address:

<https://ftp.fdot.gov/public/folder/HkSWIK59G0qRNsAJUh3xXg/permitsandorutilityworkschedules>.

Take responsibility to obtain this information and comply with all requirements posted on this web site up through five calendar days before the opening of bids.

Where utility work must be coordinated with highway construction operations, the Department makes no guarantee that any portion of the anticipated utility work will begin on the day highway construction commences nor does the Department guarantee that such work will be performed on consecutive days.

The anticipated scheduling of new work, adjustments and/or relocation work is included on the Utility Schedules. More precise scheduling to accomplish utility work in the most expeditious manner that is feasible will be established at the preconstruction conference as provided in 8-3.5. The Utility Schedules must be used in conjunction with the utility sheets included in the roadway plans. If the Department's web site cannot be accessed, contact the Department's Specifications Office Web Coordinator at (850) 414-4101.

**7-11.5.10 Claims Due to Utility Work not Contemplated in the RFP or the Conceptual Plans:** No payment, compensation or adjustment of any kind (other than a non-compensable extension of time) shall be made to the Design-Build Firm for damages because of hindrances or delays arising out of or connected with the performance of utility work for the project regardless of the cause of such hindrance or delays and whether such hindrances or delays be avoidable or unavoidable, and the Design-Build Firm agrees that it will make no claim for compensation, damages or mitigation of liquidated damages for any such hindrances or delays and will accept any non-compensable extension of time otherwise granted pursuant to other provisions of the Contract Documents as full satisfaction for such hindrances or delays.; provided that nothing herein shall obligate the Department to grant an extension of time not otherwise due and the failure of the Design-Build Firm to be granted an extension of time shall not create any entitlement to compensation, damages or mitigation of liquidated damages.

## **7-12 Responsibility for Damages, Claims, etc.**

**7-12.1 Contractor to Provide Indemnification:** The Contractor shall indemnify and hold harmless the Department, its officers and employees from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Contractor and persons employed or utilized by the Contractor in the performance of the construction Contract.

For work involving the relocation of utilities within the Department's Right of Way in which a UAO is performing the relocation, the Contractor may not require the UAO to indemnify and hold harmless the Contractor; except that the Contractor can require the UAO to indemnify and hold harmless the Contractor, its officers and employees from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or wrongful misconduct of the UAO and persons employed or utilized by the UAO in the performance of the utility relocation.

It is specifically agreed between the parties executing this Contract that it is not intended by any of the provisions of any part of the Contract to create in the public or any member thereof, a third party beneficiary hereunder, or to authorize anyone not a party to this Contract to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Contract.

**7-12.2 Guaranty of Payment for Claims:** The Contractor guaranties the payment of all just claims for materials, supplies, tools, or labor and other just claims against him or any subcontractor, in connection with the Contract. The Department's final acceptance and payment does not release the Contractor's bond until all such claims are paid or released.

### **7-13 Insurance.**

**7-13.1 Workers' Compensation Insurance:** Provide Workers' Compensation Insurance in accordance with Florida's Workers' Compensation law for all employees. If subletting any of the work, ensure that the subcontractor(s) have Workers' Compensation Insurance for their employees in accordance with Florida's Workers' Compensation law. If using "leased employees" or employees obtained through professional employer organizations ("PEO's"), ensure that such employees are covered by Workers' Compensation insurance through the PEO's or other leasing entities. Ensure that any equipment rental agreements that include operators or other personnel who are employees of independent Contractors, sole proprietorships or partners are covered by insurance required under Florida's Workers' Compensation law.

**7-13.2 Commercial General Liability Insurance:** Carry Commercial General Liability insurance providing continuous coverage for all work or operations performed under the Contract. Such insurance shall be no more restrictive than that provided by the latest occurrence form edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida. Cause the Department to be made an Additional Insured as to such insurance. Such coverage shall be on an "occurrence" basis and shall include Products/Completed Operations coverage. The coverage afforded to the Department as an Additional Insured shall be primary as to any other available insurance and shall not be more restrictive than the coverage afforded to the Named Insured. The limits of coverage shall not be less than \$1,000,000 for each occurrence and not less than a \$5,000,000 annual general aggregate, inclusive of amounts provided by an umbrella or excess policy. The limits of coverage described herein shall apply fully to the work or operations performed under the Contract, and may not be shared with or diminished by claims unrelated to the contract. The policy/ies and coverage described herein may be subject to a deductible. Pay all deductibles as required by the policy. No policy/ies or coverage described herein may contain or be subject to a Retention or a Self-Insured Retention. Prior to the execution of the Contract, and at all renewal periods which occur prior to final acceptance of the work, the Department shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The Department shall be notified in writing within ten days of any cancellation, notice of cancellation, lapse, renewal, or proposed change to any policy or coverage described herein. The



Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights or defenses the Department may have.

**7-13.3 Insurance Required for Construction at Railroads:** When the Contract includes the construction of a railroad grade crossing, railroad overpass or underpass structure, or any other work or operations within the limits of the railroad right-of-way, including any encroachments thereon from work or operations in the vicinity of the railroad right-of-way, you shall, in addition to the insurance coverage required pursuant to 7-13.2 above, procure and maintain Railroad Protective Liability Coverage (ISO Form CG 00 35) where the railroad is the Named Insured and where the limits are not less than \$2,000,000 combined single limit for bodily injury and/or property damage per occurrence, and with an annual aggregate limit of not less than \$6,000,000. The railroad shall also be added along with the Department as an Additional Insured on the policy/ies procured pursuant to subsection 7-13.2 above. Prior to the execution of the Contract, and at all renewal periods which occur prior to final acceptance of the work, both the Department and the railroad shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The insurance described herein shall be maintained through final acceptance of the work. Both the Department and the railroad shall be notified in writing within ten days of any cancellation, notice of cancellation, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights the Department may have.

**7-13.4 Insurance for Protection of Utility Owners:** When the Contract involves work on or in the vicinity of utility-owned property or facilities, the utility shall be added along with the Department as an Additional Insured on the policy/ies procured pursuant to subsection 7-13.2 above.

**7-13.5 Professional Liability:** The Design-Build Firm shall have and maintain during the period of this Contract, a professional liability insurance policy or policies with a company or companies authorized to do business in the State of Florida, affording professional liability coverage for the professional services to be rendered in accordance with this Agreement in the following amounts:

Total D-B Contract Price	Minimum Coverage Limits
Up to \$30 Million	\$1 Million coverage
\$30 to \$75 Million	\$2 Million coverage
More than \$75 Million	\$5 Million coverage

This requirement may be satisfied by the Design-Build Firm's professional team member qualified under Rule 14-75, FAC.

#### **7-14 Contractor's Responsibility for Work.**

The Contractor will take charge and custody of the Work, and take every necessary precaution against damage to the Work, by the action of the elements or from any other cause whatsoever, until the Department's final acceptance of the Work. The Contractor will rebuild, repair, restore, and make good, all damage to any portion of the Work occasioned by any of the above causes before final acceptance of the Contract.

The Department will have no obligation to pay any reimbursement for damage caused by the execution or nonexecution of the Work by the Contractor or its sub-contractors, or damage the Contractor was negligent in preventing.

For damage to installed material caused by third parties, the Contractor may pursue recovery from the third party or seek reimbursement from the Department, but not both. The Department will not reimburse the Contractor for repair costs due to damage to installed material caused by third parties unless the Contractor has contacted law enforcement within 14 calendar days of the damage, filed a report, and provided the report to the Department within 14 calendar days of receiving the report from law enforcement. Upon submission of the report to the Department, the Department solely retains the right to pursue recovery from the known third party. If damage to installed material is caused by a known third party, the Department will reimburse the Contractor for costs associated with the repair after reducing the amount of the repair cost by a \$2000.00 deductible for each occurrence, borne solely by the Contractor. If the Department is successful in recovery, the Contractor may be reimbursed proportionally, up to the amount of the deductible. If damage to installed material is caused by an unknown third party, the Department will reimburse the contractor for 50% of the cost of the repair after reducing the amount of the repair cost by a \$2000.00 deductible for each occurrence, borne solely by the Contractor. Theft and vandalism are considered damage caused by an unknown third party. Repair cost will be determined in accordance with 4-4.

The Department may, at its discretion, reimburse the Contractor for the repair of damage to the Work not caused by a third party and due to unforeseeable causes beyond the control of and without the fault or negligence of the Contractor, including but not restricted to Acts of God, of the public enemy, or of governmental authorities.

**7-15 Opening Sections of the Project to Traffic.**

Whenever any section of the project is in acceptable condition for use, the Engineer may direct the Contractor to open it to vehicular or pedestrian traffic. The Department’s direction to open a section of the project does not constitute an acceptance of the project, or any part thereof, or waive any Contract provisions. Perform all necessary repairs or renewals, on any section of the project thus opened to traffic under direction from the Engineer, due to defective material or work or to any cause other than ordinary wear and tear, pending completion and the Engineer’s acceptance of the project, at no expense to the Department.

**7-16 Wage Rates for Federal-Aid Projects.**

For Contracts that include Federal Aid Participation, payment of predetermined minimum wages applies.

The U.S. Department of Labor (USDOL) Wage Rates applicable to this Contract are listed in table below, as modified up through ten days prior to the opening of bids.

Wage Rate Decision Number	Associated Work
FL20200186 FL20190186	All work included in FPID 220440-1.

Obtain the applicable General Decision(s) (Wage Tables) through the Department’s Office of Construction website and ensure that employees receive the minimum compensation

applicable. Review the General Decisions for all classifications necessary to complete the project. Request additional classifications through the Engineer's office when needed.

For guidance on the requirements for the payment of wages and benefits and the submittal of certified payrolls, and for general guidance and examples of multiple wage rates when assigned to a Contract, refer to the Department's Office of Construction website. Questions regarding wage rates and the applicability of wage tables should be submitted in accordance with 2-4.

#### **7-17 Supplemental Agreements.**

Section 337.11 of the Florida Statutes as amended, which prescribe certain limitations on the use of supplemental agreements, are a part of the Contract.

#### **7-18 Scales for Weighing Materials.**

**7-18.1 Applicable Regulations:** When determining the weight of material for payment, use scales meeting the requirements of Chapter 531 of Florida Statutes, pertaining to specifications, tolerances, and regulations, as administered by the Bureau of Weights and Measures of the Florida Department of Agriculture.

**7-18.2 Base for Scales:** Place such scales on a substantial horizontal base to provide adequate support and rigidity and to maintain the level of the scales.

**7-18.3 Protection and Maintenance:** Maintain all scale parts in proper condition as to level and vertical alignment, and fully protect them against contamination by dust, dirt, and other matter that might affect their operation.

#### **7-19 Source of Forest Products.**

As required by Section 255.2575 of the Florida Statutes, where price, fitness and quality are equal, and when available, use only timber, timber piling, or other forest products that are produced and manufactured in the State of Florida. This provision does not apply to Federal-aid projects.

#### **7-20 Regulations of Air Pollution from Asphalt Plants.**

**7-20.1 General:** Perform all work in accordance with all Federal, State, and local laws and regulations regarding air pollution and burning. In particular, pay attention to Chapters 62-210 and 62-256, Rules of the Department of Environmental Protection, Florida Administrative Code, and to any part of the State Implementation Plan applicable to the project. See also 110-9.2 regarding burning of debris.

**7-20.2 Dust Control:** Control dust during the storage and handling of dusty materials by wetting, covering, or other means as approved by the Engineer.

**7-20.3 Asphalt Material:** Use only emulsified asphalt, unless otherwise stated in the plans and allowed by Chapter 62-210, Rules of the Department of Environmental Protection, Florida Administrative Code. Store and handle asphalt materials and components so as to minimize unnecessary release of hydrocarbon vapors.

**7-20.4 Asphalt Plants:** Operate and maintain asphalt plants in accordance with Chapter 62-210, Rules of the Department of Environmental Protection, Florida Administrative Code. Provide the plant site with a valid permit as required under Chapter 62-210 prior to start of work.

### **7-21 Dredging and Filling.**

Section 370.033 of the Florida Statutes, requires that all persons, who engage in certain dredge or fill activities in the State of Florida, obtain a certificate of registration from the Florida Department of Environmental Protection, Tallahassee, Florida 32301, and that they keep accurate logs and records of all such activities for the protection and conservation of the natural resources. Obtain details as to the application of this law from the Department of Environmental Protection.

### **7-22 Available Funds.**

For Contracts in excess of \$25,000 or a term for more than one year, comply with the following provisions of Chapter 339 of the Florida Statutes:

The Department will not, during any fiscal year, expend money, incur any liability, or enter into any Contract that, by its terms, involves the expenditures of money in excess of the amounts budgeted as available for expenditure during such fiscal year. If the Department enters into such a Contract, verbal or written, in violation of this subsection, such Contract is null and void, and the Department will not make any payments thereon. The Department will require a statement from the Department's comptroller that funds are available prior to entering into any such Contract or other binding commitment of funds. Nothing herein contained prevents the Department from executing Contracts for a period exceeding one-year, but the Department will make such Contracts executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years. The Department will incorporate this paragraph verbatim in all Contracts in excess of \$25,000 or having a term for more than one year.

### **7-23 Contractor's Motor Vehicle Registration.**

The Contractor shall provide the Department with proof that all motor vehicles operated or caused to be operated by such Contractor is registered in compliance with Chapter 320 of the Florida Statutes. Submit such proof of registration on Department Form 700-010-52.

The Department will not make payment to the Contractor until the required proof of registration is on file with the Department.

If the Contractor fails to register any motor vehicle that he operates in Florida, pursuant to Chapter 320 of the Florida Statutes, the Department may disqualify the Contractor from bidding, or the Department may suspend and revoke the Contractor's certificates of qualification.

### **7-24 Disadvantaged Business Enterprise Program.**

**7-24.1 Disadvantaged Business Enterprise Affirmative Action Plan:** Prior to award of the Contract, have an approved Disadvantaged Business Enterprise (DBE) Affirmative Action Program Plan filed with the Equal Opportunity Office. Update and resubmit the plan every three years. No Contract will be awarded until the Department approves the Plan. The DBE Affirmative Action Program Plan is incorporated into and made a part of the Contract.

**7-24.2 Required Contract and Subcontract DBE Assurance Language:** In accordance with 49 CFR 26.13 (b), the Contract FDOT signs with the Contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance: "The Contractor, sub-recipient or subcontractor 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 DOT-assisted Contracts. Failure by the Contractor to carry out these requirements is a material breach of this

Contract, which may result in the termination of this Contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to,

1. Withholding monthly progress payments;
2. Assessing sanctions;
3. Liquidated damages; and/or
4. Disqualifying the Contractor from future bidding as non-responsible.”

**7-24.3 Plan Requirements:** Include the following in the DBE Affirmative Action Program Plan:

1. A policy statement, signed by an authorized representative (president, chief executive officer, or chairman of the contractor), expressing a commitment to use DBEs in all aspects of contracting to the maximum extent feasible, outlining the various levels of responsibility, and stating the objectives of the program. Circulate the policy statement throughout the Contractor’s organization.

2. The designation of a Liaison Officer within the Contractor’s organization, as well as support staff, necessary and proper to administer the program, and a description of the authority, responsibility, and duties of the Liaison Officer and support staff. The Liaison Officer and staff are responsible for developing, managing, and implementing the program on a day-to-day basis for carrying out technical assistance activities for DBEs and for disseminating information on available business opportunities so that DBEs are provided an equitable opportunity to participate in Contracts let by the Department.

3. Utilization of techniques to facilitate DBE participation in contracting activities which include, but are not limited to:

a. Soliciting price quotations and arranging a time for the review of plans, quantities, specifications, and delivery schedules, and for the preparation and presentation of quotations.

b. Providing assistance to DBEs in overcoming barriers such as the inability to obtain bonding, financing, or technical assistance.

c. Carrying out information and communication programs or workshops on contracting procedures and specific contracting opportunities in a timely manner, with such programs being bilingual where appropriate.

d. Encouraging eligible DBEs to apply for certification with the Department.

e. Contacting Minority Contractor Associations and city and county agencies with programs for disadvantaged individuals for assistance in recruiting and encouraging eligible DBE contractors to apply for certification with the Department.

**7-24.4 DBE Records and Reports:** Submit the following through the Equal Opportunity Compliance System:

1. DBE Commitments at or before the Pre-Construction Conference.

2. Report monthly, through the Equal Opportunity Reporting System on the Department’s Website, actual payments (including retainage) made to DBEs for work performed with their own workforce and equipment in the area in which they are certified. Report payments made to all DBE and Minority Business Enterprise (MBE) subcontractors and DBE and MBE construction material and major suppliers.

The Equal Opportunity Office will provide instructions on accessing this system. Develop a record keeping system to monitor DBE affirmative action efforts which include the following:

1. The procedures adopted to comply with these Specifications;
  2. The number of subordinated Contracts on Department projects awarded to DBEs;
  3. The dollar value of the Contracts awarded to DBEs;
  4. The percentage of the dollar value of all subordinated Contracts awarded to DBEs as a percentage of the total Contract amount;
  5. A description of the general categories of Contracts awarded to DBEs;
- and
6. The specific efforts employed to identify and award Contracts to DBEs.

Upon request, provide the records to the Department for review.

Maintain all such records for a period of five years following acceptance of final payment and have them available for inspection by the Department and the Federal Highway Administration.

**7-24.5 Counting DBE Participation and Commercially Useful Functions:** 49 CFR Part 26.55 specifies when DBE credit shall be awarded for work performed by a DBE. DBE credit can only be awarded for work actually performed by DBEs themselves for the types of work for which they are certified. When reporting DBE Commitments, only include the dollars that a DBE is expected to earn for work they perform with their own workforce and equipment. Update DBE Commitments to reflect changes to the initial amount that was previously reported or to add DBEs not initially reported.

When a DBE participates in a contract, the value of the work is determined in accordance with 49 CFR Part 26.55, for example:

1. The Department will count only the value of the work performed by the DBE toward DBE goals. The entire amount of the contract that is performed by the DBE's own forces (including the cost of supplies, equipment and materials obtained by the DBE for the contract work) will be counted as DBE credit.

2. The Department will count the entire amount of fees or commissions charged by the DBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services or for providing bonds or insurance specifically required for the performance of a Department-assisted contract, toward DBE goals, provided that the Department determines the fees to be reasonable and not excessive as compared with fees customarily followed for similar services.

3. When the DBE subcontracts part of the work of its contract to another firm, the Department will count the value of the subcontracted work only if the DBE's subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals.

4. When a DBE performs as a participant in a joint venture, the Department will count the portion of the dollar value of the contract equal to the distinct, clearly defined portion of the work the DBE performs with its own forces toward DBE goals.

5. The Contractors shall ensure that only expenditures to DBEs that perform a commercially useful function (CUF) in the work of a contract may be counted toward the voluntary DBE goal.

6. A DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the

contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself.

7. Contractors wishing to use joint checks involving DBE credit must provide written notice to the District Contract Compliance Office prior to issuance of the joint check. The Contractor must also provide a copy of the notice to the DBE subcontractor and maintain a copy with the project records.

8. To determine whether a DBE is performing a commercially useful function, the Department will evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the DBE credit claimed for its performance of the work, and other relevant factors.

9. A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation.

10. If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own workforce, or if the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, the DBE has not performed a commercially useful function.

**7-24.6 Prompt Payments:** Meet the requirements of 9-5 for payments to all DBE subcontractors.

### **7-25 On-The-Job Training Requirements.**

As part of the Contractor's equal employment opportunity affirmative action program, training shall be provided as follows:

The Contractor shall provide On-The-Job Training aimed at developing full journeymen in the type of trade or job classification involved in the work. In the event the Contractor subcontracts a portion of the Contract work, it shall determine how many, if any, of the trainees are to be trained by the subcontractor provided, that the Contractor shall retain the primary responsibility for meeting the training requirements imposed by this Section. Ensure that, when feasible, 25% of trainees in each occupation are in their first year of training. The Contractor shall incorporate the requirements of this Training Section into such subcontract.

The number of trainees will be estimated on the number of calendar days of the Contract, the dollar value, and the scope of work to be performed. The trainee goal will be finalized at a Post-Preconstruction Trainee Evaluation Meeting, and the goal will be distributed among the work classifications based on the following criteria:

1. Determine the number of trainees on Federal Aid Contract:
  - a. No trainees will be required for Contracts with a Contract Time allowance of less than 275 calendar days.
  - b. If the Contract Time allowance is 275 calendar days or more, the number of trainees shall be established in accordance with the following chart:

Estimated Contract Amount	Trainees Required
\$2,000,000 or less	0
Over \$2,000,000 to \$4,000,000	2
Over \$4,000,000 to \$6,000,000	3

Estimated Contract Amount	Trainees Required
Over \$6,000,000 to \$12,000,000	5
Over \$12,000,000 to \$18,000,000	7
Over \$18,000,000 to \$24,000,000	9
Over \$24,000,000 to \$31,000,000	12
Over \$31,000,000 to \$37,000,000	13
Over \$37,000,000 to \$43,000,000	14
Over \$43,000,000 to \$49,000,000	15
Over \$49,000,000 to \$55,000,000	16
Over \$55,000,000 to \$62,000,000	17
Over \$62,000,000 to \$68,000,000	18
Over \$68,000,000 to \$74,000,000	19
Over \$74,000,000 to \$81,000,000	20
Over \$81,000,000 to \$87,000,000	21
Over \$87,000,000 to \$93,000,000	22
Over \$93,000,000 to \$99,000,000	23
Over \$99,000,000 to \$105,000,000	24
Over \$105,000,000 to \$112,000,000	25
Over \$112,000,000 to \$118,000,000	26
Over \$118,000,000 to \$124,000,000	27
Over \$124,000,000 to \$130,000,000	28
Over \$130,000,000 to *	
*One additional trainee per \$6,000,000 of estimated Construction Contract amount over \$130,000,000	

Further, if the Contractor or subcontractor requests to utilize banked trainees as discussed later in this Special Provision, a Banking Certificate will be validated at this meeting allowing credit to the Contractor for previously banked trainees. Banked credits of prime Contractors working as Subcontractors may be accepted for credit. The Contractor’s Project Manager, the Construction Project Engineer and the Department’s District Contract Compliance Manager will attend this meeting. Within ten days after the Post-Preconstruction Training Evaluation Meeting, the Contractor shall submit to the Department for approval an On-The-Job Training Schedule indicating the number of trainees to be trained in each selected classification and the portion of the Contract Time during which training of each trainee is to take place. This schedule may be subject to change if any of the following occur:

1. When a start date on the approved On-The-Job Training Schedule has been missed by 14 or more days,
2. When there is a change in previously approved classifications, or
3. When replacement trainees are added due to voluntary or involuntary termination.

The revised schedule will be resubmitted to and approved by the Department’s District Contract Compliance Manager.

The following criteria will be used in determining whether or not the Contractor has complied with this Training Special Provision as it relates to the number of trainees to be trained:

1. Credit will be allowed for each trainee that is both enrolled and satisfactorily completes training on this Contract. Credit for trainees, over the established number for this



Contract, will be carried in a “bank” for the Contractor and credit will be allowed for those surplus trainees in subsequent, applicable projects. A “banked” trainee is described as an employee who has been trained on a project, over and above the established goal, and for which the Contractor desires to preserve credit for utilization on a subsequent project.

2. Credit will be allowed for each trainee that has been previously enrolled in the Department’s approved training program on another Contract and continues training in the same job classification and completes their training on a different contract.

3. Credit will be allowed for each trainee who, due to the amount of work available in their classification, is given the greatest practical amount of training on the Contract regardless of whether or not the trainee completes training.

4. Credit will be allowed for any training position indicated in the approved On-The-Job Training Schedule, if the Contractor can demonstrate that a good faith effort to provide training in that classification was made.

5. No credit will be allowed for a trainee whose employment by the Contractor is involuntarily terminated unless the Contractor can clearly demonstrate good cause for this action.

Training and upgrading of minorities, women and economically disadvantaged persons toward journeyman status is a primary objective of this Training Special Provision. Accordingly, the Contractor shall make every effort to enroll minority trainees and women (e.g., by conducting systematic and direct recruitment through public and private sources likely to yield minority and women trainees) to the extent such persons are available within a reasonable area of recruitment. If a non-minority male is enrolled into the On-The-Job Training Program, the On-The-Job Training Notification of Personnel Action Form notifying the District Contract Compliance Manager of such action shall be accompanied by a disadvantaged certification or a justification for such action acceptable to the Department’s District Contract Compliance Manager. The Contractor will be given an opportunity and will be responsible for demonstrating the steps that it has taken in pursuance thereof, prior to a determination as to whether the Contractor is in compliance with this Training Special Provision. This training is not intended, and shall not be used, to discriminate against any applicant for training, whether a minority, woman or disadvantaged person.

No employee shall be employed as a trainee in any classification in which they have successfully completed a training course leading to journeyman status or have been employed as a journeyman.. The Contractor may satisfy this requirement by including appropriate questions in the employee application or by other suitable means. Regardless of the method used, the Contractor’s records should document the findings in each case.

The minimum length and type of training for each classification will be as established at the Post-Preconstruction Trainee Evaluation Meeting and approved by the Department. Graduation to journeyman status will be based upon satisfactory completion of a Proficiency Demonstration set up at the completion of training and established for the specific training classification, completion of the minimum hours in a training classification range, and the employer’s satisfaction that the trainee does meet journeyman status in the classification of training. Upon reaching journeyman status, the following documentation must be forwarded to the District Contract Compliance Office:

1. Trainee Enrollment and Personnel Action Form
2. Proficiency Demonstration Verification Form indicating completion of each standard established for the classification signed by representatives of both the Contractor and the Department.

The Department and the Contractor shall establish a program that is tied to the scope of the work in the project and the length of operations providing it is reasonably calculated to meet the equal employment opportunity obligations of the Contractor and to qualify the average trainee for journeyman status in the classifications concerned, by at least, the minimum hours prescribed for a training classification. Furthermore, apprenticeship programs registered with the U.S. Department of Labor, Bureau of Apprenticeship and Training, or with a State apprenticeship agency recognized by the Bureau and training programs approved but not necessarily sponsored by the U.S. Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training shall also be considered acceptable provided it is being administered in a manner consistent with the equal employment obligations of Federal Aid Highway Construction Contract. Approval or acceptance of a training schedule shall be obtained from the Department prior to commencing work on the classifications covered by the program.

A voluntary On-The-Job Training Program is available to a Contractor, which has been awarded a State funded project. Through this program, the Contractor will have the option to train employees on State funded projects for "banked credit" as discussed previously in this provision, to be utilized on subsequent Federal Aid Projects where training is required. Those Contractors availing themselves of this opportunity to train personnel on state funded projects and bank trainee hours for credit shall comply with all training criteria set forth in this Section for Federal Aid Projects; voluntary banking may be denied by the Department if staff is not available to monitor compliance with the training criteria.

It is the intention of these provisions that training is to be provided in the construction crafts rather than clerk-typists or secretarial type positions. Training is permissible in lower level management positions such as office engineers, estimators, etc., where the training is oriented toward construction applications. Training in the laborer classifications, except Common/General Laborer, may be permitted provided that significant and meaningful training is provided and approved by the District Contract Compliance Office.

When approved in advance by the District Contract Compliance Manager, credit will be given for training of persons in excess of the number specified herein under the current Contract or a Contractor will be allowed to bank trainees who have successfully completed a training program and may apply those trainees to a training requirement in subsequent projects upon approval of the Department's District Contract Compliance Manager. This credit will be given even though the Contractor may receive training program funds from other sources, provided such other source do not specifically prohibit the Contractor from receiving other form of compensation. Offsite training is permissible as long as the training is an integral part of an approved training program and does not compromise a significant part of the overall training. Credit for offsite training indicated above may only be made to the Contractor where it does one or more of the following and the trainees are concurrently employed on a Federal Aid Project:

1. Contributes to the cost of the training,
2. Provides the instruction to the trainee, or
3. Pays the trainee's wages during the offsite training period.

The Contractor shall compensate the trainee at no less than the laborer rate established in the Contract at the onset of training. The compensation rate will be increased to the journeyman's wage upon graduation from the training program for the remainder of the time the trainee works in the classification in which they were trained.

The Contractor shall furnish the trainee a copy of the program he will follow in providing the training. The Contractor shall provide each trainee with a certification showing the type and

length of training satisfactorily completed. The Contractor shall enroll a trainee in one training classification at a time to completion before the trainee can be enrolled in another classification on the same project.

The Contractor shall maintain records to document the actual hours each trainee is engaged in training on work being performed as a part of this Contract.

The Contractor shall submit to the District Contract Compliance Manager a copy of an On-The-Job Training Notification of Personnel Action form no later than seven days after the effective date of the action when the following actions occur: a trainee is transferred on the project, transferred from the project to continue training on another Contract, completes training, is upgraded to journeyman status or voluntary terminates or is involuntary terminated from the project.

The Contractor shall furnish to the District Contract Compliance Manager a copy of a Monthly Time Report for each trainee. The Monthly Time Report for each month shall be submitted no later than the tenth day of the subsequent month. The Monthly Time Report shall indicate the phases and sub-phases of the number of hours devoted to each proficiency.

Highway or Bridge Carpenter Helper, Mechanic Helper, Rodman/Chainman, and Timekeeper classifications will not be approved for the On-The-Job Training Program.

The number of trainees may be distributed among the work classifications on the basis of the Contractor's needs and the availability of journeymen in the various classifications within a reasonable area of recruitment.

The Contractor will have fulfilled the responsibilities of this Specification when acceptable training has been provided to the trainee as specified above.

#### **7-26 Cargo Preference Act – Use of United States-Flag Vessels.**

Pursuant to Title 46 CFR 381, the Contractor agrees

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this Contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels.

2. To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph 1 of this Article to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590.

3. To insert the substance of the provisions of this clause in all subcontracts issued pursuant to this Contract.

#### **7-27 E-Verify.**

The Contractor shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Contractor during the term of the Contract and shall expressly require any subcontractors performing work or providing services pursuant to the Contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the Contract term.

## **7-28 Scrutinized Companies.**

For Contracts of any amount, if the Department determines the Contractor submitted a false certification under Section 287.135(5) of the Florida Statutes, or if the Contractor has been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel, the Department shall either terminate the Contract after it has given the Contractor notice and an opportunity to demonstrate the Department's determination of false certification was in error pursuant to Section 287.135(5)(a) of the Florida Statutes, or maintain the Contract if the conditions of Section 287.135(4) of the Florida Statutes are met.

For Contracts \$1,000,000 and greater, if the Department determines the Contractor submitted a false certification under Section 287.135(5) of the Florida Statutes, or if the Contractor has been placed on the Scrutinized Companies with Activities in the Sudan List, or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, the Department shall either terminate the Contract after it has given the Contractor notice and an opportunity to demonstrate the Department's determination of false certification was in error pursuant to Section 287.135(5)(a) of the Florida Statutes, or maintain the Contract if the conditions of Section 287.135(4) of the Florida Statutes are met.

## **7-29 Title VI Assurance – DOT 1050.2A, Appendix A and Appendix E.**

**7-29.1 Appendix A:** During the performance of this Contract, the Contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "Contractor") agrees as follows:

1. Compliance with Regulations: The Contractor shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the US Department of Transportation (hereinafter, "USDOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Contract.

2. Nondiscrimination: The Contractor, with regard to the work performed by it during the Contract, shall not discriminate on the basis of race, color, national origin or sex in the selection and retention of sub-contractors, including procurements of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the Contract covers a program set forth in Appendix B of the Regulations.

3. Solicitations for subcontractors, including procurements of materials and equipment: In all solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this contract and the Regulations relative to nondiscrimination on the basis of race, color, national origin, or sex.

4. Information and Reports: The Contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the Florida Department of Transportation or the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and Federal Motor Carrier Safety Administration to be pertinent to ascertain compliance with such Regulations, order and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information the Contractor shall so certify to the Florida Department of Transportation, or the Federal Highway Administration, Federal Transit

Administration, Federal Aviation Administration, or Federal Motor Carrier Safety Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance: In the event of the Contractor's noncompliance with the nondiscrimination provisions of this Contract, the Florida Department of Transportation shall impose such Contract sanctions as it or the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, or Federal Motor Carrier Safety Administration may determine to be appropriate, including, but not limited to:

a. withholding of payments to the Contractor under the Contract until the Contractor complies, or

b. cancellation, termination or suspension of the Contract, in whole or in part.

6. Incorporation of Provisions: The Contractor shall include the provisions of this Appendix in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Contractor shall take such action with respect to any subcontract or procurement as the Florida Department of Transportation or the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, or Federal Motor Carrier Safety Administration may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Contractor may request the Florida Department of Transportation to enter into such litigation to protect the interests of the Florida Department of Transportation, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

**7-29.2 Appendix E:** During the performance of this Contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor" agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21;

2. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired of Federal or Federal-aid programs and projects);

3. Federal-Aid Highway Act of 1973, (23 U.S.C § 324 et seq.), (prohibits discrimination on the basis of sex);

4. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;

5. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);

6. Airport and Airway Improvement Act of 1982, (49 U.S.C. 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color national origins or sex);

7. The Civil Rights Restoration Act of 1987 (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid

recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

8. Titles II and III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;

9. The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

10. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

11. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

12. Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination based on sex in education programs, or activities (20 U.S.C. 1681 et seq.).

## **SECTION 8 PROSECUTION AND PROGRESS**

### **8-1 Subletting or Assigning of Contracts.**

Do not, sell, transfer, assign or otherwise dispose of the Contract or Contracts or any portion thereof, or of the right, title, or interest therein, without written consent of the Department. If the Contractor chooses to sublet any portion of the Contract, the Contractor must submit a written request to sublet work on the Certification of Sublet Work form developed by the Department for this purpose. With the Engineer's acceptance of the request, the Contractor may sublet a portion of the work, but shall perform with its own organization work amounting to not less than 40% of the total Contract amount. The Certification of Sublet Work request will be deemed acceptable by the Department, for purposes of the Department's consent, unless the Engineer notifies the Contractor within 5 business days of receipt of the Certification of Sublet Work that the Department is not consenting to the requested subletting.

Include in the total Contract amount the cost of materials and manufactured component products, and their transportation to the project site. For the purpose of meeting this requirement the Department will not consider off-site commercial production of materials and manufactured component products that the Contractor purchases, or their transportation to the project, as subcontracted work.

If the Contractor sublets a part of a Contract item, the Department will use only the sublet proportional cost in determining the percentage of subcontracted normal work.

Execute all agreements to sublet work in writing and include all pertinent provisions and requirements of the Contract. All other agreements must be in writing and reference all applicable Contract provisions. Upon request, submit to the Department a copy of the subcontract and agreement. The subletting of work does not relieve the Contractor or the surety of their respective liabilities under the Contract.

The Department recognizes a subcontractor only in the capacity of an employee or agent of the Contractor, and the Engineer may require the Contractor to remove the subcontractor as in the case of an employee.

## **8-2 Work Performed by Equipment-Rental Agreement.**

The limitations set forth in 8-1, concerning the amount of work that may be sublet, do not apply to work performed by equipment-rental agreement. However, for any work proposed to be performed by equipment-rental agreement, notify the Engineer in writing of such intention before using the rented equipment, and indicate whether the equipment will be rented on an operated or non-operated basis. Include with the written notice a listing and description of the equipment and a description of the particular work to be performed with such equipment. As an exception to the above requirements, the Department will not require written notice for equipment to be rented (without operators) from an equipment dealer or from a firm whose principal business is the renting or leasing of equipment.

The operators of all rented equipment, whether rented on an operated or a non-operated basis, are subject to all wage rate requirements applicable to the project. When renting equipment without operators, the Contractor shall carry the operators on his own payroll. For equipment that is rented on an operated basis, and when required by the Contract or requested by the Engineer, submit payrolls from the lessor with the names of the operators shown thereon.

When a lessor provides rentals of equipment on an operated basis that exceed \$10,000, such lessor is subject to any Equal Employment Opportunity requirements that are applicable to the project.

## **8-3 Prosecution of Work.**

**8-3.1 Compliance with Time Requirements:** Commence work in accordance with the accepted working schedule and provide sufficient labor, materials and equipment to complete the work within the time limit(s) set forth in the proposal. Should the Contractor fail to furnish sufficient and suitable equipment, forces, and materials, as necessary to prosecute the work in accordance with the required schedule, the Engineer may withhold all estimates that are, or may become due, or suspend the work until the Contractor corrects such deficiencies.

**8-3.2 General:** For this Contract submit the following schedules and reports.

**8-3.2.1 Contract Schedule:** Submit to the Engineer for acceptance a Critical Path Method (CPM) Contract Schedule for the first 20% of Contract Time (design and construction) of the project within 30 calendar days after execution of the Contract or at the preconstruction conference, whichever is earlier. Prior to completion of the first 20% of the original Contract Time, submit to the Engineer for acceptance a CPM Contract Schedule for the remaining Contract Time.

The Contract Schedule shall include detailed schedule diagrams and schedule data as described below that shows how the Contractor intends to complete the work within the Contract Time. Any Contract defined holidays, suspension days, or weather days that affect the Critical Path will be added as they occur. When the project includes a Maintenance of Traffic plan, the work breakdown structure (WBS) for the Contract Schedule shall be consistent

with the Contract Maintenance of Traffic plan, showing activities for each discrete Contract activity to be accomplished within each Maintenance of Traffic phase. When the project does not include a Maintenance of Traffic plan, the WBS shall be consistent with the phasing shown in the Contract Documents. Include activities for deliverables and reviews in the schedule. Sufficient liaison shall be conducted and information provided to indicate coordination with utility owners having facilities within the project limits. The schedule must incorporate the utility work schedules included in the Contract Documents, unless changed by mutual agreement of the utility company, the Contractor and the Department. Show the interdependence (logic) of the utility work schedule activities with other schedule activities in the Contract Schedule for acceptance by the Department, unless otherwise approved by the Engineer.

Failure to include any element of work or any activity relating to utility work will not relieve the Contractor from completing all work within the Contract Time at no additional time or cost to the Department, notwithstanding the acceptance of the schedule by the Department.

The Contract Schedule may indicate a completion date in advance of the expiration of Contract Time. However, the Department will not be liable in any way for the Contractor's failure to complete the project prior to expiration of Contract Time. Any additional costs, including extended overhead incurred between the Contractor's scheduled completion date and the expiration of Contract Time, shall be the responsibility of the Contractor. The Contractor shall not be entitled to claim or recover any such costs from the Department.

Acceptance by the Engineer of the Contract Schedule or any updates shall not be construed as approval of any particular construction methods or sequence of construction or to relieve the Contractor of its responsibility to provide sufficient materials, equipment and labor to guarantee the completion of the Contract in accordance with the Contract Documents.

**8-3.2.2 Schedule Submissions:** Develop the schedule in Precedence Diagram Method (PDM) format.

Each schedule submission and monthly update shall include a minimum of the following seven items:

1. Submit the files electronically in the current Department version of Oracle Primavera P6 format by exporting the full schedule to an .xer file format.
2. A Gantt chart grouped by WBS, then phase, sorted by early start then total float. The chart shall include the following columns:
  - a. Activity ID
  - b. Activity Name
  - c. Calendar
  - d. Activity Type
  - e. Original Duration
  - f. Remaining Duration
  - g. Duration % Complete
  - h. Early Start
  - i. Early Finish
  - j. Late Start
  - k. Late Finish
  - l. Total Float
  - m. Budgeted Total Cost



The chart shall also include activity bars using the Oracle Primavera P6 default color coding for the bars. The chart shall be submitted as a Portable Document Format (.pdf) file and formatted on 11 inch by 17 inch landscape oriented sheets, with the activity table and bars.

3. A Gantt chart with the same columns and bars listed in 8-3.2.2(2), but filtered for the longest path, not grouped but sorted by early start, then early finish. The chart shall be submitted as a .pdf file and formatted on 11 inch by 17 inch landscape oriented sheets, with the activity table and bars.

4. The Schedule log for the calculated schedule, submitted as a.pdf file and formatted on 8-1/2 inch by 11 inch portrait oriented sheets.

5. A schedule narrative report with the following information:

a. Current project schedule status and identify potential delays

b. A description of the progress made since the previous schedule submission

c. Objectives for the upcoming 30 calendar days

d. Indicate if the project is on schedule, ahead of schedule or behind schedule.

1. If ahead or behind schedule, indicate the specific number of calendar days.

2. If behind schedule, include a detailed recovery plan that will put the schedule back on track or identify the alleged delay event for which a preliminary request for an extension of Contract Time has been submitted, which if granted by the Department, will account for the amount of time the project is behind schedule, or provide a fully supported request for a Contract Time extension, which if granted by the Department, will account for the amount of time the project is behind schedule.

e. Description of the current critical path and indicate if the critical path has changed in the last 30 calendar days.

f. Discussion of current successes or problems that have affected either the critical path's length or have caused a shift in the critical path within the last 30 calendar days.

g. Identify specific activities, progress, or events that may reasonably be anticipated to impact the critical path within the next 30 calendar days, either to affect its length or to shift it to an alternate path.

h. List all changes to schedule logic, calendars, calendar assignments, activity types, activity names, changes to constraints, added activities or duration changes (original and remaining) that have been made to the schedule since the previous submission.

For each change, describe the basis for the change and specifically identify the affected activities by activity ID.

i. Identify any and all activities, either in progress or scheduled to occur within the following 30 days that require Department participation, review, approval, etc.

6. A detailed logic report that provides a list of activities in the schedule sorted by activity ID, no grouping and submitted as a .pdf file and formatted on 8-

1/2 inch by 11 inch portrait oriented sheets. For each activity listed, the report shall include the activity's predecessors and successors, including the relationship type and lag.

7. A chart showing the budgeted total cost versus time shall be submitted as a pdf file and formatted on 8-1/2 inch by 11 inch landscape oriented sheets. The chart shall include the following two curves:

- a. budgeted total cost versus time based on the early dates.
- b. budgeted total cost versus time based on the late dates.

For each submission of the Contract Schedule and monthly update, the Engineer will have 21 days to accept the Contract Schedule or monthly update or to schedule a meeting, if needed, within that time, with the Contractor to resolve any problems that prevent acceptance of the schedule. Attend the meeting scheduled by the Engineer, and submit a corrected schedule to the Engineer within seven days after the meeting. The process will be continued until a Contract Schedule or monthly update is accepted or accepted as noted by the Engineer.

Upon the Engineer's acceptance of the Contract Schedule, submit monthly updates of the Contract Schedule, including all months prior to the start of construction, reflecting progress through the monthly estimate cut-off date within 8 calendar days after the monthly estimate cut-off date.

The Engineer may withhold monthly payments due for failure of the Contractor to submit an acceptable schedule or monthly updates within the time frame described herein.

**8-3.2.3 Schedule Content:** All schedule submissions shall comply with the following content guidelines as appropriate to the specific submission:

The schedules shall include the sequence, order, and interdependence of major construction milestones and activities. Include procurement of project specific materials and equipment that require submittals and are not readily available, long-lead time items, and key milestones identified by the Contract.

Show the sequence, order, and interdependence of activities in which the work is to be accomplished. Include allowance for Department review, acceptance and return of submittals, samples and shop drawings where Department acceptance is specifically required (in accordance with 5-1.4.6 of the standard specifications). In addition to construction activities, schedule activities shall include the submittals, procurement, and Department or Utility activities:

1. Submittal activities shall include submittal preparation, Department review, and acceptance of submittals. If the Department's action on any submittal is "Not Accepted" or "Revise and Resubmit", a new series of submittal preparation activities shall be inserted into the schedule. Predecessor for the new submittal preparation activity will be the original acceptance activity and the successor of the new acceptance activity will be the fabrication/delivery activity for the equipment or material.

2. Procurement activities shall include all project specific materials and equipment that require submittals and are not readily available, receipt of materials with estimated procurement costs of major items for which payment of stockpiled materials will be requested in advance of installation, fabrication of special material and equipment, and their installation and testing.

3. Show activities of the Department or Utilities that affect progress and contract-required dates for completion of all or parts of the work.

Detailed schedule data: shall conform to the following:

1. All activities shall be assigned to a specific project calendar within the software. Specific project calendars will be defined within the software to include planned work days and planned non-work days. These project calendars will include both Contractor and Contract defined holidays and suspension days as non-workdays. The use of global calendars is not permitted. Project calendars shall not inherit holidays from global calendars. Work shifts identified for each project calendar shall be consistent with the Contractor's planned workdays. Actual start and finish date times shall be consistent with the work shift hours on the calendar assigned to the activities.

2. Each schedule activity shall be cost loaded. Activity cost loading shall be consistent with the bid breakdown. The sum total of the activity cost loading shall be equal to the current contract value.

3. At a minimum, each schedule activity shall contain codes by:  
a. Responsibility: including, but not be limited to, Department, Utility, Contractor/subcontractor, supplier/vendor, consultant, etc  
b. Phasing: identify the appropriate Maintenance of Traffic phase or subphase.

The required coding can be accomplished by WBS codes or project activity codes.

4. Key milestones as identified by Contract. At a minimum, the start and finish of each Maintenance of Traffic phase or subphase shall be represented by a milestone activity. Milestone activities shall be start or finish milestone type activities, as appropriate.

5. All non-procurement activities must be less than or equal to 20 workdays unless approved by the Engineer. Sufficient explanation for activities over 20 days shall be provided for the Engineer's review and approval.

6. All activities must include adequate detailed activity descriptions to describe the work that is included. In each activity, through the activity name, user defined field, or cost account, give quantity and unit of measure so that the amount of work the activity involves is clearly communicated.

7. Only two open-ended activities (the first and the last) are allowed.

8. Constraints shall only be used for "project start," and "project completion." Constraints shall not override logic. The project start constraint shall be the Contract execution date. The project completion date shall be the Contract completion date plus any Contract defined holidays and suspension days included on the longest path. The use of any other imposed constraints is not allowed without specific approval by the Engineer. Any other desired constraints must be submitted to the Engineer with the rationale for the use of each desired additional constraint. If allowed by the Engineer, the rationale should be recorded in the activity's notebook field. Mandatory constraints (start and finish) violate network logic and shall not be used.

9. Out of sequence progress shall be corrected on each monthly update by modifying the schedule logic so that the logic accurately depicts the actual sequence of the work. The Retained Logic setting shall be used when calculating the schedule.

10. All changes to activities shall be recorded with a note in the activity notebook field. The notebook entry shall include, as a minimum, the date and reason for

the change, as well as reference to a document wherein the Engineer acknowledges and accepts the change.

11. The use of resource leveling, either manual or automatic, is prohibited.

12. Activities shall not be deleted from the schedule. If an activity is not required, then upon approval from the Engineer, the Contractor shall provide actual start and finish dates equal to the date of the Engineer's approval, shall add the word "Removed" to the activity name and shall make a notebook entry explaining the reason for removing the activity from the planned work.

13. Activities with appropriate cost loading shall be added to the schedule upon approval of the Engineer when it is determined that a Contract work element was omitted from the previous accepted Contract schedule or update or if work is added to the Contract.

14. Activity names shall only be changed to reflect changes to the scope of the work element represented by the activity, not as a way to remove and replace activities. Changes to activity names shall be approved by the Engineer.

15. Unless otherwise approved by the Engineer, activity types shall be defined as milestones, level-of-effort, WBS summary or task dependent. Resource dependent type shall not be used. All activities shall have percent complete type set to duration and duration type set to either fixed duration and unit/time or fixed duration and units.

**8-3.2.4 Weekly Meetings:** Attend weekly meetings scheduled by the Engineer to discuss Contract progress, near term scheduled activities, including utility relocations, problems and their proposed solutions. Submit a Three-Week Planning Schedule at each weekly meeting, showing the Contract schedule activities completed in the previous week and planned for the next two weeks. Develop the Three-Week Planning Schedule in Gantt chart format from the updated Contract schedule, identifying completed, current and planned activities. Designate all activities that are controlling work items as determined by the currently accepted Contract schedule

**8-3.2.5 Float:** Float is defined as the amount of time the finish of an activity can be delayed. Two kinds of float are possible: Total float is how much an activity can be delayed without affecting the finish date of the project or an intermediate deadline (constraint); it is the difference between the late finish date and the early finish date. Free float is how much an activity can be delayed without affecting its earliest successor.

Float is not for the exclusive use or benefit of either the Department or the Contractor.

Use of float suppression techniques, such as preferential sequencing (arranging critical path through activities more susceptible to Department caused delay), special lead/lag logic restraints, zero total or free float constraints, extended activity times, positive relationship lags, or imposing constraint dates other than as required by the contract, shall be cause for rejection of the project schedule or its updates. The use of finish-to-start lags greater than zero days, start-to-start lags that exceed the duration of the predecessors, or finish-to-finish lags that exceed the duration of the successor, shall not be used without the expressed approval of the Engineer. The use of Resource Leveling, or similar software features, for the purpose of artificially adjusting activity durations to consume float and influence the critical path is expressly prohibited.

Negative float shall not be a basis for requesting time extensions. Any extension of time shall be addressed in accordance with 8-3.2. 7. Scheduled completion dates that extend beyond the Contract completion date, evidenced by negative float, may be used in computations for assessment of payment withholdings. The use of this computation is not to be construed as a means of acceleration.

**8-3.2.6 Critical Path:** The critical path shall be defined as the longest path and is represented by the longest logical path through the remaining activities, resulting in the earliest calculated completion date. There may be more than one longest path in the schedule. However, the use of float suppression techniques as described in 8-3.2.5 shall not be used to force the schedule to have more than one longest path.

**8-3.2.7 Time Extensions:** The Contractor is responsible for submitting a request for Contract Time extension in accordance with 8-7.3.2. An extension of time shall be considered only to the extent that an event impacts the completion date of the schedule such that the impacted completion date is later than the Contract completion date as adjusted previously. The Pre-event Schedule is defined as the latest accepted update of the Contract schedule, stasured (actual start dates added, actual finish dates added, remaining durations adjusted) to the end of the day before the start of the event. The Post-event Schedule is defined as the accepted update of the Contract Schedule just after the end of the event and destasured (actual start dates removed, actual finish dates removed, remaining durations adjusted) to the end of the last day of the event

As a minimum, time extension requests shall contain:

1. A descriptive summary of the event
2. A written analysis supported by a:
  - a. Pre-event Schedule
  - b. Post-event Schedule
3. Schedule submittal items 1, 2, 3 and 4 required in 8-3.2.2 shall be provided, for the Pre-event and Post-event Schedules

Time extensions shall not be considered for proposals that do not include full documentation described above. Once a time extension has been approved by the Engineer, the Contract completion date shall be changed accordingly.

**8-3.2.7 Performance of Work:** By submitting a schedule, the Contractor is making a positive assertion that the project has been and will be constructed in the order indicated in the schedule. Prosecute the work in accordance with the latest accepted Contract Schedule or update. Any costs associated with meeting milestones and completing the project within the authorized Contract Time will be borne solely by the Contractor.

**8-3.2.8 As-Built Schedule:** As a condition for the release of any retainage, submit the as-built schedule within 10 days of Final Acceptance. The as-built schedule shall describe the actual order and start and stop times for all activities by the Contractor.

**8-3.3 Beginning Work:** The Department will issue the Notice to Proceed within 20 calendar days, excluding Saturdays, Sundays and Holidays, after execution of the Contract. The Notice to Proceed may designate the physical point or points on the project to start the work. Do not commence work under the Contract until the Department has issued the Notice to Proceed.

**8-3.4 Provisions for Convenience of Public:** Schedule construction operations so as to minimize any inconvenience to adjacent businesses or residences. Where necessary, the Engineer may require the Contractor to first construct the work in any areas along the project where inconveniences caused by construction operations would present a more serious handicap. In

such critical locations, where there is no assurance of continuous effective prosecution of the work once the construction operations are begun, the Engineer may require the Contractor to delay removal of the existing (usable) facilities.

**8-3.5 Preconstruction Conference:** Before the Contractor begins actual construction; the Engineer will call a preconstruction conference at a place the Engineer designates to go over the construction aspects of the project. Attend this meeting, along with the Department and the various utility companies that will be involved with the road construction.

**8-3.6 Partnering:** For this Contract, a non-bid pay item in the Lump Sum amount of \$40,000 has been established for Partnering. The objective of Partnering is to establish a partnership charter and action plan for the Contractor, the Engineer and other parties impacted by the activities covered under this Contract to identify and achieve reciprocal goals. These objectives may be met through participation in a major workshop held as early as possible after the Contract is awarded and follow-up workshops held periodically throughout the duration of the Contract.

As early as possible and prior to the preconstruction conference, meet with the Department's District Construction Engineer and plan an initial partnering/team building workshop. At this planning session, select a workshop facilitator, suitable to the District Construction Engineer, from the Department approved list of facilitators maintained by the State Construction Office. Additionally, the agenda, duration, location, time, and attendees for the initial workshop should be determined. Attendees should include the Department's District Construction Engineer and key project personnel, the Contractor's Superintendent and key personnel as well as other project or field level personnel.

Partnering workshops may be held periodically throughout the duration of the Contract if authorized by the District Construction Engineer.

The Department will reimburse the Contractor based on actual invoice amounts for the following costs associated with Partnering:

- a. Meeting room.
- b. Facilitator fees.
- c. Travel expenses of the facilitator, in accordance with Section 112.061,

Florida Statutes.

The Department will not reimburse the Contractor for any other expenses.

Payment will be the actual cost prorated as a percent of the Lump Sum amount.

Payment shall be made under:

Item No. 999- 16- Partnering - lump sum.

**8-3.7 Disputes Review Board:** For this Contract, a Disputes Review Board will be established to assist in the resolution of disputes and claims arising out of the work on the Contract.

**8-3.7.1. Purpose:** The Board will provide special expertise to assist in and facilitate the timely and equitable resolution of disputes and claims between the Department and the Contractor in an effort to avoid construction delay and future claims.

It is not intended for the Department or the Contractor to default on their normal responsibility to cooperatively and fairly settle their differences by indiscriminately assigning them to the Board. It is intended that the Board encourage the Department and Contractor to resolve potential disputes or claims without resorting to this alternative resolution procedure.

The Board will be used when normal Department-Contractor dispute or claim resolution is unsuccessful. Either the Department or the Contractor may refer a dispute or claim to the Board. Referral to the Board should be initiated as soon as it appears that the normal dispute resolution effort is not succeeding. Referral to the Board is accomplished by providing a position paper outlining the nature and scope of the dispute or claim and describing the basis for entitlement to the dispute or claim. Only disputes or claims that have been duly preserved under the terms of the Contract as determined by the Board will be eligible to be heard by the Board. Requests for equitable adjustment must be certified as required by 4-3.2. Claims that are referred to the Board must be in compliance with 5-12. It is a condition of this Contract that the parties shall use the Dispute Review Board. The completed DRB hearing of any unresolved disputes or claims is a condition precedent to the Department or the Contractor having the right to initiate arbitration, other alternative resolution procedures, or to file a lawsuit, as provided by law, on such unresolved disputes or claims.

The recommendations of the Board will not be binding on either the Department or the Contractor unless otherwise stated in the Contract.

The Board will fairly and impartially consider disputes or claims referred to it and will provide written recommendations to the Department and Contractor to assist in the resolution of these disputes or claims.

**8-3.7.2. Continuance of Work:** During the course of the Disputes Review Board process, the Contractor will continue with the work as directed by the Engineer in a diligent manner and without delay or otherwise conform to the Engineer's decision or order, and will be governed by all applicable provisions of the Contract. Throughout any protested work, the Contractor will keep complete records of extra costs and time incurred. The Contractor will permit the Engineer and Board access to these and any other records needed for evaluating the disputes and claims.

**8-3.7.3. Membership:** The Disputes Review Board will consist of one member selected by the Department and approved by the Contractor, and one member selected by the Contractor and approved by the Department. The first two members will mutually select and agree on the third member. Normally, the third member will act as Chairman for all Board activities.

**8-3.7.4 Qualification:** It is desirable that all Board members have at least ten years of experience with the type of construction involved in this project, in the interpretation of Contract Documents, and in Contract dispute resolution. Board members must have attended the Dispute Resolution Board Foundation's Administration and Practices Workshop and must be on the Department's Lists of Candidate Members as provided on the Department's web site. The goal in selecting the third member is to complement the construction experience of the first two members, to provide leadership for the Board's activities, and to provide expertise in the area of administering alternative Contract resolution proceedings. It is imperative that Board members not show or be perceived as showing partiality to either the Contractor or the Department. A Board member shall not have any conflict of interest, which could affect their ability to act in a disinterested and unbiased manner.

**8-3.7.5 Conflict of Interest:** A person selected to the Board shall submit to the party appointing him/her a resume covering his/her applicable education and experience, a list of all DRBs, with meeting frequencies, on which he/she currently serves, and a disclosure statement covering, but not limited to, any of the following categories of relationships or prior involvement in this project:

1. Any direct or indirect ownership or financial interest in the Contractor awarded the project, the CEI consulting firm on the project, any subcontractor or supplier on the project or any business of another Board member.

2. Current employment by the Department, the Contractor awarded the Contract, or the CEI consulting firm on the project. Service as a Dispute Review Board Member shall not be construed to be employment.

3. Current employment by any subcontractor or supplier on the project.

4. Current employment by a consulting engineering firm that will be seeking future Contracts for CEI services from the Department.

5. Within the two year period immediately prior to award of the Contract, employment by: the Central Office of the Department; the Department's District or Turnpike in which the project is located; the Department, as a consultant in the District or Turnpike in which the project is located; the Contractor awarded the Contract, the CEI consulting firm on the project, any subcontractor or supplier on the project or any business of another Board member. Service as a Dispute Review Board Member shall not be construed to be employment.

6. A close personal relationship with any key individual in any firm involved in the Contract.

7. A prior involvement in the project of a nature, which might be construed as compromising his/her ability to act impartially in carrying out the duties of the Board.

8. A Contract as a consultant to the Contractor awarded the Contract.

9. A Contract as a consultant with any subcontractor or supplier on the project.

10. Current full-time employment by a Department prequalified contractor or consultant.

**8-3.7.6 Disqualification:** Category 1, 2, 3, 5, and 10 relationships listed in 8-3.7.5 shall disqualify a person from serving on the Board for this project. The other categories of relationships or prior involvement in this project listed above will be considered by the Contractor and the Department in arriving at their decision as to whether or not to accept a person as a member of the Board.

If during the life of the Contract, a Board member is made aware that a firm of which he/she is an employee is involved in the Contract as a subcontractor or supplier, he/she shall immediately give notice to the Department and the Contractor. Upon receiving such notification, the Department or the Contractor may, within ten (10) days, give notice that this Board member is no longer acceptable and a new Board member shall be selected and approved as provided above. In no event, shall a Board member participate in a hearing by the Board of dispute involving a firm by which he is employed.

The Department may disqualify a person from serving on future Disputes Review Boards for Department projects who submits a disclosure statement which fails to provide accurate and complete disclosure of a relationship that prohibits him/her from serving on the Board for this project or one of the possible conflicts of interest listed above.

**8-3.7.7 Selection of Members:** Every attempt shall be made by the Department and the Contractor to complete the selection of Disputes Review Board members and execute the



Three-Party Agreement prior to date of the preconstruction conference and, if applicable, the initial partnering workshop. The Department and the Contractor shall select their Board members and give the other party notice of the person they have selected to serve as a member of the Board. This notice shall be accompanied by the resume and disclosure statement submitted by that person.

Within ten days of receiving the notice of selection of a Board member, the Department and the Contractor shall review the accompanying resume and disclosure statement, make such inquiries as each deems necessary and notify the other party in writing as to whether or not the person selected is acceptable. Failure to give this notice within the ten (10) days allowed shall be construed to be acceptance.

If a person selected is not acceptable to the other party, the party who selected that person shall within five (5) days select another person and provide to the other party to the Contract a notification accompanied by a resume and disclosure statement.

Once the Contractor and the Department have agreed upon the first two members of the Board they shall immediately notify those members of their approval. Within one week of this notification, the first two members of the Board shall select the third member and give written notice to the Contractor and the Department accompanied by that person's resume and disclosure statement.

Within ten days of receiving the notice of selection of a third member of the Board, the Department and the Contractor shall review the accompanying resume and disclosure statement, make such inquiries as each deems necessary and notify the first two members in writing as to whether or not the person selected is acceptable. If a person selected is not acceptable to the Contractor or the Department the first two members of the Board shall immediately select another person and provide notification accompanied by a resume and disclosure statement. Failure to give this notice within the ten (10) days allowed shall be construed to be acceptance.

If, (1) the Department or the Contractor fail to provide the other party notice of selection of a Board Member within the time specified, herein; (2) the first two members of the Board fail to provide notice to the parties of their selection of the third member of the Board within the times specified, herein; or (3) the parties are unable to agree on appointment of a Board member within 60 days after award of the Contract, that member shall be appointed by mutual consent of the Department's Director, Office of Construction, and the President of the Florida Transportation Builders Association.

Immediately after agreement is reached on all members of the Board the Contractor, the Department and the members of the Board shall proceed with execution of a Three Party Agreement as provided on the Department's web site. The execution of this agreement will not modify the requirements, terms or conditions of this Specification.

If during the life of the Contract, a Board member has a discussion regarding employment or entered into any agreement for employment after completion of the Contract with the Department, the Contractor or any subcontractor or supplier on the project, he/she shall immediately disclose this to the Contractor and the Department and shall be disqualified from serving on the Board.

Should the Department and the Contractor mutually agree to terminate a Disputes Review Board Three Party Agreement, the existing Disputes Review Board Three Party Agreement will remain in force until replaced by another a fully executed Disputes Review Board Three Party Agreement. If, after the Department has made final acceptance of the project,

there are unresolved disputes and claims remaining, the Disputes Review Board Three Party Agreement shall remain active and in full force and effect until the project is otherwise administratively closed by the Department following final payment so that the Board may continue in operation until all unresolved disputes and claims are resolved.

**8-3.7.8 Limitation for Referral of Disputes or Claims to the Board:** Any disputes or claims that were not resolved prior to Final Acceptance of the project pursuant to 5-11 must be referred to the Board within 90 calendar days after Final Acceptance on projects with an original Contract amount of \$3,000,000 or less, and within 180 calendar days after Final Acceptance on projects with an original Contract amount greater than \$3,000,000. Only duly preserved disputes or claims will be eligible to be heard by the Board. Failure to submit all disputes or claims to the Board within aforementioned timeframe after Final Acceptance constitutes an irrevocable waiver of the Contractor's dispute or claim.

**8-3.7.9. Basis of Payment:** A per day cost of \$3,900.00 has been established by the Department to reimburse the Contractor for providing compensation to the three members of the Disputes Review Board. This amount will be paid to the Contractor for each day the Disputes Review Board is convened for regular DRB project meetings. For each day of the meeting, the Contractor shall compensate each Disputes Review Board member a sum of \$1,300.00. Such payment will be full compensation to the Board member for salary and all travel expenses (air fare, rental or personal automobile, motel room, meals, etc.) related to membership on the Board. Do not pay prior to the execution of the Three Party Agreement.

A per hearing cost of \$9,000 has been established by the Department for providing compensation for all members of the Dispute Review Board for participation in an actual hearing. The Board chairman will receive \$3,500 for participation in the hearing while the remaining two members will receive \$2,750 each. The Department and the Contractor will equally provide compensation to the Board for participation in an actual hearing. The Department will compensate the Contractor \$4,500 as its contribution to the hearing cost. Such payment will be full and complete compensation to the Board members for all expenses related to the hearing. This includes travel, accommodations, meals, pre- and post- hearing work, review of position papers and any rebuttals, conducting the hearing, drafting and issuance of recommendations, readdressing any requests for clarification. It is not intended for hearings to last longer than a single day, however, in some cases they may. Any additional time and/or compensation for a hearing would only be allowed upon prior written approval of the Department and the Contractor. If an additional day(s) is granted for the hearing, it will be at \$3,900 per day, regular meeting rate, payment of which is equally split between the Department and the Contractor.

The Department will prepare and mail minutes and progress reports, will provide administrative services, such as conference facilities and secretarial services, and will bear the cost of these services.

If the Board desires special services, such as legal consultation, accounting, data research, and the like, both parties must agree, and the costs will be shared by them as mutually agreed.

Payment shall be made under:

Item No. 999- 20- 1 Disputes Review Board meeting - per day.

Item No. 999- 20- 2 Disputes Review Board hearing - per each

**8-3.8 Statewide Disputes Review Board:** For this Contract, a Statewide Disputes Review Board will be available to assist in the resolution of disputes and claims arising out of

the administration and enforcement of a specification when such specification specifically refers disputes to this Board.

**8-3.8.1 Purpose:** The Board will provide special expertise to assist in and facilitate the timely and equitable resolution of the disputes and claims between the Contractor and the Department.

It is not intended that the Department or the Contractor default on their normal responsibility to cooperatively and fairly settle their differences by indiscriminately assigning them to the Board. It is intended that the Board encourage the Department and Contractor to resolve potential disputes or claims without resorting to this alternative resolution procedure.

The Board will be used when normal Department-Contractor dispute or claim resolution is unsuccessful. Either the Department or the Contractor may refer a dispute or claim to the Board. Referral to the Board should be initiated as soon as it appears that the normal dispute resolution effort is not succeeding. Referral to the Board is accomplished by providing a position paper outlining the nature and scope of the dispute or claim and describing the basis for entitlement to the dispute or claim. Only disputes or claims that have been duly preserved under the terms of the Contract as determined by the Board will be eligible to be heard by the Board. Requests for equitable adjustment must be certified as required by 4-3.2. Claims that are referred to the Board must be in compliance with 5-12. It is a condition of this Contract that the parties shall use the Statewide Disputes Review Board.

The recommendations of the Board will be binding on both the Department and the Contractor.

The Board will fairly and impartially and without regard to how or by whom they may have been appointed, consider disputes or claims referred to it and will provide written recommendations to the Department and Contractor to assist in the resolution of these disputes or claims.

**8-3.8.2 Membership:** The Statewide Disputes Review Board will consist of members pre-selected by the Engineer and the President of the Florida Transportation Builders' Association (FTBA), and posted on the Department's Website.

Members on the Board will be pre-qualified as experts of the type of work being referred to this Board.

If during the life of the contract, a Board member has a discussion regarding employment or entered into any agreement for employment after completion of the contract with the Department, the Contractor or any subcontractor or supplier on the project, he/she shall immediately disclose this to the Contractor and the Department and shall be disqualified from serving on the Board.

After the Department has made final acceptance of the project, if disputes arise, the Statewide Disputes Review Board shall be activated to hear and rule on the disputed issue.

**8-3.8.3 Procedure and Schedules for Disputes Resolution:** Disputes or claims will be considered as quickly as possible, taking into consideration the particular circumstances and the time required to prepare detailed documentation. Steps may be omitted as agreed by the Department and the Contractor and the time periods stated below may be shortened in order to hasten resolution.

1. If the Contractor objects to any decision, action or order of the Engineer resulting from the Engineer's evaluation of the guaranteed product or performance period, the

Contractor may file a written protest with the Engineer, stating clearly and in detail the basis for the objection, within 15 days after the event.

2. The Engineer will consider the written protest and make his decision on the basis of the pertinent contract provisions, together with the facts and circumstances involved in the dispute. The Engineer's decision will be furnished in writing to the Contractor within 15 days after receipt of the Contractor's written protest.

3. The Engineer's decision will be final and conclusive on the subject, unless the Contractor files a written appeal to the Engineer within 15 days of receiving the decision. Upon the Engineer's receipt of the Contractor's written appeal containing specific protest of all or part of the Engineer's decision, either the Department or the Contractor can refer the matter to the Board.

4. Upon receipt by the Board of a written duly preserved protest of a dispute or claim, either from the Department or the Contractor, it will first be decided when to conduct the hearing.

5. Either party furnishing any written evidence or documentation to the Board will furnish copies of such information to the other party a minimum of 15 days prior to the date the Board sets to convene the hearing for the dispute or claim. If the Board requests any additional documentation or evidence prior to, during, or after the hearing, the Department and/or Contractor will provide the requested information to the Board and to the other party.

6. The Contractor and the Department will each be afforded an opportunity to be heard by the Board and to offer evidence. Neither the Department nor the Contractor may present information at the hearing that was not previously distributed to both the Board and the other party.

7. The Board's recommendations for resolution of the dispute or claim will be given in writing to both the Department and the Contractor, within 15 days of completion of the hearings. The Board will focus its attention in the written report to matters of responsibility for repairs of guaranteed work or performance period as provided for by the Contract Documents.

**8-3.8.4 Contractor Responsibility:** The Contractor shall furnish to each Board member a set of all pertinent documents that are or may become necessary for the Board, except documents furnished by Department, to perform their function. Pertinent documents are any drawings or sketches, calculations, procedures, schedules, estimates, or other documents which are used in the performance of the work or in justifying or substantiating the Contractor's position. A copy of such pertinent documents must also be furnished to the Department.

Except for its participation in the Board's activities as provided in the construction Contract and in this Agreement, the Contractor will not solicit advice or consultation from the Board or any of its members on matters dealing in any way with the project, the conduct of the work or resolution of problems.

**8-3.8.5 Department Responsibilities:** Except for its participation in the Board's activities as provided in the construction Contract and in this Agreement, the Department will not solicit advice or consultation from the Board or any of its members on matters dealing in any way with the project, the conduct of the work or resolution of problems.

The Department shall furnish the following services and items:

1. **Contract Related Documents:** The Department shall furnish each Board member a copy of all Contract Documents, supplemental agreements, written instructions issued by the Department to the Contractor, or other documents pertinent to the performance of

the Contract and necessary for the Board to perform their function. A copy of such pertinent documents must also be furnished to the Contractor.

2. Coordination and Services: The Department, in cooperation with the Contractor, will coordinate the operations of the Board. The Department, through the Project Engineer, will arrange or provide conference facilities at or near the Contract site and provide secretarial and copying services.

**8-3.8.6 Basis of Payment:** A per hearing cost of \$9,000 has been established by the Department for providing compensation for all members of the Dispute Review Board for participation in an actual hearing. The Board chairman will receive \$3,500 for participation in the hearing while the remaining two members will receive \$2,750 each. The Department and the Contractor will equally provide compensation to the Board for participation in an actual hearing. The Department will compensate the Contractor \$4,500 as its contribution to the hearing cost. Such payment will be full and complete compensation to the Board members for all expenses related to the hearing. This includes travel, accommodations, meals, pre- and post- hearing work, review of position papers and any rebuttals, conducting the hearing, drafting and issuance of recommendations, readdressing any requests for clarification. It is not intended for hearings to last longer than a single day, however, in some cases they may. Any additional time and/or compensation for a hearing would only be allowed upon prior written approval of the Department and the Contractor. If an additional day(s) is granted for the hearing, it will be at \$3,900 per day, payment of which is equally split between the Department and the Contractor. Payment shall be made by issuing a work order against contingency funds set aside for this Contract.

The Department will prepare and mail minutes and progress reports, will provide administrative services, such as conference facilities and secretarial services, and will bear the cost of these services. If the Board desires special services, such as legal consultation, accounting, data research, and the like, both parties must agree, and the costs will be shared by them as mutually agreed.

#### **8-4 Limitations of Operations.**

**8-4.1 Night Work:** During active nighttime operations, furnish, place and maintain lighting sufficient to permit proper workmanship and inspection. Use lighting with 5 ft-cd minimum intensity. Arrange the lighting to prevent interference with traffic or produce undue glare to property owners. Operate such lighting only during active nighttime construction activities. Provide a light meter to demonstrate that the minimum light intensity is being maintained.

Lighting may be accomplished by the use of portable floodlights, standard equipment lights, existing street lights, temporary street lights, or other lighting methods approved by the Engineer.

During active nighttime operations, furnish, place and maintain variable message signs to alert approaching motorists of lighted construction zones ahead. Operate the variable message signs only during active construction activities.

Include compensation for lighting for night work in the Contract prices for the various items of the Contract. Take ownership of all lighting equipment for night work.

**8-4.2 Sequence of Operations:** Do not open up work to the prejudice of work already started. The Engineer may require the Contractor to finish a section on which work is in progress before starting work on any additional section.

**8-4.3 Interference with Traffic:** At all times conduct the work in such manner and in such sequence as to ensure the least practicable interference with traffic. Operate all vehicles and other equipment safely and without hindrance to the traveling public. Park all private vehicles outside the clear zone. Place materials stored along the roadway so as to cause no obstruction to the traveling public as possible.

Where existing pavement is to be widened and stabilizing is not required, prevent any open trench from remaining after working hours by scheduling operations to place the full thickness of widened base by the end of each day. Do not construct widening strips simultaneously on both sides of the road, except where separated by a distance of at least 1/4 mile along the road and where either the work of excavation has not been started or the base has been completed.

**8-4.4 Coordination with other Contractors:** Sequence the work and dispose of materials so as not to interfere with the operations of other Contractors engaged upon adjacent work; join the work to that of others in a proper manner, in accordance with the spirit of the Contract Documents; and perform the work in the proper sequence in relation to that of other Contractors; all as may be directed by the Engineer.

Each Contractor is responsible for any damage done by him or his agents to the work performed by another Contractor.

**8-4.5 Drainage:** Conduct the operations and maintain the work in such condition to provide adequate drainage at all times. Do not obstruct existing functioning storm sewers, gutters, ditches, and other run-off facilities.

**8-4.6 Fire Hydrants:** Keep fire hydrants on or adjacent to the highway accessible to fire apparatus at all times, and do not place any material or obstruction within 15 feet of any fire hydrant.

**8-4.7 Protection of Structures:** Do not operate heavy equipment close enough to pipe headwalls or other structures to cause their displacement.

**8-4.8 Fencing:** Erect permanent fence as a first order of business on all projects that include fencing where the Engineer determines that the fencing is necessary to maintain the security of livestock and other animals on adjacent property, or for protection of pedestrians who are likely to gain access to the project from adjacent property. Secure the right-of-way on Limited Access Facilities at all times by a fence, either temporary or permanent, that meets the height of the existing fence or the height required in the Contract.

**8-4.9 Contaminated Materials:** When the construction operations encounter or expose any abnormal condition that may indicate the presence of a contaminated material, discontinue such operations in the vicinity of the abnormal condition and notify the Engineer immediately. Be alert for the presence of tanks or barrels; discolored or stained earth, metal, wood, ground water; visible fumes; abnormal odors; excessively hot earth; smoke; or other conditions that appear abnormal as possible indicators of the presence of contaminated materials. Treat these conditions with extraordinary caution.

Make every effort to minimize the spread of any contaminated materials into uncontaminated areas.

Do not resume the construction operations in the vicinity of the abnormal conditions until so directed by the Engineer.

Dispose of the contaminated material in accordance with the requirements and regulations of any Local, State, or Federal agency having jurisdiction. Where the Contractor

performs unforeseen work necessary to dispose of contaminated material, the Department will pay for this work as provided in 4-4.

The Department agrees to hold harmless and indemnify the Contractor for damages when the Contractor discovers or encounters contaminated materials or pollutants during the performance of services for the Department when the presence of such materials or pollutants were unknown or not reasonably discoverable. Such indemnification agreement is only effective if the Contractor immediately stops work and notifies the Department of the contaminated material or pollutant problem.

Such indemnification agreement is not valid for damages resulting from the Contractor's willful, wanton, or intentional conduct or the operations of Contaminated and Hazardous Material Contractors.

This Contract may require the removal and special disposal of mercury-containing devices.

Contact Alan Hagans, at (850) 330-1511 for information relating to the identification and proper disposal of these hazardous waste materials.

Include payment for the removal and disposal of mercury-containing devices in the payment for the related Contract items.

### **8-5 Qualifications of Contractor's Personnel.**

Provide competent, careful, and reliable superintendents, foremen, and workmen. Provide workmen with sufficient skill and experience to properly perform the work assigned to them. Provide workmen engaged on special work, or skilled work, such as bituminous courses or mixtures, concrete bases, pavements, or structures, or in any trade, with sufficient experience in such work to perform it properly and satisfactorily and to operate the equipment involved. Provide workmen that shall make due and proper effort to execute the work in the manner prescribed in the Contract Documents, or the Engineer may take action as prescribed below.

The Design Build Firm is prohibited on the basis of conflict of interest from utilizing any Consultant to perform Quality Control services during the construction phase of this Project when the Consultant is under contract with the Department, or under a subcontract thereto, to perform services or work in any way pertaining to this Project. Prior to the Firm approving a Consultant for Quality Control services during the construction phase, the Firm shall submit to the Department a Certificate from the proposed Consultant certifying that no conflict of interest exists as prohibited hereunder.

Whenever the Engineer determines that any person employed by the Contractor is incompetent, unfaithful, intemperate, disorderly, or insubordinate, the Engineer will provide written notice and the Contractor shall discharge the person from the work. Do not employ any discharged person on the project without the written consent of the Engineer. If the Contractor fails to remove such person or persons, the Engineer may withhold all estimates that are or may become due, or suspend the work until the Contractor complies with such orders. Protect, defend, indemnify, and hold the Department, its agents, officials, and employees harmless from all claims, actions, or suite arising from such removal, discharge, or suspension of employees.

### **8-6 Temporary Suspension of Contractor's Operations.**

**8-6.1 Authority to Suspend Contractor's Operations:** The Engineer has the authority to suspend the Contractor's operations, wholly or in part. The Engineer will order such suspension in writing, giving in detail the reasons for the suspension. Contract Time will be

charged during all suspensions of Contractor's operations. The Department may grant an extension of Contract time in accordance with 8-7.3.2 when determined appropriate in the Department's sole judgment.

No additional compensation or time extension will be paid or granted to the Contractor when the operations are suspended for the following reasons:

1. The Contractor fails to comply with the Contract Documents.
2. The Contractor fails to carry out orders given by the Engineer.
3. The Contractor causes conditions considered unfavorable for continuing

the Work.

Immediately comply with any suspension order. Do not resume operations until authorized to do so by the Engineer in writing. Any operations performed by the Contractor, and otherwise constructed in conformance with the provisions of the Contract, after the issuance of the suspension order and prior to the Engineer's authorization to resume operations will be at no cost to the Department. Further, failure to immediately comply with any suspension order will also constitute an act of default by the Contractor and is deemed sufficient basis in and of itself for the Department to declare the Contractor in default, in accordance with 8-9, with the exception that the Contractor will not have ten calendar days to correct the conditions for which the suspension was ordered.

**8-6.1.1 State of Emergency:** The Engineer has the authority to suspend the Contractor's operations, wholly or in part, pursuant to a Governor's Declaration of a State of Emergency. The Engineer will order such suspension in writing, giving in detail the reasons for the suspension. Contract Time will be charged during all suspensions of Contractor's operations. The Department, at its sole discretion, may grant an extension of Contract Time and reimburse the Contractor for specific costs associated with such suspension. Further, in such instances, the Department's determination as to entitlement to either time or compensability will be final, unless the Contractor can prove by clear and convincing evidence to a Disputes Review Board that the Department's determination was without any reasonable factual basis.

**8-6.2 Prolonged Suspensions:** If the Engineer suspends the Contractor's operations for an indefinite period, store all materials in such manner that they will not obstruct or impede the traveling public unnecessarily or become damaged in any way. Take every reasonable precaution to prevent damage to or deterioration of the work performed. Provide suitable drainage of the roadway by opening ditches, shoulder drains, etc., and provide any temporary structures necessary for public travel through the project.

**8-6.3 Permission to Suspend Contractor's Operations:** Do not suspend operations or remove equipment or materials necessary for completing the work without obtaining the Engineer's written permission. Submit all requests for suspension of operations in writing to the Engineer, and identify specific dates to begin and end the suspension. The Contractor is not entitled to any additional compensation for suspension of operations during such periods.

**8-6.4 Suspension of Contractor's Operations-Holidays and Special Events:** Unless the Contractor submits a written request to work during one or more days of a Holiday or Special Event at least ten days in advance of the beginning date of the Holiday or Special event and receives written approval from the Engineer, the Contractor shall not work on the following days: Martin Luther King, Jr. Day; Memorial Day; the Saturday and Sunday immediately preceding Memorial Day; Independence Day; Independence Day (Observed); Labor Day; the Friday, Saturday, and Sunday immediately preceding Labor Day; Veterans Day; Veterans Day (Observed); the Wednesday immediately preceding Thanksgiving; Thanksgiving Day; the



Friday, Saturday and Sunday immediately following Thanksgiving Day; December 24 through January 2, inclusive; and Special Events noted in the RFP. Contract Time will be charged during these Holiday and Special Event periods regardless of whether or not the Contractor's operations have been suspended. Contract time will be adjusted in accordance with 8-7.3.2. The Contractor is not entitled to any additional compensation beyond any Contract Time adjustment for suspension of operations during such Holiday and Special Event periods.

During such suspensions, remove all equipment and materials from the clear zone, except those required for the safety of the traveling public and retain sufficient personnel at the job site to properly meet the requirements of Sections 102 and 104. The Contractor is not entitled to any additional compensation for removal of equipment from clear zones or for compliance with Section 102 and Section 104 during such holiday periods.

## **8-7 Computation of Contract Time.**

**8-7.1 General:** Perform the contracted work fully, entirely, and in accordance with the Contract Documents within the Contract Time specified in the proposal, or as may be extended in accordance with the provisions herein below.

**8-7.2 Date of Beginning of Contract Time:** The date on which Contract Time begins is the date the Notice to Proceed is issued by the Department.

### **8-7.3 Adjusting Contract Time:**

**8-7.3.1 Increased Work:** The Department may grant an extension of Contract Time when it increases the Contract amount due to adding new work or providing for unforeseen work. The Department will base the consideration for granting an extension of Contract Time on the extent that the time normally required to complete the additional designated work delays the Contract completion schedule.

**8-7.3.2 Contract Time Extensions:** The Department may grant an extension of Contract Time when a controlling item of work is delayed by factors not reasonably anticipated or foreseeable at the time of bid. The Department may allow such extension of time only for delays occurring during the Contract Time period or authorized extensions of the Contract Time period. When failure by the Department to fulfill an obligation under the Contract results in delays to the controlling items of work, the Department will consider such delays as a basis for granting a time extension to the Contract.

Whenever the Engineer suspends the Contractor's operations, as provided in 8-6, for reasons other than the fault of the Contractor, the Engineer will grant a time extension for any delay to a controlling item of work due to such suspension. The Department will not grant time extensions to the Contract for delays due to the fault or negligence of the Contractor.

The Department does not include an allowance for delays caused by the effects of inclement weather or suspension of Contractor's operations as defined in 8-6.4, in establishing Contract Time. The Engineer will continually monitor the effects of weather and, when found justified, grant time extensions on either a bimonthly or monthly basis. The Engineer will not require the Contractor to submit a request for additional time due to the effects of weather.

The Department will grant time extensions, on a day for day basis, for delays caused by the effects of rains or other inclement weather conditions, related adverse soil conditions or suspension of operations as defined in 8-6.4 that prevent the Contractor from productively performing controlling items of work resulting in:

1. The Contractor being unable to work at least 50% of the normal work day on pre-determined controlling work items; or

2. The Contractor must make major repairs to work damaged by weather, provided that the damage is not attributable to the Contractor's failure to perform or neglect; and provided that the Contractor was unable to work at least 50% of the normal workday on pre-determined controlling work items.

No additional compensation will be made for delays caused by the effects of inclement weather.

The Department may consider the delays in delivery of materials or component equipment that affect progress on a controlling item of work as a basis for granting a time extension if such delays are beyond the control of the Contractor or supplier. Such delays may include an area-wide shortage, an industry-wide strike, or a natural disaster that affects all feasible sources of supply. In such cases, the Contractor shall submit substantiating letters from a representative number of manufacturers of such materials or equipment clearly confirming that the delays in delivery were the result of an area-wide shortage, an industry-wide strike, etc. No additional compensation will be made for delays caused by delivery of materials or component equipment.

The Department will not consider requests for time extension due to delay in the delivery of custom manufactured equipment such as traffic signal equipment, highway lighting equipment, etc., unless the Contractor submits documentation that he placed the order for such equipment in a timely manner, the delay was caused by factors beyond the manufacturer's control, and the lack of such equipment caused a delay in progress on a controlling item of work. No additional compensation will be paid for delays caused by delivery of custom manufactured equipment.

The Department will consider the affect of utility relocation and adjustment work on job progress as the basis for granting a time extension only if all the following criteria are met:

1. Delays are the result of either utility work that was not detailed in the plans, or utility work that was detailed in the plans but was not accomplished in reasonably close accordance with the schedule included in the Contract Documents.

2. Utility work actually affected progress toward completion of controlling work items.

3. The Contractor took all reasonable measures to minimize the effect of utility work on job progress, including cooperative scheduling of the Contractor's operations with the scheduled utility work at the preconstruction conference and providing adequate advance notification to utility companies as to the dates to coordinate their operations with the Contractor's operations to avoid delays.

As a condition precedent to an extension of Contract Time the Contractor must submit to the Engineer:

A preliminary request for an extension of Contract Time must be submitted in writing to the Engineer within ten calendar days after the commencement of a delay to a controlling item of work. If the Contractor fails to submit this required preliminary request for an extension of Contract Time, the Contractor fully, completely, absolutely and irrevocably waives any entitlement to an extension of Contract Time for that delay. In the case of a continuing delay only a single preliminary request for an extension of Contract Time will be required. Each such preliminary request for an extension of Contract Time shall include as a minimum the commencement date of the delay, the cause of the delay, and the controlling item of work affected by the delay.

Furthermore, the Contractor must submit to the Engineer a request for a Contract Time extension in writing within 30 days after the elimination of the delay to the controlling item of work identified in the preliminary request for an extension of Contract Time. Each request for a Contract Time extension shall include as a minimum all documentation that the Contractor wishes the Department to consider related to the delay, and the exact number of days requested to be added to Contract Time. If the Contractor contends that the delay is compensable, then the Contractor shall also be required to submit with the request for a Contract Time extension a detailed cost analysis of the requested additional compensation in accordance with 4-3 and 5-12. If the Contractor fails to submit this required request for a Contract Time extension, with or without a detailed cost analysis, depriving the Engineer of the timely opportunity to verify the delay and the costs of the delay, the Contractor waives any entitlement to an extension of Contract Time or additional compensation for the delay.

Upon timely receipt of the preliminary request of Contract Time from the Contractor, the Engineer will investigate the conditions, and if it is determined that a controlling item of work is being delayed for reasons beyond the control of the Contractor the Engineer will take appropriate action to mitigate the delay and the costs of the delay. Upon timely receipt of the request for a Contract Time extension the Engineer will further investigate the conditions, and if it is determined that there was an increase in the time or the cost of performance of the controlling item of work beyond the control of the Contractor, then an adjustment of Contract Time will be made, and a monetary adjustment will be made, excluding loss of anticipated profits, and the Contract will be modified in writing accordingly.

The existence of an accepted schedule, including any required update(s), as stated in 8-3.2, is a condition precedent to the Contractor having any right to the granting of an extension of contract time or any monetary compensation arising out of any delay. Contractor failure to have an accepted schedule, including any required update(s), for the period of potential impact, or in the event the currently accepted schedule and applicable updates do not accurately reflect the actual status of the project or fail to accurately show the true controlling or non-controlling work activities for the period of potential impact, will result in any entitlement determination as to time or money for such period of potential impact being limited solely to the Department's analysis and identification of the actual controlling or non-controlling work activities. Further, in such instances, the Department's determination as to entitlement as to either time or compensability will be final, unless the Contractor can prove by clear and convincing evidence to a Disputes Review Board that the Department's determination was without any reasonable factual basis.

## **8-8 Failure of Contractor to Maintain Satisfactory Progress.**

**8-8.1 General:** Pursue the work to completion. Section 337.16 of the Florida Statutes establishes certain requirements pertaining to the suspension or revocation of a Contractor's Certificate of Qualification because of delinquency on a previously awarded Contract.

### **8-8.2 Regulations Governing Suspension for Delinquency:**

1. A Contractor is delinquent when the Contract Time for performing the work has expired, and the Contractor has not completed the Contract work.
2. Once the Department determines that the Contractor is delinquent, the Department will give the Contractor written notice of intent to suspend the Contractor's Certificate of Qualification. If the Contractor disagrees with the delinquency, the Contractor shall file a request for an administrative hearing with the Clerk of Agency Proceedings within ten days of receipt of the notice of intent to suspend. If the Contractor does not file a request, the

Department will make the suspension conclusive and final. The request for hearing is filed when the Contractor delivers it to, and it is received by, the Clerk of Agency Proceedings, Mail Station 58, 562 Haydon Burns Building, 605 Suwannee Street, Tallahassee, Florida 32399-0450.

3. If the Contractor files a request for a hearing, the Department will schedule the hearing within 30 days of the hearing officer's receipt of the request.

4. The Department will continue the period of suspension of the Contractor's Certificate of Qualification until the Contractor is no longer delinquent. If the Contractor requests an administrative hearing, the Department's final order, depending on the outcome of the hearing, will set forth the time period of suspension for the number of days the Department determines that the Contractor was delinquent, even if the Contractor cures the delinquency during the pendency of the administrative proceedings.

5. During the period of suspension of the Contractor's Certificate of Qualification, the Department will not allow the Contractor and its affiliates to bid on any Department Contract, regardless of dollar amount, and will not approve the Contractor as a subcontractor on any Department contract.

6. The Department may grant extensions of time during the prosecution of the work as allowed under these Specifications regardless of the Contractor's delinquency status.

## **8-9 Default and Termination of Contract.**

**8-9.1 Determination of Default:** The following acts or omissions constitute acts of default and, except as to subparagraphs (9 and 11), the Department will give notice, in writing, to the Contractor and his surety for any delay, neglect or default, if the Contractor:

1. fails to begin the work under the Contract within the time specified in the Notice to Proceed;

2. fails to perform the work with sufficient workmen and equipment or with sufficient materials to ensure prompt completion of the Contract;

3. performs the work unsuitably, or neglects or refuses to remove materials or to perform anew such work that the Engineer rejects as unacceptable and unsuitable;

4. discontinues the prosecution of the work, or fails to resume discontinued work within a reasonable time after the Engineer notifies the Contractor to do so;

5. becomes insolvent or is declared bankrupt, or files for reorganization under the bankruptcy code, or commits any act of bankruptcy or insolvency, either voluntarily or involuntarily;

6. allows any final judgment to stand against him unsatisfied for a period of ten calendar days;

7. makes an assignment for the benefit of creditors;

8. fails to comply with Contract requirements regarding minimum wage payments or EEO requirements;

9. fails to comply with the Engineer's written suspension of work order within the time allowed for compliance and which time is stated in that suspension of work order; or

10. for any other cause whatsoever, fails to carry on the work in an acceptable manner, or if the surety executing the bond, for any reasonable cause, becomes unsatisfactory in the opinion of the Department.

11. fails to comply with 3-9.

For a notice based upon reasons stated in subparagraphs (1) through (8) and (10): if the Contractor, within a period of ten calendar days after receiving the notice described above, fails to correct the conditions of which complaint is made, the Department will, upon written

certificate from the Engineer of the fact of such delay, neglect, or default and the Contractor's failure to correct such conditions, have full power and authority, without violating the Contract, to take the prosecution of the work out of the hands of the Contractor and to declare the Contractor in default.

If the Contractor, after having received a prior notice described above for any reason stated in subparagraph (2), (3), (4), (5), (6) or (8), commits a second or subsequent act of default for any reason covered by the same subparagraph (2), (3), (4), (5), (6) or (8) as stated in the prior notice, and regardless whether the specific reason is the same, then, regardless of whether the Contractor has cured the deficiency stated in that prior notice, the Department will, upon written certificate from the Engineer of the fact of such delay, neglect or default and the Contractor's failure to correct such conditions, have full power and authority, without any prior written notice to the Contractor and without violating the Contract, to take the prosecution of the work out of the hands of the Contractor and to declare the Contractor in default.

Regarding subparagraph (9), if the Contractor fails to comply with the Engineer's written suspension of work order within the time allowed for compliance and which time is stated in that suspension of work order, the Department will, upon written certificate from the Engineer of the fact of such delay and the Contractor's failure to correct that condition, have full power and authority, without violating the Contract, to immediately take the prosecution of the work out of the hands of the Contractor and to declare the Contractor in default.

Regarding subparagraph (11), if the Contractor fails to comply with 3-9, the Department will have full power and authority, without violating the Contract, to immediately take the prosecution of the work out of the hands of the Contractor and to declare the Contractor in default.

The Department has no liability for anticipated profits for unfinished work on a Contract that the Department has determined to be in default.

Notwithstanding the above, the Department shall have the right to declare the Contractor (or its "affiliate") in default and immediately terminate this Contract, without any prior notice to the Contractor, in the event the Contractor (or its "affiliate") is at any time "convicted" of a "contract crime," as these terms are defined in Section 337.165(1), Florida Statutes. The Department's right to default the Contractor (or its "affiliate") for "conviction" of a "contract crime" shall extend to and is expressly applicable to any and all Department Contracts that were either advertised for bid; for which requests for proposals or letters of interest were requested; for which an intent to award was posted or otherwise issued; or for which a Contract was entered into, after the date that the underlying or related criminal indictment, criminal information or other criminal charge was filed against the Contractor (or its "affiliate") that resulted in the "conviction." In the event the Department terminates this Contract for this reason, the Contractor shall hereby forfeit any claims for additional compensation, extra time, or anticipated profits. The Contractor shall only be paid for any completed work up to the date of termination. Further, the Contractor shall be liable for any and all additional costs and expenses the Department incurs in completing the Contract work after such termination.

**8-9.2 Termination of Contract for Convenience:** The Department may terminate the entire Contract or any portion thereof, if the Secretary determines that a termination is in the Department's interest. The Secretary will deliver to the Contractor a Written Notice of Termination specifying the extent of termination and the effective date.

When the Department terminates the entire Contract, or any portion thereof, before the Contractor completes all items of work in the Contract, the Department will make

payment for the actual number of units or items of work that the Contractor has completed, at the Contract unit price, and according to the formulas and provisions set forth in 4-3.2 for items of work partially completed, and such payments will constitute full and complete compensation for such work or items. No payment of any kind or amount will be made for items of work not started. The Department will not consider any claim for loss of anticipated profits, or overhead of any kind (including home office and jobsite overhead or other indirect impacts) except as provided in 4-3.2 for partially completed work.

The Department will consider reimbursing the Contractor for actual cost of mobilization (when not otherwise included in the Contract) including moving equipment to the job where the volume of the work that the Contractor has completed is too small to compensate the Contractor for these expenses under the Contract unit prices.

The Department may purchase at actual cost acceptable materials and supplies procured for the work, that the Department has inspected, tested, and approved and that the Contractor has not incorporated in the work. Submit the proof of actual cost, as shown by receipted bills and actual cost records, at such points of delivery as the Engineer may designate.

Termination of a Contract or a portion thereof, under the provisions of this Subarticle, does not relieve the Contractor or the surety of its responsibilities for the completed portion of the Contract or its obligations for and concerning any just claims arising out of the work performed.

All Contractor claims for additional payment, due to the Department's termination of the entire Contract or any portion thereof, must meet the requirements of 5-12.

**8-9.3 Completion of Work by Department:** Upon declaration of default, the Department will have full power to appropriate or use any or all suitable and acceptable materials and equipment on the site and may enter into an agreement with others to complete the work under the Contract, or may use other methods to complete the work in an acceptable manner. The Department will charge all costs that the Department incurs because of the Contractor's default, including the costs of completing the work under the Contract, against the Contractor. If the Department incurs such costs in an amount that exceeds the sum that would have been payable under the Contract, then the Contractor and the surety shall be liable and shall pay the Department the amount of the excess.

If, after the ten day notice period and prior to any action by the Department to otherwise complete the work under the Contract, the Contractor establishes his intent to prosecute the work in accordance with the Department's requirements, then the Department may allow the Contractor to resume the work, in which case the Department will deduct from any monies due or that may become due under the Contract, any costs to the Department incurred by the delay, or from any reason attributable to the delay.

## **8-10 Liquidated Damages for Failure to Complete the Work.**

**8-10.1 Highway Code Requirements Pertaining to Liquidated Damages:** Section 337.18, paragraph (2) of the Florida Statutes, requires that the Department adopt regulations for the determination of default and provides that the Contractor pay liquidated damages to the Department for any failure of the Contractor to complete the Contract work within the Contract Time. These Code requirements govern, and are herewith made a part of the Contract.

**8-10.2 Amount of Liquidated Damages:** Applicable liquidated damages are the amounts established in the following schedule:

Original Contract Amount	Daily Charge Per Calendar Day
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\$50,000 and under.....	\$1,015
Over \$50,000 but less than \$250,000.....	\$1,045
\$250,000 but less than \$500,000.....	\$1,170
\$500,000 but less than \$2,500,000.....	\$1,690
\$2,500,000 but less than \$5,000,000.....	\$2,579
\$5,000,000 but less than \$10,000,000.....	\$3,756
\$10,000,000 but less than \$15,000,000.....	\$4,344
\$15,000,000 but less than \$20,000,000.....	\$5,574
\$20,000,000 and over.....	\$10,203 plus 0.00005 of any amount over \$20 million (Round to nearest whole dollar)

**8-10.3 Determination of Number of Days of Default:** For all Contracts, regardless of whether the Contract Time is stipulated in calendar days or working days, the Engineer will count default days in calendar days.

**8-10.4 Conditions under which Liquidated Damages are Imposed:** If the Contractor or, in case of his default, the surety fails to complete the work within the time stipulated in the Contract, or within such extra time that the Department may have granted then the Contractor or, in case of his default, the surety shall pay to the Department, not as a penalty, but as liquidated damages, the amount so due as determined by the Code requirements, as provided in 8-10.2.

**8-10.5 Right of Collection:** The Department has the right to apply, as payment on such liquidated damages, any money the Department owes the Contractor.

**8-10.6 Allowing Contractor to Finish Work:** The Department does not waive its right to liquidated damages due under the Contract by allowing the Contractor to continue and to finish the work, or any part of it, after the expiration of the Contract Time.

**8-10.7 Completion of Work by Department:** In the case of a default of the Contract and the completion of the work by the Department, the Contractor and his surety are liable for the liquidated damages under the Contract, but the Department will not charge liquidated damages for any delay in the final completion of the Department’s performance of the work due to any unreasonable action or delay on the part of the Department.

**8-11 Release of Contractor’s Responsibility.**

The Department considers the Contract complete when the Contractor has completed all work and the Department has accepted the work. The Department will then release the Contractor from further obligation except as set forth in his bond, and except as provided in 5-13.

**8-12 Recovery of Damages Suffered by Third Parties.**

In addition to the damages provided for in 8-10.1 and 8-10.2 and pursuant to Section.337.18 of the Florida Statutes, when the Contractor fails to complete the work within the Contract Time, the Department may recover from the Contractor amounts that the Department pays for damages suffered by third parties unless the failure to timely complete the work was caused by the Department’s act or omission.

**8-13 Damage Recovery.**

**8-13.1 Damages Suffered by Third Parties:** In addition to the damages provided for in 8-10.2 and pursuant to Section 337.18 of the Florida Statutes, when the Contractor fails to complete the work within the Contract Time the Department may recover from the Contractor

amounts that the Department pays for damages suffered by third parties unless the failure to timely complete the work was caused by the Department's act or omission.

**8-13.2 Damage Recovery/User Costs:** A damage recovery/user cost will be assessed against the Contractor if all lanes are not open to traffic during the times as shown in the Traffic Control Plans. Costs will be assessed beginning at the appropriate time as shown in the Traffic Control Plans and continue until all lanes are open as recorded by the Engineer. This assessment will be in the following amounts:

First 30 minutes and under: **\$4,500.00**

Each additional 30 minute period or portion thereof: **\$2,250.00**

Such costs will not exceed **\$30,000** over a 24 hour period.

At the discretion of the Engineer, damage recovery/user cost will not be assessed for failure to open traffic lanes if such cause is beyond the control of the Contractor, i.e., catastrophic events, accidents not related or caused by the Contractor's operations.

The Department will have the right to apply as payment on such damages any money which is due to the Contractor by the Department.

## SECTION 9 MEASUREMENT AND PAYMENT

### 9-1 Measurement of Quantities.

**9-1.1 Measurement Standards:** Measure all work completed under the Contract in accordance with the United States Standard Measures.

**9-1.2 Method of Measurements:** Take all measurements horizontally or vertically.

**9-1.3 Determination of Pay Areas:** Not applicable.

**9-1.4 Construction Outside Authorized Limits:** Not applicable.

**9-1.5 Truck Requirements:** Not applicable.

**9-1.6 Ladders and Instrument Stands for Bridge Projects:** Not applicable.

**9-1.7 Determination of Pay Reduction:** In measurement of areas of work, where pay reductions are to be assessed, the Engineer will use the lengths and/or widths in the calculations based upon station to station dimensions in the Contracts Documents; the station to station dimensions actually constructed within the limits designated by the Engineer; or the final dimensions measured along the final surface of the completed work within the neat lines shown in the Contract Documents or designated by the Engineer. The Engineer will use the method or combination of methods of measurement, which will reflect with reasonable accuracy, the actual surface area of the finished work as the Engineer determines.

Failure on the part of the Contractor to construct any item of work to plan or authorized dimensions within the specification tolerances will result in: reconstruction to acceptable tolerances at no additional cost to the Department; acceptance at no pay; or, acceptance at reduced pay, all at the discretion of the Engineer.

### 9-2 Scope of Payments.

**9-2.1 Items Included in Payment:** Accept the compensation as provided in the Contract Documents as full payment for furnishing all materials and for performing all work contemplated and embraced under the Contract; also for all loss or damage arising out of the nature of the work



or from the action of the elements, or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the work until its final acceptance; also for all other costs incurred under the provisions of Division I.

The Contract Lump Sum Price will include overhead, profits, and direct and indirect costs required to complete the project except as described below.

**9-2.1.1 Fuels:** On Contracts with an original Contract Time in excess of 120 calendar days, the Department will make price adjustments on each applicable progress estimate to reflect increases or decreases in the price of gasoline and diesel from those in effect during the month in which bids were received. The Contractor will not be given the option of accepting or rejecting these adjustments. Price adjustments for these fuels will be made only when the current fuel price (CFP) varies by more than 5% from the price prevailing in the month when bids were received (BFP), and then only on the portion that exceeds 5%.

The Contractor will certify the number of gallons of fuel (gasoline and/or diesel) used on this Contract during the period represented by each Contractor's Certified Monthly Estimate.

Price adjustments will be based on the monthly bulk average price for gas and diesel as derived by the Department. These average indexes shall be determined by averaging bulk fuel prices on the first day of each month as quoted by major oil companies that are reasonably expected to furnish fuel for projects in the State of Florida. Average price indices for gasoline and diesel will be available on the State Construction Office website before the 15th of each month at the following URL:  
<https://www.fdot.gov/construction/fuel-bit/fuel-bit.shtm>.

Payment on progress estimates will be adjusted to reflect adjustments in the prices for fuel in accordance with the following:

When fuel prices have decreased between month of bid and month of this progress estimate:

$A_i = F_i (P_i - 0.95 P_b)$  during a period of decreasing prices.

$A_i$  = Total dollar amount - positive or negative - of the cost adjustment for each kind of fuel used by the Contractor during the month "i."

$F_i$  = Total gallons calculated as being used during the month.

$P_i$  = Average price for fuel prevailing during month "i."

$P_b$  = Average price for fuel prevailing during the month "b" when bids were received on this Contract.

When fuel prices have increased between month of bid and month of this progress estimate:

$A_i = F_i (P_i - 1.05 P_b)$  during a period of increasing prices.

$A_i$  = Total dollar amount - positive or negative - of the cost adjustment for each kind of fuel used by the Contractor during the month "i."

$F_i$  = Total gallons calculated as being used during the month.

$P_i$  = Average price for fuel prevailing during month "i."

$P_b$  = Average price for fuel prevailing during the month "b" when bids were received on this Contract.

Gallons will be derived only from the established Standard Fuel Factor list posted on the State Construction Office website at the following URL:  
<https://www.fdot.gov/construction/fuel-bit/fuel-bit.shtm>.

The Department will provide a computer application that will calculate and print the gallons of gasoline and/or diesel for the items that these factors represent. The Contractor will attach this worksheet and record these gallons on the Contractor's Certified Monthly Estimate as required in 9-11.

Payment will be based on the quantities shown on the Contractor's Certified Monthly Estimate on all items for which established standard fuel factors are posted on the State Construction Office website at the following URL:  
<https://www.fdot.gov/construction/fuel-bit/fuel-bit.shtm>.

Payment will be made on the current progress estimate to reflect the index difference at the time work was performed. The total price adjustment for the Contract is limited to the pay quantity as specified in 9-2.3.2.

Adjustments will be paid or charged to the Prime Contractor only. Any Contractor receiving an adjustment under this provision shall distribute the proper proportional part of such adjustment to subcontractors who perform applicable work.

**9-2.1.2 Bituminous Material:** Prepare a Contractor's Certification of Quantities, using the Department's current approved form for Superpave Asphalt Base, Turnout Construction (Asphalt), Asphalt Treated Permeable Base, Superpave Asphaltic Concrete, Miscellaneous Asphalt Pavement, Asphalt Concrete Friction Course, and Asphalt Membrane Interlayer items. On Contracts having an original Contract Time of more than 365 calendar days, or more than 5,000 tons of asphalt concrete, the Department will adjust the bid unit price for bituminous material, excluding cutback and emulsified asphalt to reflect increases or decreases in the Asphalt Price Index (API) of bituminous material from that in effect during the month in which bids were received. The Contractor will not be given the option of accepting or rejecting this adjustment. Bituminous adjustments will be made only when the current API (CAPI) varies by more than 5% of the API prevailing in the month when bids were received (BAPI), and then only on the portion that exceeds 5%.

The Department will determine the API for each month by averaging quotations in effect on the first day of the month at all terminals that could reasonably be expected to furnish bituminous material to projects in the State of Florida.

The API will be available on the State Construction Office website before the 15th of each month at the following URL: <https://www.fdot.gov/construction/fuel-bit/fuel-bit.shtm>.

The Department will provide a computer application that will calculate and print the number of gallons of bituminous material for the items that these factors represent. The Contractor will attach this worksheet and record these gallons on the Contractor's Certified Monthly Estimate as required in 9-11.

Payment on progress estimates will be adjusted to reflect adjustments in the prices for bituminous materials in accordance with the following:

$$\text{\$ Adjustment} = (\text{ID})(\text{gallons})$$

Where ID = Index Difference = [CAPI - 0.95(BAPI)] when the API has decreased between the month of bid and month of this progress estimate.

Where ID = Index Difference = [CAPI - 1.05(BAPI)] when the API has increased between the month of bid and month of this progress estimate.

For all asphalt concrete, the number of gallons will be determined assuming a mix design with 6.25% liquid asphalt weighing 8.58 pounds per gallon.

For asphalt treated permeable base, the number of gallons will be determined assuming a mix design with 3% liquid asphalt weighing 8.58 pounds per gallon.

Payment will be made on the current progress estimate to reflect the index difference at the time work was performed. The total price adjustment for the Contract is limited to the pay quantity as specified in 9-2.3.2.

Adjustments will be paid or charged to the Prime Contractor only. Any Contractor receiving an adjustment under this provision shall distribute the proper proportional part of such adjustment to subcontractors who perform applicable work.

**9-2.2 Non-Duplication of Payment:** Not applicable.

**9-2.3 General Basis of Adjusted Pay:**

**9-2.3.1 Deficiencies:** When a deficiency occurs that results in the acceptance of a material at a reduced payment level as defined in these Specifications, the Engineer will apply a reduction in payment for the material in question based on the unit prices as determined using the six-month State wide pay item averages. The dates will be the six months prior to the letting date for this Contract.

**9-2.3.2 Asphalt Pay Adjustments:** Asphalt pay quantity adjustments apply to asphalt items listed in Sections 234, 334, 337, and 339.

For each item, the pay quantity will be based on the quantity placed on the project, limited to 105% of the adjusted quantity for the item. The adjusted quantity will be determined by dividing the sum of the quantities from the plan summary boxes (including any Engineer approved quantity revisions) by the design  $G_{mm}$  stated in 334-1.4 (design  $G_{sb}$  stated in 337-8.2 for FC-5), and multiplying by the tonnage-weighted average  $G_{mm}$  (tonnage-weighted average  $G_{sb}$  for FC-5) of the mixes used.

For each item, additions in pay will be made if the actual quantity placed exceeds the adjusted quantity. Additions in pay will be calculated by subtracting the adjusted quantity placed from the actual quantity placed, multiplied by the unit prices as determined by 9-2.3.1. The additional pay quantity shall not exceed 5% of the adjusted quantity.

For each item, reductions in pay will be made if the actual quantity placed is less than the adjusted quantity. Reductions in pay will be calculated by subtracting the adjusted quantity from the actual quantity placed, then multiplied by the unit prices as determined by 9-2.3.1.

**9-2.3.3 Asphalt Overbuild:** Where overbuild is called for in the Plans for the correction of cross-slope, the Engineer will make an adjustment in payment should the quantity of material placed be less than the adjusted quantity as calculated in 9-2.3.2. In addition, should the material placed exceed the adjusted quantity with no negative effect to the correction of cross-slope, an upward adjustment will be made representing the additional material placed. Adjustments in pay will be determined by subtracting the adjusted quantity from the quantity placed, then multiplying by the unit prices as determined in 9-2.3.1.

**9-2.3.4 Quality:** Where an adjustment of payment for quality is called for in the Contract Documents, the Engineer will make such adjustments for the corresponding quantity of material based on the unit prices as determined using the six month State wide pay item averages (using the dates six months prior to the letting date for this Contract), or the adjustment defined in Section 346, Developmental Specification Section 330, and Developmental Specification Section 350.

**9-2.3.5 Adjustment to the Lump Sum Payment for Deleted Items of Work:** When items of work are shown in the Contract Documents to be constructed or installed and due

to actual field conditions, it is determined by the Engineer that the items are not needed, a negative adjustment to the Contract will be made. The negative adjustment will be based on the actual cost of the items being deleted less all costs incurred prior to the date the Engineer determined the items are not needed and the Contractor will retain ownership of the items. The negative adjustment will be processed in accordance with 4-3.2.

### **9-3 Compensation for Altered Quantities.**

Not applicable.

### **9-4 Deleted Work.**

The Department will have the right to cancel the portions of the Contract relating to the construction of any acceptable item. The Department shall make an adjustment in payment to the Contractor of a fair and equitable amount covering the value of all cancelled work less all items of cost incurred prior to the date that the Engineer cancels or suspends the work.

In addition to having the right of canceling the portions of the Contract relating to the construction of any acceptable item therein, the Department shall have the right to cancel any portion of the engineering services. Said cancellation shall be in the same manner as contained herein.

### **9-5 Partial Payments.**

**9-5.1 General:** The Engineer will make partial payments on monthly estimates based on the estimated amount of work that the Contractor completes during the month (including delivery of certain materials, as specified herein below) based on a Contractor approved payout schedule (schedule of values). The Engineer will make approximate monthly payments, and the Department will correct all partial estimates and payments in the subsequent estimates and in the final estimate and payment.

The Department will base the amount of such payments on the total value of the work that the Contractor has performed to the date of the estimate, based on the quantities completed and the Contract prices, less payments previously made and less any retainage withheld.

Retainage will not be withheld until the percent of Contract Time used exceeds 75%. From that time forward, the Department will withhold retainage of 10% of the amount due on the current estimate as retainage when the percent of Contract Time used exceeds the percent of Contract amount earned by more than 15%.

Contract amount is defined as the original Contract amount adjusted by approved supplemental agreements.

Retainage will be determined for each job on multiple job Contracts. The Department will not accept Securities, Certificates of Deposit or letters of credit as a replacement for retainage. Amounts withheld will not be released until payment of the final estimate. **9-5.2**

**Unsatisfactory Payment Record:** In accordance with Sections 255.05 and 337.16 of the Florida Statutes, and the rules of the Department, the Department may disqualify the Contractor from bidding on future Department contracts if the Contractor's payment record in connection with contract work becomes unsatisfactory.

#### **9-5.3 Withholding Payment:**

**9-5.3.1 Withholding Payment for Defective Work:** If the Department discovers any defective work or material prior to the final acceptance, or if the Department has a reasonable doubt as to the integrity of any part of the completed work prior to final acceptance,

then the Department will not allow payment for such defective or questioned work until the Contractor has remedied the defect and removed any causes of doubt.

**9-5.3.2 Withholding Payment for Failure to Comply:** The Department will withhold progress payments from the Contractor if he fails to comply with any or all of the following within 60 days after beginning work:

1. Comply with and submit required documentation relating to prevailing wage rate provisions, Equal Employment Opportunity, On-The-Job-Training, and Affirmative Action;

2. Comply with the requirement to report all necessary information, including actual payments to DBEs, all other subcontractors and major suppliers, through the Internet based Equal Opportunity Reporting System;

3. Comply with or make a good faith effort to ensure equal employment opportunity for minorities and females hiring goals; and

4. Comply with or make a good faith effort to meet On-The-Job-Training goals.

The Department will withhold progress payments until the Contractor has satisfied the above conditions.

**9-5.4 Release of Retainage After Acceptance:** When the Contractor has furnished the Department with all submittals required by the Contract, such as invoices, EEO reports, materials certifications, certification of materials procured, etc., (excluding Contractor's letter of acceptance of final amount due and Form 21-A release) and the Engineer has determined that the measurement and computation of pay quantities is correct, the Department may reduce the retainage to \$1,000 plus any amount that the Department elects to deduct for defective work as provided in 9-5.3.

The Department may deduct from payment estimates any sums that the Contractor owes to the Department on any account. Where more than one project or job (separate job number) is included in the Contract, the Department will distribute the reduced retainage as provided in the first paragraph of this subarticle to each separate project or job in the ratio that the Contract value of the work for the particular job bears to the total Contract amount.

### **9-5.5 Partial Payments for Delivery of Certain Materials:**

**9-5.5.1 General:** The Department will allow partial payments for new materials that will be permanently incorporated into the project and are stockpiled in approved locations in the project vicinity. Stockpile materials so that they will not be damaged by the elements and in a manner that identifies the project on which they are to be used.

The following conditions apply to all payments for stockpiled materials:

1. There must be reasonable assurance that the stockpiled material will be incorporated into the specific project on which partial payment is made.

2. The stockpiled material must be approved as meeting applicable specifications.

3. The total quantity for which partial payment is made shall not exceed the estimated total quantity required to complete the project.

4. The Contractor shall submit to the Engineer certified invoices to document the value of the materials received. The amount of the partial payment will be determined from invoices for the material.

5. Delivery charges for materials delivered to the jobsite will be included in partial payments if properly documented.

6. Partial payments will not be made for materials, which were stockpiled prior to award of the Contract for a project.

**9-5.5.2 Partial Payment Amounts:** The following partial payment restrictions apply:

1. Partial payments less than \$5,000 for any one month will not be processed.

2. Partial payment will not be made for aggregate and base course material received after paving or base construction operations begin except when a construction sequence designated by the Department requires suspension of paving and base construction after the initial paving operations, partial payments will be reinstated until the paving and base construction resumes.

**9-5.5.3 Off Site Storage:** If the conditions of 9-5.5.1 are satisfied, partial payments will be allowed for materials stockpiled in approved in-state locations. Additionally, partial payments for materials stockpiled in approved out-of-state locations will be allowed if the conditions of 9-5.5.1 and the following conditions are met:

1. Furnish the Department a Materials Bond stating the supplier guarantees to furnish the material described in the Contract to the Contractor and Department. Under this bond, the Obligor shall be the material supplier and the Obligees shall be the Contractor and the Florida Department of Transportation. The bond shall be in the full dollar amount of the bid price for the materials described in the Contract.

2. The following clauses must be added to the construction Contract between the Contractor and the supplier of the stockpiled materials:

“Notwithstanding anything to the contrary, <supplier> will be liable to the Contractor and the Florida Department of Transportation should <supplier> default in the performance of this agreement.”

“Notwithstanding anything to the contrary, this agreement, and the performance bond issued pursuant to this agreement, does not alter, modify, or otherwise change the Contractor’s obligation to furnish the materials described in this agreement to the Florida Department of Transportation.”

3. The agreement between the Contractor and the supplier of the stockpiled materials must include provisions that the supplier will store the materials and that such materials are the property of the Contractor.

**9-5.6 Certification of Payment to Subcontractors:** The term “subcontractor,” as used herein, includes persons or firms furnishing materials or equipment incorporated into the work or stockpiled for which the Department has made partial payment and firms working under equipment-rental agreements. The Contractor is required to pay all subcontractors for satisfactory performance of their Contracts before the Department will make a further progress (partial) payment. The Contractor shall also return all retainage withheld to the subcontractors within 30 days after the subcontractor’s work is satisfactorily complete, as determined by the Department. Prior to receipt of any progress (partial) payment, the prime Contractor shall certify that all subcontractors having an interest in the Contract were paid for satisfactory performance of their Contracts and that the retainage is returned to subcontractors within 30 days after satisfactory completion of the subcontractor’s work. Submit this certification in the form designated by the Department.

Within 30 days of the Contractor's receipt of the final progress payment or any other payments thereafter, except the final payment, the Contractor shall pay all subcontractors and suppliers having an interest in the Contract for all work completed and materials furnished. The Department will honor an exception to the above when the Contractor demonstrates good cause for not making any required payment and submits written notification of any such good cause to both the Department and the affected subcontractors or suppliers within said 30-day period.

The Contractor shall indemnify and provide defense for the Department when called upon to do so for all claims or suits against the Department by third parties, pertaining to Contractor payment or performance issues arising out of the Contract. It is expressly understood that the monetary limitation on the extent of the indemnification shall be the approved Contract amount, which shall be the original Contract amount as may be increased by subsequent Supplemental Agreements.

## **9-6 Record of Construction Materials.**

**9-6.1 General:** For all construction materials used in the construction of the project, (except materials exempted by 9-6.2), preserve for the Department's inspection the invoices and records of the materials for a period of three years from the date of completion of the project. Apply this requirement when subcontractors purchase materials, and obtain the invoices and other materials records from the subcontractors. By providing the materials, the Contractor certifies that all invoices will be maintained for the required period.

**9-6.2 Non-Commercial Materials:** The provisions of 9-6.1 do not apply to materials generally classed as non-commercial, such as fill materials, local sand, sand-clay, or local materials used as stabilizer.

## **9-7 Disputed Amounts Due the Contractor.**

The Department reserves the right to withhold from the final estimate any disputed amounts between the Contractor and the Department. The Department will release all other amounts due, as provided in 9-8.

## **9-8 Acceptance and Final Payment.**

Whenever the Contractor has completely performed the work provided for under the Contract and the Engineer has performed a final inspection and made final acceptance (as provided in 5-10 and 5-11), and subject to the terms of 8-11, the Engineer will prepare a final estimate showing the value of the work as soon as the Engineer makes the necessary measurements and computations. The Engineer will correct all prior estimates and payments in the final estimate and payment. The Department will pay the estimate, less any sums that the Department may have deducted or retained under the provisions of the Contract, as soon as practicable after final acceptance of the work, along with all fully executed supplemental agreements received after final acceptance.

If the Contractor fails to furnish all required Contract Documents as listed in (1) through (9) below within 90 days of the Department's offer of final payment or request for refund of overpayment, the Department may suspend the Contractor's Certificate of Qualification under the provisions of Florida Administrative Code 14-22.

1. The Contractor has agreed in writing to accept the balance due or refund the overpayment, as determined by the Department, as full settlement of his account under the Contract and of all claims in connection therewith, or the Contractor, has through the use of the

Qualified Acceptance Letter, accepted the balance due or refunded the overpayment, as determined by the Department, with the stipulation that his acceptance of such payment or the making of such refund does not constitute any bar, admission, or estoppels, or have any effect as to those payments in dispute or the subject of a pending claim between the Contractor and the Department. To receive payment based on a Qualified Acceptance Letter, define in writing the dispute or pending claim with full particular of all items of all issues in dispute, including itemized amounts claimed for all particulars of all items, and submit it as part of the Qualified Acceptance Letter. The Contractor further agrees, by submitting a Qualified Acceptance Letter that any pending or future arbitration claim or suit is limited to those particulars, including the itemized amounts, defined in the original Qualified Acceptance Letter, and that he will commence with any such arbitration claim or suit within 820 calendar days from and after the time of final acceptance of the work and that his failure to file a formal claim within this period constitutes his full acceptance of the Engineer's final estimate and payment. The overpayment refund check from the Contractor, if required, will be considered a part of any Acceptance Letter executed.

2. The Contractor has properly maintained the project, as specified hereinbefore.

3. The Contractor has furnished a sworn affidavit to the effect that the Contractor has paid all bills and no suits are pending (other than those exceptions listed, if any) in connection with work performed under the Contract and that the Contractor has not offered or made any gift or gratuity to, or made any financial transaction of any nature with, any employee of the Department in the performance of the Contract. Include with the listed tort liability exceptions, if any, evidence of adequate insurance coverage as required in 7-13.

4. The surety on the Contract bond consents, by completion of their portion of the affidavit and surety release subsequent to the Contractor's completion of his portion, to final payment to the Contractor and agrees that the making of such payment does not relieve the surety of any of its obligations under the bond.

5. The Contractor has complied with and settled all requirements pertaining to any wage-rate provisions.

6. The Contractor has submitted all required mill tests and analysis reports to the Engineer.

7. The Contractor has furnished the Construction Compliance with Specifications and Plans Certification. Provide the Engineer with a notarized final certification of compliance with the requirements of Section 105 to accompany the final estimate. Certification must be on a form provided by the Engineer.

8. The Contractor has submitted and the Department has accepted all as-built drawings and certified surveys.

9. The Contractor has furnished all required manufacturers' warranties to the Engineer.

**9-8.2 Review of Engineer's Final Estimate:** The Department may review the Engineer's final estimate and make changes as necessary. If changes are made, the Contractor will be so notified in writing in the "Notification of Findings Due to Additional Review". This notification letter will detail the changes made as a result of the review, and will stipulate the actions to be taken by the Department and those required by the Contractor. The issuance of a "Notification of Findings Due to Additional Review" will not impact the requirements of 9-8.1, above.

Complete the required actions and submit the signed "Notification of Findings Due to Additional Review" to the Department within the timeframe specified in 9-8.1. If the



“Notification of Findings Due to Additional Review” is received after the time has expired in 9-8.1, submit to the Department within 30 days signifying agreement or disagreement with the findings. For disagreement items, submit a full explanation including the item(s) and amount. For any claim or part of a claim that pertains solely to the “Notification of Findings Due to Additional Review” disputes, submit full and complete claim documentation as described in 5-12.3 as to such claim dispute issues within 90 days of receipt of the notification. Failure to submit the signed notification or to submit such claim documentation within the time frames specified may result in suspension of the Contractor’s Certificate of Qualification under the provisions of Florida Administrative Code 14-22.

**9-9 Interest Due on Delayed Payments.**

The Department will determine and pay any interest due the Contractor for delays in final payment in accordance with Section 337.141 of the Florida Statutes.

**9-10 Offsetting Payments.**

Section 337.145 of the Florida Statutes, providing for offsetting payments to the Contractor, is hereby made a part of this Contract:

1. After settlement, arbitration, or final adjudication of any claim of the Department for work done pursuant to a construction Contract with any party, the Department may offset such amount from payments due for work done on any construction Contract, excluding amounts owed to subcontractors, suppliers, and laborers, which it has with the party owing such amount if, upon demand, payment of the amount is not made within 60 days to the Department.

2. Offsetting any amount pursuant to (1) above shall not be considered a breach of Contract by the Department.

**9-11 Submittals.**

**9-11.1 Submittal Instructions:** The Contractor will prepare a monthly estimate for each project in the Contract. Submit the monthly estimate to the Engineer. The Engineer will not pay for any item of work until the Contractor’s monthly estimate is approved.

**9-11.2 Contractor’s Certified Monthly Estimate:** The Contractor must make a request for payment by submitting a monthly estimate, no later than Twelve O’clock noon, Monday, after the estimate cut-off date or as directed by the Engineer, based on the amount of work completed. The Contractor’s certified monthly estimate must consist of the following:

1. Contract Number, Financial Project Identification Number, Estimate Number, Monthly Estimate Date and the period that the monthly estimate represents.

2. The basis for arriving at the amount of the monthly estimate including approximate quantities of work completed, less payment previously made and less the amount previously retained or withheld.

3. Contract Summary showing the percentage of dollar value of completed work based on the present Contract amount and the percentage of days used based on the present Contract days.

4. Certify the number of gallons of gasoline, diesel and bituminous material during the monthly estimate period.

**9-11.3 Payment to the Contractor:** Upon receipt of the Contractor’s monthly estimate and approval by the Engineer, payment will be made, less the amount retained or withheld per provisions included in the Contract. The monthly payments will be approximate only and will be

subject to reduction for overpayments or increase for underpayments on preceding payments to the Contractor and to correction in the subsequent estimates and the final estimate and payment process.



*Florida Department of Transportation*

RON DESANTIS  
GOVERNOR

1074 Highway 90  
Chipley, FL 32428

KEVIN J. THIBAUT, P.E.  
SECRETARY

11/26/2019 | 11:24 AM EST

Mr. Jody Anderson  
**MIDWAY WATER SYSTEM, INC.**  
4971 Gulf Breeze Parkway  
Gulf Breeze, FL 32563

Subject:	<b>Fin. Proj. No.:</b>	<b>220440-1-56-01</b>
	<b>FAP No.:</b>	<b>Funded</b>
	<b>County:</b>	<b>Santa Rosa</b>
	<b>Description:</b>	<b>S.R. 30 (U.S. 98) from Bayshore Road to Portside Drive (6 Lane Project Design Build)</b>

Dear Mr. Anderson:

Enclosed, please find an executed Utility Work by Highway Contractor Agreement covering the relocation of your water main that is in conflict by our Highway Contractor, concurrently with highway improvements.

We will need your deposit in the amount of \$1,144,921.00 made payable to the Florida Department of Transportation by or before December 15, 2019. **For security purposes, the Department strongly encourages payment by wire transfer and instructions are attached.** If payment by check is necessary, it should be mailed directly to Ms. Charmaine Small, LFA Section at the following address: Florida Department of Transportation, Office of Comptroller at 605 Suwannee Street, MS 42-B, Tallahassee, FL 32399. (Phone # (850) 414-4885) This transaction is pursuant to section three of the agreement. **The Financial Project Number should be referenced on your transfer or check.** If we can provide assistance, please advise.

Sincerely,

DocuSigned by:

John MacDonald, P.E.

AREA UTILITY MANAGER FOR THE  
FLORIDA DEPARTMENT OF TRANSPORTATION  
DISTRICT THREE

ATKINS - 2114 Airport Blvd., Suite 1450, Pensacola, FL 32504 - (850) 478-9844

cc: Charmaine Small (FDOT Comptroller's Office-LFA Accountant)  
Jonathan Harris (FDOT-District Utility Administrator)  
Dean Mitchell, P.E. (HNTB-Project Manager)  
Heath Riley (FDOT-District 3 PS&E Manager)  
Bill Evans (FDOT-District 3 Specifications Coordinator)  
Eric Benson, P.E. (FDOT-Resident Engineer)  
Dennis Thomason (FDOT-Construction Manager)  
Frank Fabre, P.E. (Fabre Engineering-Engineer for Midway Water)  
File 220440-1-56-01

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**UTILITY WORK BY HIGHWAY CONTRACTOR AGREEMENT**  
 (LUMP SUM)

Form No. 710-010-57  
 UTILITIES  
 07/14

<b>Financial Project ID: 220440-1-56-01</b>	<b>Federal Project ID: Funded</b>
<b>Financial Project ID:</b>	
<b>Financial Project ID:</b>	
<b>Financial Project ID:</b>	
<b>County: Santa Rosa</b>	<b>State Road No.: 30</b>
<b>District Document No:</b>	
<b>Utility Agency/Owner (UAO): MIDWAY WATER SYSTEM, INC.</b>	

11/26/2019 | 11:24 AM EST

**THIS AGREEMENT**, entered into this \_\_\_\_\_ day of \_\_\_\_\_, year of \_\_\_\_\_, by and between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**, hereinafter referred to as the "FDOT," and **MIDWAY WATER SYSTEM, INC.**, hereinafter referred to as the "UAO";

**WITNESSETH:**

**WHEREAS**, the **UAO** owns certain utility facilities which are located on the public road or publicly owned rail corridor identified below, hereinafter referred to as the "Facilities" (said term shall be deemed to include utility facilities as the same may be relocated, adjusted, or placed out of service); and

**WHEREAS**, the **FDOT**, is currently engaging in a project which involves constructing, reconstructing, or otherwise changing a public road and other improvements located on a public road or publicly owned rail corridor identified as SR 30 (US 98) from Bayshore Road to Portside Drive, State Road No. 30, hereinafter referred to as the "Project"; and

**WHEREAS**, the Project requires minor modifications to the Facilities or the **FDOT's** design more particularly described in Exhibit A attached hereto and by this reference made a part hereof, hereinafter referred to as "Utility Work," and full plans and technical specifications for the Utility Work are not required; and

**WHEREAS**, the **FDOT** will perform the Utility Work as part of the Project; and

**WHEREAS**, the **UAO**, pursuant to the terms and conditions hereof, will bear certain costs associated with the Utility Work; and

**WHEREAS**, the **FDOT** and the **UAO** desire to enter into an agreement which establishes the terms and conditions applicable to the Utility Work;

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants contained herein, the **FDOT** and the **UAO** hereby agree as follows:

**1. Performance of Utility Work**

- a. The **FDOT** will include the Utility Work in its plans and specifications for the Project and will include the Utility Work as part of the **FDOT's** construction of the Project. The preparation of the plans and specifications and the construction of the Project will be performed in such manner as the **FDOT**, in its discretion, deemed appropriate.
- b. All location, protection, relocation, adjustment, or removal of the **UAO's** Facilities which is not listed in Exhibit A shall be performed pursuant to a separate agreement.

**2. Cost of Utility Work**

- a. The **UAO** will, at least \_\_\_\_\_ (\_\_\_\_\_) calendar days prior to the date on which the **FDOT** advertises the Project for bids, pay the **FDOT** the amount of \$ \_\_\_\_\_ for the cost of the Utility Work. Said amount will be deposited into the State Transportation Trust Fund.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**UTILITY WORK BY HIGHWAY CONTRACTOR AGREEMENT**  
(LUMP SUM)

Form No. 710-010-57  
UTILITIES  
07/14

- b. The **FDOT** and the **UAO** acknowledge and agree that the amount stated above includes an additional ten percent (10%) to cover the **UAO's** obligation for the cost of the Utility Work as set forth in Section 337.403(1)(b), Florida Statutes.
- c. Except for costs associated with any changes or additions to the Utility Work, the **FDOT** and the **UAO** agree that the deposit shall be an asset of the **FDOT** and that it constitutes a full and final lump sum payment for the cost of the Utility Work, without any requirement for a subsequent accounting for the use of the deposit.
- d. Pursuant to Section 337.403(1)(b), Florida Statutes, no changes or additions to the Utility Work will be made during the construction of the Project unless the **UAO** has made an additional deposit to cover the cost of the changes or additions. To the extent that the amount stated in Subparagraph 2.a. above exceeds the amount of the **FDOT contractor's** bid that applies to the Utility Work, such excess may be applied to cover the cost of the changes or additions. All changes or additions shall be subject to the limitations on supplemental agreements and change orders contained in Section 337.11(8), Florida Statutes.

### 3. Default

- a. In the event that the **UAO** breaches any provision of this Agreement, then in addition to any other remedies which are otherwise provided for in this Agreement, the **FDOT** may exercise one or more of the following options, provided that at no time shall the **FDOT** be entitled to receive double recovery of damages:
- (1) Terminate this Agreement if the breach is material and has not been cured within 60 days from written notice thereof from the **FDOT**.
  - (2) Pursue a claim for damages suffered by the **FDOT**.
  - (3) Suspend the issuance of further permits to the **UAO** for the placement of Facilities on **FDOT** property if the breach is material and has not been cured within 60 days from written notice thereof from **FDOT** until such time as the breach is cured.
  - (4) Pursue any other remedies legally available.
  - (5) Perform any work with its own forces or through contractors and seek repayment for the cost thereof under Section 337.403(3), Florida Statutes.
- b. In the event that the **FDOT** breaches any provision of this Agreement, then in addition to any other remedies which are otherwise provided for in the Agreement, the **UAO** may exercise one or more of the following options:
- (1) Terminate this Agreement if the breach is material and has not been cured within 60 days from written notice thereof from the **UAO**.
  - (2) Pursue any other remedies legally available.
- c. Termination of this Agreement shall not relieve either party from any obligations it has pursuant to other agreements between the parties and from any statutory obligations that either party may have with regard to the subject matter hereof.

### 4. Indemnification

**FOR GOVERNMENT-OWNED UTILITIES:**

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**UTILITY WORK BY HIGHWAY CONTRACTOR AGREEMENT**  
(LUMP SUM)

Form No. 710-010-57  
UTILITIES  
07/14

To the extent provided by law, the **UAO** shall indemnify, defend, and hold harmless the **FDOT** and all of its officers, agents, and employees from any claim, loss, damage, cost, charge, or expense arising out of any acts, action, error, neglect, or omission by the **UAO**, its agents, employees, or contractors during the performance of the Agreement, whether direct or indirect, and whether to any person or property to which **FDOT** or said parties may be subject, except that neither the **UAO**, its agents, employees, or contractors will be liable under this section for damages arising out of the injury or damage to persons or property directly caused by or resulting from the negligence of the **FDOT** or any of its officers, agents, or employees during the performance of this Agreement.

When the **FDOT** receives a notice of claim for damages that may have been caused by the **UAO** in the performance of services required under this Agreement, the **FDOT** will immediately forward the claim to the **UAO**. The **UAO** and the **FDOT** will evaluate the claim and report their findings to each other within fourteen (14) working days and will jointly discuss options in defending the claim. After reviewing the claim, the **FDOT** will determine whether to require the participation of the **UAO** in the defense of the claim or to require the **UAO** to defend the **FDOT** in such claim as described in this section. The **FDOT's** failure to notify the **UAO** of a claim shall not release the **UAO** from any of the requirements of this section. The **FDOT** and the **UAO** will pay their own costs for the evaluation, settlement negotiations, and trial, if any. However, if only one party participates in the defense of the claim at trial, that party is responsible for all costs.

**FOR NON-GOVERNMENT-OWNED UTILITIES:**

The **UAO** shall indemnify, defend, and hold harmless the **FDOT** and all of its officers, agents, and employees from any claim, loss, damage, cost, charge, or expense arising out of any acts, action, error, neglect, or omission by the **UAO**, its agents, employees, or contractors during the performance of the Agreement, whether direct or indirect, and whether to any person or property to which **FDOT** or said parties may be subject, except that neither the **UAO**, its agents, employees, or contractors will be liable under this section for damages arising out of the injury or damage to persons or property directly caused by or resulting from the negligence of the **FDOT** or any of its officers, agents, or employees during the performance of this Agreement.

The **UAO's** obligation to indemnify, defend, and pay for the defense or at the **FDOT's** option, to participate and associate with the **FDOT** in the defense and trial of any damage claim or suit and any related settlement negotiations, shall arise within fourteen (14) days of receipt by the **UAO** of the **FDOT's** notice of claim for indemnification to the **UAO**. The notice of claim for indemnification shall be served by certified mail. The **UAO's** obligation to defend and indemnify within fourteen (14) days of such notice shall not be excused because of the **UAO's** inability to evaluate liability or because the **UAO** evaluates liability and determines the **UAO** is not liable or determines the **FDOT** is solely negligent. Only a final adjudication or judgment finding the **FDOT** solely negligent shall excuse performance of this provision by the **UAO**. The **UAO** shall pay all costs and fees related to this obligation and its enforcement by the **FDOT**. The **FDOT's** delay in notifying the **UAO** of a claim shall not release **UAO** of the above duty to defend.

**5. Force Majeure**

Neither the **UAO** nor the **FDOT** shall be liable to the other for any failure to perform under this Agreement to the extent such performance is prevented by an act of God, war, riots, natural catastrophe, or other event beyond the control of the non-performing party and which could not have been avoided or overcome by the exercise of due diligence; provided that the party claiming the excuse from performance has (a) promptly notified the other party of the occurrence and its estimate duration, (b) promptly remedied or mitigated the effect of the occurrence to the extent possible, and (c) resumed performance as soon as possible.

**6. Miscellaneous**

- a. To the Facilities shall at all times remain the property of and be properly protected and maintained by the **UAO** in accordance with the then current Utility Accommodation Manual and the current utility permit for the Facilities.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**UTILITY WORK BY HIGHWAY CONTRACTOR AGREEMENT**  
(LUMP SUM)

Form No. 710-010-57  
UTILITIES  
07/14

- b. Pursuant to Section 287.058, Florida Statutes, the **FDOT** may unilaterally cancel this Agreement for refusal by the **UAO** to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the **UAO** in conjunction with this Agreement.
- c. This Agreement constitutes the complete and final expression of the parties with respect to the subject matter hereof and supersedes all prior agreements, understandings, or negotiations with respect thereto, except that the parties understand and agree that the **FDOT** has manuals and written policies and procedures which shall be applicable at the time of the Project and the relocation of the Facilities and except that the **UAO** and the **FDOT** may have entered into other agreements for work not included in Exhibit A for Facilities located within the limits of the Project. Copies of **FDOT** manuals, policies, and procedures will be provided to the **UAO** upon request.
- d. This Agreement shall be governed by the laws of the State of Florida. Any provision hereof found to be unlawful or unenforceable shall be severable and shall not affect the validity of the remaining portions hereof.
- e. Time is of essence in the performance of all obligations under this Agreement.
- f. All notices required pursuant to the terms hereof may be sent by first class United States Mail, facsimile transmission, hand delivery, or express mail and shall be deemed to have been received by the end of five business days from the proper sending thereof unless proof of prior actual receipt is provided. The **UAO** shall have a continuing obligation to notify each District of the **FDOT** of the appropriate persons for notices to be sent pursuant to this Agreement. Unless otherwise notified in writing, notices shall be sent to the following addresses:

If to the **UAO**:

Mr. Jody Anderson, Operations Director
4971 Gulf Breeze Parkway
Gulf Breeze, FL 32563

If to the **FDOT**:

Mr. John MacDonald, P.E., Area Utility Manager
2114 Airport Blvd., Suite 1450
Pensacola, FL 32504

## 7. Certification

This document is a printout of an **FDOT** form maintained in an electronic format and all revisions thereto by the **UAO** in the form of additions, deletions, or substitutions are reflected only in an Appendix entitled Changes to Form Document and no change is made in the text of the document itself. Hand notations on affected portions of this document may refer to changes reflected in the above-named Appendix but are for reference purposes only and do not change the terms of the document. By signing this document, the **UAO** hereby represents that no change has been made to the text of this document except through the terms of the appendix entitled Changes to Form Document."

You **MUST** signify by selecting or checking which of the following applies:

- No changes have been made to this Form Document and no Appendix entitled "Changes to Form Document" is attached.
- No changes have been made to this Form Document, but changes are included on the attached Appendix entitled "Changes to Form Document."



STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**UTILITY WORK BY HIGHWAY CONTRACTOR AGREEMENT**  
(LUMP SUM)

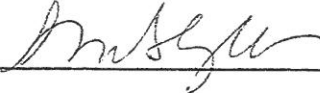
Form No. 710-010-57  
UTILITIES  
07/14

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**UTILITY WORK BY HIGHWAY CONTRACTOR AGREEMENT**  
(LUMP SUM)

Form No. 710-010-57  
UTILITIES  
07/14

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective the day and year first written.

UTILITY: MIDWAY WATER SYSTEM, INC.

BY: (Signature)   
(Typed Name: **Brenda Agricola**)  
(Typed Title: **General Manager**)

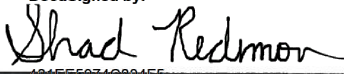
DATE: 11/4/2019

Recommend Approval by the District Utility Office

DocuSigned by:  
BY: (Signature)   
486538A7FF14422...


DATE: 11/14/2019 | 11:02 AM EST

FDOT Legal review

DocuSigned by:  
BY: (Signature)   
481EE5074C804F5...  
**District Counsel**

DATE: 11/15/2019 | 1:55 PM EST

STATE OF FLORIDA  
DEPARTMENT OF TRANSPORTATION

DocuSigned by:  
BY: (Signature)   
00EA910BEA3D404...  
(Typed Name: **Jared Perdue, P.E.**)  
(Typed Title: **Director of Transportation Development**)

DATE: 11/26/2019 | 11:24 AM EST

FEDERAL HIGHWAY ADMINISTRATION (if applicable)

BY: \_\_\_\_\_  
(Typed Name: \_\_\_\_\_)  
(Typed Title: \_\_\_\_\_)

DATE: \_\_\_\_\_

UTILITY WORK BY HIGHWAY CONTRACTOR AGREEMENT (LUMP SUM)

UAO:

APPENDIX

CHANGES TO FORM DOCUMENT

FINANCIAL PROJECT ID: 220440-1-56-01

FEDERAL PROJECT ID: D319-079-B

The Utility Work by Highway Contractor Agreement (LUMP SUM) between the State of Florida Department of Transportation (“**FDOT**”) and the Midway Water System, Inc. (“**UAO**”) dated the \_\_\_\_ day of \_\_\_\_\_, year of 2019, is amended as follows:

1. The third recital, or “whereas” clause, is amended to read as follows:

“WHEREAS, the Project requires the location (vertically and/or horizontally), protection, relocation, adjustment or removal of the Facilities, or some combination thereof, hereinafter referred to as “Utility Work”; and”

2. The fourth recital, or “whereas” clause, is amended to read as follows:

“WHEREAS, the **FDOT** and the **UAO** desire to enter into an agreement for the Utility Work to be accomplished by the **FDOT**’s Design-Build Firm as part of the construction of the Project; and”

3. The fifth recital, or “whereas” clause, is amended to read as follows:

“WHEREAS, the **UAO** pursuant to the terms and conditions hereof, will bear all costs associated with the Utility Work and the Utility Design; and”

4. A new Section 1 is hereby inserted in the agreement before the section for “Performance of Utility Work” to read as follows:

**1. Design of Utility Work**

- a. **UAO** shall prepare, at **UAO** ’s sole cost and expense, a conceptual engineering design, plans and technical special provisions to be included as attachments to the Request for Proposal for the Project, and a cost estimate for the Utility Work, hereinafter referred to as the “Plans Package,” on or before September 30, 2019.”
- b. The Plans Package shall be in the same format as the **FDOT**’s contract documents for the Request for Proposal and shall be suitable for reproduction.”
- c. [Intentionally left blank]
- d. The Plans Package shall be prepared in compliance with the **FDOT**’s Utility Accommodation Manual and the **FDOT**’s Design Manual in effect at the time the Plans Package is prepared, and the **FDOT**’s contract documents for the Request for Proposal. If the **FDOT**’s Design Manual has been updated and conflicts with the Utility Accommodation Manual, the Utility Accommodation Manual shall apply where such conflicts exist.

- e. The technical special provisions which are a part of the Plans Package shall be prepared in accordance with the **FDOT's** guidelines on preparation of technical special provisions and shall not duplicate or change the general contracting provisions of the **FDOT's** Standard Specifications for Road and Bridge Construction and any Supplemental Specifications, Special Provisions, or Developmental Specifications of the **FDOT** for the Plans.
- f. The **FDOT** shall review the Plans Package to see that it complies with the requirements of this Agreement.
- g. In the event that the **FDOT** finds any deficiencies in the Plans Package, the **FDOT** will notify the **UAO** in writing of the deficiencies within the time specified in the plans review transmittal. The **FDOT's** review of the documents shall not relieve the **UAO** from responsibility for subsequently discovered errors or omissions.
- h. The **FDOT** shall furnish the **UAO** such information from the **FDOT's** files as requested by the **UAO**; however, the **UAO** shall at all times be and remain solely responsible for proper preparation of the Plans Package and for verifying all information necessary to properly prepare the Plans Package. The providing of information by the **FDOT** shall not relieve the **UAO** of this obligation nor transfer any of that responsibility to the **FDOT**. This Plans Package will be included in the **FDOT** Design-Build Request For Proposal (RFP) package for the Project. The **FDOT** shall have the selected Design Build Firm complete the final design on behalf of the **UAO** using the provided Technical Special Provisions and other requirements as outlined in the RFP.
- i. The Facilities and the Utility Work will include all utility facilities of the **UAO** which are located within the limits of the Project, except as generally summarized as follows:     N/A    . These exceptions shall be handled by separate arrangement.
- j. If any facilities of the **UAO** located within the project limits are discovered after work on the project commences to be qualified for relocation at the **FDOT's** expense, but not previously identified as such, the **UAO** shall file a claim with the **FDOT** for recovery of the cost of relocation thereof. The filing of the claim shall not necessarily entitle the **UAO** to payment, and resolution of the claim shall be based on a determination of fault for the error. The discovery of facilities not previously identified as being qualified for relocation at the **FDOT's** expense shall not invalidate this Agreement.
- k. The **UAO** shall fully cooperate with all other right of way users in the preparation of the Plans Package. Any conflicts that cannot be resolved through cooperation shall be resolved in the manner determined by the **FDOT**.
- l. Upon completion of the Utility Work, the Facilities shall be deemed to be located on the public road or publicly owned rail corridor under and pursuant to the Utility Permit issued after the letting of the project.

5. The section for "Performance of Utility Work" in the agreement is deleted and the following is inserted in its place as new Section 2:

**"2. Performance of Utility Work**

- a. The **FDOT** shall incorporate the Plans Package into its contract for design-build of the Project.
  - b. The **FDOT** shall procure a contract for construction of the Project in accordance with the **FDOT's** requirements.
  - c. The **FDOT** shall perform all engineering inspection, testing, and monitoring of the Utility Work to insure it is properly performed in accordance with the Plans Package, except for the following activities: N/A  
**FDOT** will furnish daily diary records showing approved quantities and amounts for weekly, monthly, and final estimates in accordance with the format required by **FDOT** procedures.
  - d. The **UAO** shall fully cooperate with the **FDOT** and the **FDOT's** contractor in all matters relating to the performance of the Utility Work.
  - e. The **FDOT's** engineer has full authority over the Project and the **UAO** shall be responsible for coordinating and cooperating with the **FDOT's** engineer. In so doing, the **UAO** shall make such adjustments and changes in the Plans Package as the **FDOT's** engineer shall determine are necessary for the prosecution of the Project.
  - f. The **UAO** shall not make any changes to the Plans Package after the date on which the **FDOT's** contract documents are advertised for the Request for Proposal unless those changes fall within the categories of changes allowed pursuant to the **FDOT** design-build project requirements and **FDOT** design-build policies and procedures.
  - g. If the portion of the bid of the contractor selected by the **FDOT** which is for performance of the Utility Work exceeds the **FDOT's** official estimate for the Utility Work by more than ten percent (10%) and the **FDOT** does not elect to participate in the cost of the Utility Work pursuant to Section 337.403(1)(b), Florida Statutes, the **UAO** may elect to have the Utility Work removed from the **FDOT's** contract by notifying the **FDOT** in writing within 5 days from the date that the **UAO** is notified of the bid amount. Unless this election is made, the Utility Work shall be performed as part of the Project by the **FDOT's** contractor.
  - h. If the **UAO** elects to remove the Utility Work from the **FDOT's** contract in accordance with Subparagraph 2. g., the **UAO** shall perform the Utility Work.
6. Section 2, "Cost of Utility Work," is renumbered as Section 3.

7. Renumbered Section 3. is deleted and the following is inserted in its place as new Section 3:
- a. Upon execution of this Agreement and delivery to **FDOT**, The **UAO** will pay the **FDOT** the amount of \$ 1,144,921.00 for the cost of the Utility Work on or prior to December 15, 2019. Said amount will be deposited into the State Transportation Trust Fund.” In the event **UAO** does not deposit funds the Utility Work will be removed from the Request for Proposal for the Project and the **UAO** shall perform the Utility Work.
  - b. The **FDOT** and the **UAO** acknowledge and agree that the amount stated above includes an additional ten percent (10%) to cover the **UAO** 's obligation for the cost of the Utility Work as set forth in Section 337.403(1)(b), Florida Statutes.
  - c. Payment of the funds pursuant to this paragraph will be made directly to the **FDOT** for deposit into the State Transportation Trust Fund.
  - d. If the portion of the contractor's bid selected by the **FDOT** for performance of the Utility Work exceeds the amount of the deposit made pursuant to Subparagraph a. above, then subject to and in accordance with the limitations and conditions established by Subparagraph 2. g. hereof regarding **FDOT** participation in the cost of the Utility Work and the **UAO** 's election to remove the Utility Work from the Request for Proposal for the Project, the **UAO** shall, within fourteen (14) calendar days from notification from the **FDOT** or prior to posting of the accepted bid, whichever is earlier, pay an additional amount to the **FDOT** to bring the total amount paid to the total obligation of the **UAO** for the cost of the Utility Work, plus Allowances and 10% Contingency Fund. In the event **UAO** does not deposit funds the Utility Work will be removed from the Request for Proposal for the Project and the **UAO** shall perform the Utility Work.. The **FDOT** will notify the **UAO** as soon as it becomes apparent the accepted bid amount plus allowances and contingency is in excess of the advance deposit amount; however, failure of the **FDOT** to so notify the **UAO** shall not relieve the **UAO** from its obligation to pay for its full share of project costs on final accounting as provided herein below. In the event that the **UAO** is obligated under this Subparagraph 3.d. to pay an additional amount and the additional amount that the **UAO** is obligated to pay does not exceed the Contingency Fund already on deposit, the **UAO** shall have sixty (60) calendar days from notification from the **FDOT** to pay the additional amount, regardless of when the accepted bid is posted.
  - e. If the accepted bid amount plus allowances and contingency is less than the advance deposit amount, the **FDOT** will refund the amount that the advance deposit exceeds the bid amount, plus allowances and contingency if such refund is requested by the **UAO** in writing and approved by the Comptroller of the **FDOT** or his/her designee.
  - f. Pursuant to Section 337.403(1)(b), Florida Statutes, no changes or additions to the Utility Work will be made during the construction of the Project unless the

**UAO** has made an additional deposit to cover the cost of the changes or additions prior to those changes or additions being made to the Utility Work. To the extent that the amount stated in Subparagraph 3.a. above exceeds the amount of the **FDOT** contractor's bid that applies to the Utility Work, such excess may be applied to cover the cost of the changes or additions. All changes or additions shall be subject to the limitations on supplemental agreements and change orders contained in Section 337.11(9), Florida Statutes.

- g. Upon final payment to the Contractor, the **FDOT** intends to have its final and complete accounting of all costs incurred in connection with the work performed hereunder within three hundred sixty (360) days. All project cost records and accounts shall be subject to audit by a representative of the **UAO** for a period of three (3) years after final close out of the Project. The **UAO** will be notified of the final cost. Both parties agree that in the event the final accounting of total project costs pursuant to the terms of this agreement is less than the total deposits to date, a refund of the excess will be made by the **FDOT** to the **UAO** in accordance with Section 215.422, Florida Statutes. In the event said final accounting of total project costs is greater than the total deposits to date, the **UAO** will pay the additional amount within forty (40) calendar days from the date of the invoice. The **UAO** agrees to pay interest at a rate as established pursuant to Section 55.03, Florida Statutes, on any invoice not paid within the time specified in the preceding sentence until the invoice is paid.

8. The remaining sections of the agreement are hereby renumbered as follows:

Section Number	Section Title	New Section Number
3	Default	4
4	Indemnification	5
5	Force Majeure	6
6	Miscellaneous	7
7	Certification	8

RECEIVED  
DPS, STATE OF FLORIDA  
BILATERAL MANAGEMENT

**THREE PARTY ESCROW AGREEMENT**

2018 NOV 12 PM 1:55

THIS AGREEMENT is made and entered into by and between the State of Florida, Department of Transportation ("FDOT"), Midway Water System, Inc. ("Participant"), and the State of Florida, Department of Financial Services, Division of Treasury ("Escrow Agent"), and shall become effective upon the Agreement's execution by Escrow Agent.

WHEREAS, FDOT and Participant are engaged in the following project ("Project"):

Project Name: S.R. 30 (U.S. 98) from Bayshore Road to Portside Drive  
Project #: 220440-1-56-01  
County: Santa Rosa

WHEREAS, FDOT and Participant desire to establish an escrow account for the project.

NOW THEREFORE, in consideration of the premises and the covenants contained herein, the parties agree to the following:

1. An initial deposit will be made into an interest bearing escrow account established hereunder for the purposes of the Project. The escrow account will be opened with the Escrow Agent on behalf of FDOT upon Escrow Agent's receipt and execution of this Agreement.
2. Other deposits to the escrow account may be made during the life of this agreement.
3. Deposits will be delivered in accordance with instructions provided by the Escrow Agent to the FDOT for deposit into the escrow account. A wire transfer or ACH deposit is the preferred method of payment and should be used whenever possible.
4. FDOT's Comptroller or designee shall be the sole signatory on the escrow account with the Escrow Agent and shall have sole authority to authorize withdrawals from the account. Withdrawals will only be made to FDOT or the Participant in accordance with the instructions provided to the Escrow Agent by FDOT's Comptroller or designee.
5. Moneys in the escrow account will be invested in accordance with section 17.61, Florida Statutes. The Escrow Agent will invest the moneys expeditiously. Income is only earned on the moneys while invested. There is no guaranteed rate of return. Investments in the escrow account will be assessed a fee in accordance with Section 17.61(4)(b), Florida Statutes. All income of the investments shall accrue to the escrow account.
6. Unless instructed otherwise by FDOT, all interest accumulated in the escrow account shall remain in the account for the purposes of the Project.



7. The Escrow Agent agrees to provide written confirmation of receipt of funds to FDOT. FDOT agrees to provide a copy of such written confirmation to Participant upon request.
8. The Escrow Agent further agrees to provide quarterly reports to FDOT concerning the escrow account. FDOT agrees to provide a copy of such quarterly reports to Participant upon request.
9. The Escrow Agent shall not be liable for any error of judgment or for any act done or omitted by it in good faith, or for anything which it may in good faith do or refrain from doing in connection herewith.
10. Escrow Agent shall have no liability for any claim, cost, expense, damage or loss due to the acts or omissions of FDOT and Participant, nor from any separate agreements between FDOT and Participant and shall have no responsibility to monitor or enforce any responsibilities herein or in any separate agreements associated with this Agreement between FDOT and Participant.
11. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Florida.
12. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
13. This Agreement shall terminate upon disbursement by the Escrow Agent of all money held by it in the escrow account in accordance with the instructions given by FDOT's Comptroller or designee and notification from FDOT to Escrow Agent that the account is to be closed.

*The remainder of this page is blank.*

RECEIVED  
DFS, STATE OF FLORIDA  
COLLATERAL MANAGEMENT

2019 NOV 12 PM 1:55

IN WITNESS WHEREOF, the parties have duly executed the Agreement on the date(s) below.

Jason D. Adams  
For FDOT-OOC (signature)

Brenda Agricola  
For PARTICIPANT (signature)

Jason D. Adams, Deputy Comptroller  
Name and Title

Brenda Agricola, General Manager  
Name and Title

59-3024028  
Federal Employer I.D. Number

F591532752001 59-1532752  
Federal Employer I.D. Number

11/7/19  
Date

11/4/2019  
Date

FDOT Legal Review:

[Signature]

[Signature]  
For Escrow Agent (signature)

Tanner Collins, Director  
Name and Title

11/13/19  
Date

Midway Water System, Inc			
Pay Item	Unit	Description	Estimated Quantities
1050 51212	LF	UTILITY PIPE- DUCTILE IRON/CAST IRON, FURNISH & INSTALL, WATER/SEWER, 12"	6344
1055 51112	EA	UTILITY FITTINGS, DUCTILE IRON/CAST IRON, FURNISH & INSTALL ELBOW, 12"	92
---	EA	CUT IN 12" AC WATERMAIN (INCLUDED IN COST)	38
---	EA	CUT IN 8" PVC (INCLUDED IN COST)	4
---	EA	CUT IN 6" PVC (INCLUDED IN COST)	2
1050 31206	LF	UTILITY PIPE- POLY VINYL CHLORIDE, FURNISH & INSTALL, WATER/SEWER, 6"	125
---	EA	6" ELBOWS (INCLUDED IN COST)	22
0337 7 83	TN	ASPHALT CONCRETE FRICTION COURSE, TRAFFIC C. PG-12.5, PG 76-22	3.5
0101 1	LS	MOBILIZATION	1
---	LF	DEWATERING	4108
1050 42206	LF	UTILITY PIPE- HIGH DENSITY POLYETHYLENE, FURNISH & INSTALL, WATER/SEWER, 6"	170
1050 51206	LF	UTILITY PIPE- DUCTILE IRON/CAST IRON, FURNISH & INSTALL, WATER/SEWER, 6"	60
1050 16004	LF	UTILITY PIPE, REMOVE & DISPOSE, 8-19.9"	5779
1080 21400	EA	UTILITY FIXTURE, VALVE/METER BOX, RELOCATE	16
1080 21500	EA	UTILITY FIXTURE, VALVE/METER BOX, ADJUST	2
1080 24108	EA	UTILITY FIXTURE, VALVE ASSEMBLY, FURNISH AND INSTALL, 8"	4
1080 24106	EA	UTILITY FIXTURE, VALVE ASSEMBLY, FURNISH AND INSTALL, 6"	2
1050 42208	LF	UTILITY PIPE- HIGH DENSITY POLYETHYLENE, FURNISH & INSTALL, WATER/SEWER, 8"	320
1055 51108	EA	UTILITY FITTINGS, DUCTILE IRON/CAST IRON, FURNISH & INSTALL ELBOW, 8"	20
1050 31208	LF	UTILITY PIPE- POLY VINYL CHLORIDE, FURNISH & INSTALL, WATER/SEWER, 8"	40
1055 51212	EA	UTILITY FITTINGS, DUCTILE IRON/CAST IRON, FURNISH & INSTALL TEE, 12"	9
1055 51208	EA	UTILITY FITTINGS, DUCTILE IRON/CAST IRON, FURNISH & INSTALL TEE, 8"	1
1080 24112	EA	UTILITY FIXTURE, VALVE ASSEMBLY, FURNISH AND INSTALL, 12"	7
1050 42210	LF	UTILITY PIPE- HIGH DENSITY POLYETHYLENE, FURNISH & INSTALL, WATER/SEWER, 10"	190
1080 24110	EA	UTILITY FIXTURE, VALVE ASSEMBLY, FURNISH AND INSTALL, 10"	2
---	LF	RECONNECT SERVICES (INCLUDED IN COST)	18
1050 31203	LF	UTILITY PIPE- POLY VINYL CHLORIDE, FURNISH & INSTALL, WATER/SEWER, 3"	65
1050 42203	LF	UTILITY PIPE- HIGH DENSITY POLYETHYLENE, FURNISH & INSTALL, WATER/SEWER, 3"	150
1055 51312	EA	UTILITY FITTINGS, DUCTILE IRON/CAST IRON, FURNISH & INSTALL REDUCER, 12"	1
430-18A-BCC	LF	DIRECTIONAL BORE (WATER MAIN), 8"	300
430-18A-BCC	LF	DIRECTIONAL BORE (WATER MAIN), 10"	190
430-18A-BCC	LF	DIRECTIONAL BORE (WATER MAIN), 12"	110
1080 21300	EA	UTILITY FIXTURE, VALVE/METER BOX, INSTALL- BOX FURNISHED BY UTILITY	1
1050 18004	LF	UTILITY PIPE, PLUG & PLACE OUT OF SERVICE, 8-19.9"	160
TOTAL ESTIMATED COST			\$ 982,678.00
<p><b>Note: Pipe cut-ins, reconnection services, 6" elbows, and dewatering are included in the total cost estimate, however FDOT pay items were not assigned to these tasks.</b></p>			
Estimates Total			\$ 1,040,838.00
			\$ 104,083.00
			\$ 1,144,921.00

\$ 110.00 \$ 697,840.00  
 \$ 1,100.00 \$ 101,200.00

\$ 90.00 \$ 11,250.00  
 \$ 185.00 \$ 650.00

\$ 70.00 \$ 11,900.00  
 \$ 100.00 \$ 6,000.00  
 \$ 12.00 \$ 69,348.00  
 \$ 800.00 \$ 12,800.00  
 \$ 600.00 \$ 1,200.00  
 \$ 1,800.00 \$ 7,200.00  
 \$ 1,600.00 \$ 3,200.00  
 \$ 100.00 \$ 32,000.00  
 \$ 600.00 \$ 12,000.00  
 \$ 65.00 \$ 2,600.00  
 \$ 1,500.00 \$ 13,500.00  
 \$ 1,250.00 \$ 1,250.00  
 \$ 3,250.00 \$ 22,750.00  
 \$ 115.00 \$ 21,850.00  
 \$ 2,800.00 \$ 5,600.00

\$ 40.00 \$ 2,600.00  
 \$ 1,000.00 \$ 1,000.00  
 \$ 20.00 \$ 3,200.00

\$ 982,678.00

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**AGREEMENT SUMMARY SHEET**

350-020-03  
 COMPTROLLER  
 9/18

**Attach this completed form to the agreement and forward to the LFA Section in the OOC, General Accounting Office, M.S. 42B. If you have have any questions, please call 850-414-4867 or 850-414-4889.**

1. Participants Name: Midway Water System, Inc.  
 Participants Address: 4971 Gulf Breeze Parkway  
 City, State, Zip: Gulf Breeze, FL 32563  
 Contact: Mr. Jody Anderson Phone Number: 850-932-5188  
 E-Mail Address: janderson@midwaywater.com Fax Number: \_\_\_\_\_  
 Federal Employer ID # and address sequence: F591532752001  
 FEID# has a verified W-9 registered with the Department of Financial Services: Yes No In Process

2. Refund Address: 4971 Gulf Breeze Parkway  
Gulf Breeze, FL 32563

3. District Contact Person: Kathy Ozmore KO Phone Number: 850-466-4122  
 District Number: 3 - Chipley Fax Number: 850-478-0620

4. Agreement Date: 11/26/2019 | 11:24 AM EST 5. Date Form Modified: 11/26/2019 | 11:24 AM EST

6. Agreement Amount: \$ 1,144,921.00 7. Escrow Deposit Due Date: 12-15-2019  
 Amount Due: \$ 1,144,921.00 Additional Deposit Due Date: \_\_\_\_\_  
 Amount Due: \$ \_\_\_\_\_ Additional Deposit Due Date: \_\_\_\_\_  
 Amount Due: \$ \_\_\_\_\_

8. County Name: SANTA ROSA 9. FDOT County Number: 58

10. If fund type is LFR/LFRF (Yes No), what is the anticipated start date of the payback: \_\_\_\_\_  
 Is payback to be made in: Scheduled Payments Quarterly Lump Sum

11. Participant is responsible for (check one): 100% Other Percentage ( \_\_\_\_\_ %)  
 Bid Items Lump Sum

If participant is responsible for bid items, please complete the attached spreadsheet.

12. Description of work: The water line relocation work to be done by the Hwy. Contractor.

13. Financial Project # Including 6x Phases	14. Amount	15. Work Program Fund Code	16. Federal Part or Non-Federal Part.	17. Contract #	18. % to Bill
220440-1-56-01	\$ 1,144,921.00	LF	0		

19. Has WP been updated to reflect the changes on this form? Yes No

20. Comments:

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**UTILITY WORK BY HIGHWAY CONTRACTOR AGREEMENT**  
(LUMP SUM)

Form No. 710-010-57  
UTILITIES  
07/14

<b>Financial Project ID: 220440-1-56-04</b>	<b>Federal Project ID: FUNDED</b>
<b>Financial Project ID:</b>	
<b>Financial Project ID:</b>	
<b>Financial Project ID:</b>	
<b>County: Santa Rosa</b>	<b>State Road No.: 30</b>
<b>District Document No:</b>	
<b>Utility Agency/Owner (UAO): CITY OF GULF BREEZE (WATER)</b>	

1/23/2020 | 5:20 PM EST

**THIS AGREEMENT**, entered into this \_\_\_\_\_ day of \_\_\_\_\_, year of \_\_\_\_\_, by and between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**, hereinafter referred to as the "**FDOT**," and **CITY OF GULF BREEZE (WATER)**, hereinafter referred to as the "**UAO**";

**WITNESSETH:**

**WHEREAS**, the **UAO** owns certain utility facilities which are located on the public road or publicly owned rail corridor identified below, hereinafter referred to as the "Facilities" (said term shall be deemed to include utility facilities as the same may be relocated, adjusted, or placed out of service); and

**WHEREAS**, the **FDOT**, is currently engaging in a project which involves constructing, reconstructing, or otherwise changing a public road and other improvements located on a public road or publicly owned rail corridor identified as SR 30 (US 98) from Bayshore Road to Portside Drive, State Road No. 30, hereinafter referred to as the "Project"; and

**WHEREAS**, the Project requires minor modifications to the Facilities or the **FDOT's** design more particularly described in Exhibit A attached hereto and by this reference made a part hereof, hereinafter referred to as "Utility Work," and full plans and technical specifications for the Utility Work are not required; and

**WHEREAS**, the **FDOT** will perform the Utility Work as part of the Project; and

**WHEREAS**, the **UAO**, pursuant to the terms and conditions hereof, will bear certain costs associated with the Utility Work; and

**WHEREAS**, the **FDOT** and the **UAO** desire to enter into an agreement which establishes the terms and conditions applicable to the Utility Work;

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants contained herein, the **FDOT** and the **UAO** hereby agree as follows:

**1. Performance of Utility Work**

- a. The **FDOT** will include the Utility Work in its plans and specifications for the Project and will include the Utility Work as part of the **FDOT's** construction of the Project. The preparation of the plans and specifications and the construction of the Project will be performed in such manner as the **FDOT**, in its discretion, deemed appropriate.
- b. All location, protection, relocation, adjustment, or removal of the **UAO's** Facilities which is not listed in Exhibit A shall be performed pursuant to a separate agreement.

**2. Cost of Utility Work**

- a. The **UAO** will, at least \_\_\_\_\_ (\_\_\_\_\_) calendar days prior to the date on which the **FDOT** advertises the Project for bids, pay the **FDOT** the amount of \$ \_\_\_\_\_ for the cost of the Utility Work. Said amount will be deposited into the State Transportation Trust Fund.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
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- b. The **FDOT** and the **UAO** acknowledge and agree that the amount stated above includes an additional ten percent (10%) to cover the **UAO's** obligation for the cost of the Utility Work as set forth in Section 337.403(1)(b), Florida Statutes.
- c. Except for costs associated with any changes or additions to the Utility Work, the **FDOT** and the **UAO** agree that the deposit shall be an asset of the **FDOT** and that it constitutes a full and final lump sum payment for the cost of the Utility Work, without any requirement for a subsequent accounting for the use of the deposit.
- d. Pursuant to Section 337.403(1)(b), Florida Statutes, no changes or additions to the Utility Work will be made during the construction of the Project unless the **UAO** has made an additional deposit to cover the cost of the changes or additions. To the extent that the amount stated in Subparagraph 2.a. above exceeds the amount of the **FDOT contractor's** bid that applies to the Utility Work, such excess may be applied to cover the cost of the changes or additions. All changes or additions shall be subject to the limitations on supplemental agreements and change orders contained in Section 337.11(8), Florida Statutes.

### 3. Default

- a. In the event that the **UAO** breaches any provision of this Agreement, then in addition to any other remedies which are otherwise provided for in this Agreement, the **FDOT** may exercise one or more of the following options, provided that at no time shall the **FDOT** be entitled to receive double recovery of damages:
  - (1) Terminate this Agreement if the breach is material and has not been cured within 60 days from written notice thereof from the **FDOT**.
  - (2) Pursue a claim for damages suffered by the **FDOT**.
  - (3) Suspend the issuance of further permits to the **UAO** for the placement of Facilities on **FDOT** property if the breach is material and has not been cured within 60 days from written notice thereof from **FDOT** until such time as the breach is cured.
  - (4) Pursue any other remedies legally available.
  - (5) Perform any work with its own forces or through contractors and seek repayment for the cost thereof under Section 337.403(3), Florida Statutes.
- b. In the event that the **FDOT** breaches any provision of this Agreement, then in addition to any other remedies which are otherwise provided for in the Agreement, the **UAO** may exercise one or more of the following options:
  - (1) Terminate this Agreement if the breach is material and has not been cured within 60 days from written notice thereof from the **UAO**.
  - (2) Pursue any other remedies legally available.
- c. Termination of this Agreement shall not relieve either party from any obligations it has pursuant to other agreements between the parties and from any statutory obligations that either party may have with regard to the subject matter hereof.

### 4. Indemnification

#### FOR GOVERNMENT-OWNED UTILITIES:

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**UTILITY WORK BY HIGHWAY CONTRACTOR AGREEMENT**  
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To the extent provided by law, the **UAO** shall indemnify, defend, and hold harmless the **FDOT** and all of its officers, agents, and employees from any claim, loss, damage, cost, charge, or expense arising out of any acts, action, error, neglect, or omission by the **UAO**, its agents, employees, or contractors during the performance of the Agreement, whether direct or indirect, and whether to any person or property to which **FDOT** or said parties may be subject, except that neither the **UAO**, its agents, employees, or contractors will be liable under this section for damages arising out of the injury or damage to persons or property directly caused by or resulting from the negligence of the **FDOT** or any of its officers, agents, or employees during the performance of this Agreement.

When the **FDOT** receives a notice of claim for damages that may have been caused by the **UAO** in the performance of services required under this Agreement, the **FDOT** will immediately forward the claim to the **UAO**. The **UAO** and the **FDOT** will evaluate the claim and report their findings to each other within fourteen (14) working days and will jointly discuss options in defending the claim. After reviewing the claim, the **FDOT** will determine whether to require the participation of the **UAO** in the defense of the claim or to require the **UAO** to defend the **FDOT** in such claim as described in this section. The **FDOT's** failure to notify the **UAO** of a claim shall not release the **UAO** from any of the requirements of this section. The **FDOT** and the **UAO** will pay their own costs for the evaluation, settlement negotiations, and trial, if any. However, if only one party participates in the defense of the claim at trial, that party is responsible for all costs.

**FOR NON-GOVERNMENT-OWNED UTILITIES:**

The **UAO** shall indemnify, defend, and hold harmless the **FDOT** and all of its officers, agents, and employees from any claim, loss, damage, cost, charge, or expense arising out of any acts, action, error, neglect, or omission by the **UAO**, its agents, employees, or contractors during the performance of the Agreement, whether direct or indirect, and whether to any person or property to which **FDOT** or said parties may be subject, except that neither the **UAO**, its agents, employees, or contractors will be liable under this section for damages arising out of the injury or damage to persons or property directly caused by or resulting from the negligence of the **FDOT** or any of its officers, agents, or employees during the performance of this Agreement.

The **UAO's** obligation to indemnify, defend, and pay for the defense or at the **FDOT's** option, to participate and associate with the **FDOT** in the defense and trial of any damage claim or suit and any related settlement negotiations, shall arise within fourteen (14) days of receipt by the **UAO** of the **FDOT's** notice of claim for indemnification to the **UAO**. The notice of claim for indemnification shall be served by certified mail. The **UAO's** obligation to defend and indemnify within fourteen (14) days of such notice shall not be excused because of the **UAO's** inability to evaluate liability or because the **UAO** evaluates liability and determines the **UAO** is not liable or determines the **FDOT** is solely negligent. Only a final adjudication or judgment finding the **FDOT** solely negligent shall excuse performance of this provision by the **UAO**. The **UAO** shall pay all costs and fees related to this obligation and its enforcement by the **FDOT**. The **FDOT's** delay in notifying the **UAO** of a claim shall not release **UAO** of the above duty to defend.

**5. Force Majeure**

Neither the **UAO** nor the **FDOT** shall be liable to the other for any failure to perform under this Agreement to the extent such performance is prevented by an act of God, war, riots, natural catastrophe, or other event beyond the control of the non-performing party and which could not have been avoided or overcome by the exercise of due diligence; provided that the party claiming the excuse from performance has (a) promptly notified the other party of the occurrence and its estimate duration, (b) promptly remedied or mitigated the effect of the occurrence to the extent possible, and (c) resumed performance as soon as possible.

**6. Miscellaneous**

- a. To the Facilities shall at all times remain the property of and be properly protected and maintained by the **UAO** in accordance with the then current Utility Accommodation Manual and the current utility permit for the Facilities.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
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- b. Pursuant to Section 287.058, Florida Statutes, the **FDOT** may unilaterally cancel this Agreement for refusal by the **UAO** to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the **UAO** in conjunction with this Agreement.
- c. This Agreement constitutes the complete and final expression of the parties with respect to the subject matter hereof and supersedes all prior agreements, understandings, or negotiations with respect thereto, except that the parties understand and agree that the **FDOT** has manuals and written policies and procedures which shall be applicable at the time of the Project and the relocation of the Facilities and except that the **UAO** and the **FDOT** may have entered into other agreements for work not included in Exhibit A for Facilities located within the limits of the Project. Copies of **FDOT** manuals, policies, and procedures will be provided to the **UAO** upon request.
- d. This Agreement shall be governed by the laws of the State of Florida. Any provision hereof found to be unlawful or unenforceable shall be severable and shall not affect the validity of the remaining portions hereof.
- e. Time is of essence in the performance of all obligations under this Agreement.
- f. All notices required pursuant to the terms hereof may be sent by first class United States Mail, facsimile transmission, hand delivery, or express mail and shall be deemed to have been received by the end of five business days from the proper sending thereof unless proof of prior actual receipt is provided. The **UAO** shall have a continuing obligation to notify each District of the **FDOT** of the appropriate persons for notices to be sent pursuant to this Agreement. Unless otherwise notified in writing, notices shall be sent to the following addresses:

If to the **UAO**:

Mr. Thomas Lambert, Assistant Director of Public Services
1070 Shoreline Drive
Gulf Breeze, FL 32561

If to the **FDOT**:

Mr. Jonathan Harris, District Utility Administrator
1074 Highway 90
Chipley, FL 32428

## 7. Certification

This document is a printout of an **FDOT** form maintained in an electronic format and all revisions thereto by the **UAO** in the form of additions, deletions, or substitutions are reflected only in an Appendix entitled Changes to Form Document and no change is made in the text of the document itself. Hand notations on affected portions of this document may refer to changes reflected in the above-named Appendix but are for reference purposes only and do not change the terms of the document. By signing this document, the **UAO** hereby represents that no change has been made to the text of this document except through the terms of the appendix entitled Changes to Form Document."

You MUST signify by selecting or checking which of the following applies:

- No changes have been made to this Form Document and no Appendix entitled "Changes to Form Document" is attached.
- No changes have been made to this Form Document, but changes are included on the attached Appendix entitled "Changes to Form Document."



STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**UTILITY WORK BY HIGHWAY CONTRACTOR AGREEMENT**  
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**UTILITY WORK BY HIGHWAY CONTRACTOR AGREEMENT**  
(LUMP SUM)

Form No. 710-010-57  
UTILITIES  
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IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective the day and year first written.

UTILITY: CITY OF GULF BREEZE (WATER)

BY: (Signature) *Cherry Fitch*  
(Typed Name: Cherry Fitch)  
(Typed Title: Mayor)

DATE: 1-21-2020

Recommend Approval by the District Utility Office

BY: (Signature) *[Signature]*  
DocuSigned by:  
486598A7FF14422...

DATE: 1/23/2020 | 9:54 AM EST

FDOT Legal review

BY: (Signature) *[Signature]*  
DocuSigned by:  
481EE5074C804F5...  
**District Counsel**

DATE: 1/23/2020 | 12:35 PM EST

STATE OF FLORIDA  
DEPARTMENT OF TRANSPORTATION

BY: (Signature) *Tim Smith, P.E.*  
DocuSigned by:  
00EA910BEA3D404...  
(Typed Name: Tim Smith, P.E.)  
(Typed Title: Director of Transportation Development)

DATE: 1/23/2020 | 5:20 PM EST

FEDERAL HIGHWAY ADMINISTRATION (if applicable)

BY: \_\_\_\_\_  
(Typed Name: \_\_\_\_\_)  
(Typed Title: \_\_\_\_\_)

DATE: \_\_\_\_\_

UTILITY WORK BY HIGHWAY CONTRACTOR AGREEMENT (LUMP SUM)

**UAO: CITY OF GULF BREEZE - WATER**

**APPENDIX**

**CHANGES TO FORM DOCUMENT**

FINANCIAL PROJECT ID: 220440-1-56-04

FEDERAL PROJECT ID: D319-079-B

The Utility Work by Highway Contractor Agreement (LUMP SUM) between the State of Florida Department of Transportation (“**FDOT**”) and the City of Gulf Breeze - Water (“**UAO**”) dated the \_\_\_\_ day of 1/23/2020 | 5:20 PM EST, year of 2020, is amended as follows:

1. The third recital, or “whereas” clause, is amended to read as follows:

“WHEREAS, the Project requires the location (vertically and/or horizontally), protection, relocation, adjustment or removal of the Facilities, or some combination thereof, hereinafter referred to as “Utility Work”; and”

2. The fourth recital, or “whereas” clause, is amended to read as follows:

“WHEREAS, the **FDOT** and the **UAO** desire to enter into an agreement for the Utility Work to be accomplished by the **FDOT**’s Design-Build Firm as part of the construction of the Project; and”

3. The fifth recital, or “whereas” clause, is amended to read as follows:

“WHEREAS, the **UAO** pursuant to the terms and conditions hereof, will bear all costs associated with the Utility Work and the Utility Design; and”

4. A new Section 1 is hereby inserted in the agreement before the section for “Performance of Utility Work” to read as follows:

**“1. Design of Utility Work**

- a. **UAO** shall prepare, at **UAO** ’s sole cost and expense, a conceptual engineering design, plans and technical special provisions to be included as attachments to the Request for Proposal for the Project, and a cost estimate for the Utility Work, hereinafter referred to as the “Plans Package,” on or before September 30, 2019.”
- b. The Plans Package shall be in the same format as the **FDOT**’s contract documents for the Request for Proposal and shall be suitable for reproduction.”
- c. [Intentionally left blank]
- d. The Plans Package shall be prepared in compliance with the **FDOT**’s Utility Accommodation Manual and the **FDOT**’s Design Manual in effect at the time the Plans Package is prepared, and the **FDOT**’s contract documents for the Request for Proposal. If the **FDOT**’s Design Manual has been updated and conflicts with the Utility Accommodation Manual, the Utility Accommodation Manual shall apply where such conflicts exist.

- e. The technical special provisions which are a part of the Plans Package shall be prepared in accordance with the **FDOT's** guidelines on preparation of technical special provisions and shall not duplicate or change the general contracting provisions of the **FDOT's** Standard Specifications for Road and Bridge Construction and any Supplemental Specifications, Special Provisions, or Developmental Specifications of the **FDOT** for the Plans.
- f. The **FDOT** shall review the Plans Package to see that it complies with the requirements of this Agreement.
- g. In the event that the **FDOT** finds any deficiencies in the Plans Package, the **FDOT** will notify the **UAO** in writing of the deficiencies within the time specified in the plans review transmittal. The **FDOT's** review of the documents shall not relieve the **UAO** from responsibility for subsequently discovered errors or omissions.
- h. The **FDOT** shall furnish the **UAO** such information from the **FDOT's** files as requested by the **UAO**; however, the **UAO** shall at all times be and remain solely responsible for proper preparation of the Plans Package and for verifying all information necessary to properly prepare the Plans Package. The providing of information by the **FDOT** shall not relieve the **UAO** of this obligation nor transfer any of that responsibility to the **FDOT**. This Plans Package will be included in the **FDOT** Design-Build Request For Proposal (RFP) package for the Project. The **UAO** shall have the selected Design Build Firm complete the final design on their behalf using the provided Technical Special Provisions and other requirements as outlined in the RFP.
- i. The Facilities and the Utility Work will include all utility facilities of the **UAO** which are located within the limits of the Project, except as generally summarized as follows:    N/A   . These exceptions shall be handled by separate arrangement.
- j. If any facilities of the **UAO** located within the project limits are discovered after work on the project commences to be qualified for relocation at the **FDOT's** expense, but not previously identified as such, the **UAO** shall file a claim with the **FDOT** for recovery of the cost of relocation thereof. The filing of the claim shall not necessarily entitle the **UAO** to payment, and resolution of the claim shall be based on a determination of fault for the error. The discovery of facilities not previously identified as being qualified for relocation at the **FDOT's** expense shall not invalidate this Agreement.
- k. The **UAO** shall fully cooperate with all other right of way users in the preparation of the Plans Package. Any conflicts that cannot be resolved through cooperation shall be resolved in the manner determined by the **FDOT**.
- l. Upon completion of the Utility Work, the Facilities shall be deemed to be located on the public road or publicly owned rail corridor under and pursuant to the Utility Permit issued after the letting of the project.

5. The section for "Performance of Utility Work" in the agreement is deleted and the following is inserted in its place as new Section 2:

**"2. Performance of Utility Work**

- a. The **FDOT** shall incorporate the Plans Package into its contract for design-build of the Project.
- b. The **FDOT** shall procure a contract for construction of the Project in accordance with the **FDOT's** requirements.
- c. The **FDOT** shall perform all engineering inspection, testing, and monitoring of the Utility Work to insure it is properly performed in accordance with the Plans Package, except for the following activities: NONE  
**FDOT** will furnish daily diary records showing approved quantities and amounts for weekly, monthly, and final estimates in accordance with the format required by **FDOT** procedures.
- d. The **UAO** shall fully cooperate with the **FDOT** and the **FDOT's** contractor in all matters relating to the performance of the Utility Work.
- e. The **FDOT's** engineer has full authority over the Project and the **UAO** shall be responsible for coordinating and cooperating with the **FDOT's** engineer. In so doing, the **UAO** shall make such adjustments and changes in the Plans Package as the **FDOT's** engineer shall determine are necessary for the prosecution of the Project.
- f. The **UAO** shall not make any changes to the Plans Package after the date on which the **FDOT's** contract documents are advertised for the Request for Proposal unless those changes fall within the categories of changes allowed pursuant to the **FDOT** design-build project requirements and **FDOT** design-build policies and procedures.
- g. If the portion of the bid of the contractor selected by the **FDOT** which is for performance of the Utility Work exceeds the **FDOT's** official estimate for the Utility Work by more than ten percent (10%) and the **FDOT** does not elect to participate in the cost of the Utility Work pursuant to Section 337.403(1)(b), Florida Statutes, the **UAO** may elect to have the Utility Work removed from the **FDOT's** contract by notifying the **FDOT** in writing within 5 days from the date that the **UAO** is notified of the bid amount. Unless this election is made, the Utility Work shall be performed as part of the Project by the **FDOT's** contractor.
- h. If the **UAO** elects to remove the Utility Work from the **FDOT's** contract in accordance with Subparagraph 2. g., the **UAO** shall perform the Utility Work.

6. Section 2, "Cost of Utility Work," is renumbered as Section 3.

7. Renumbered Section 3. is deleted and the following is inserted in its place as new Section 3:

- a. Upon execution of this Agreement and delivery to **FDOT**, The **UAO** will execute the Promissory Note with **FDOT** in the amount of \$ 227,749.00 for the cost of the Utility Work. In the event the **UAO** does not execute the Promissory Note the Utility Work will be removed from the Request for Proposal for the Project and the **UAO** shall perform the Utility Work.
- b. The **FDOT** and the **UAO** acknowledge and agree that the amount stated above includes an additional ten percent (10%) to cover the **UAO**'s obligation for the cost of the Utility Work as set forth in Section 337.403(1)(b), Florida Statutes.
- c. Payment of the funds pursuant to this paragraph will be made directly to the **FDOT** for deposit into the State Transportation Trust Fund.
- d. If the portion of the contractor's bid selected by the **FDOT** for performance of the Utility Work exceeds the amount of the deposit made pursuant to Subparagraph a. above, then subject to and in accordance with the limitations and conditions established by Subparagraph 2. g. hereof regarding **FDOT** participation in the cost of the Utility Work and the **UAO**'s election to remove the Utility Work from the Request for Proposal for the Project, the **UAO** shall, within fourteen (14) calendar days from notification from the **FDOT** or prior to posting of the accepted bid, whichever is earlier, pay an additional amount to the **FDOT** to bring the total amount paid to the total obligation of the **UAO** for the cost of the Utility Work, plus Allowances and 10% Contingency Fund. In the event **UAO** does not deposit funds the Utility Work will be removed from the Request for Proposal for the Project and the **UAO** shall perform the Utility Work.. The **FDOT** will notify the **UAO** as soon as it becomes apparent the accepted bid amount plus allowances and contingency is in excess of the advance deposit amount; however, failure of the **FDOT** to so notify the **UAO** shall not relieve the **UAO** from its obligation to pay for its full share of project costs on final accounting as provided herein below. In the event that the **UAO** is obligated under this Subparagraph 3.d. to pay an additional amount and the additional amount that the **UAO** is obligated to pay does not exceed the Contingency Fund already on deposit, the **UAO** shall have sixty (60) calendar days from notification from the **FDOT** to pay the additional amount, regardless of when the accepted bid is posted.
- e. If the accepted bid amount plus allowances and contingency is less than the advance deposit amount, the **FDOT** will refund the amount that the advance deposit exceeds the bid amount, plus allowances and contingency if such refund is requested by the **UAO** in writing and approved by the Comptroller of the **FDOT** or his/her designee.
- f. Pursuant to Section 337.403(1)(b), Florida Statutes, no changes or additions to the Utility Work will be made during the construction of the Project unless the **UAO** has made an additional deposit to cover the cost of the changes or

additions prior to those changes or additions being made to the Utility Work. To the extent that the amount stated in Subparagraph 3.a. above exceeds the amount of the **FDOT** contractor's bid that applies to the Utility Work, such excess may be applied to cover the cost of the changes or additions. All changes or additions shall be subject to the limitations on supplemental agreements and change orders contained in Section 337.11(9), Florida Statutes.

- g. Upon final payment to the Contractor, the **FDOT** intends to have its final and complete accounting of all costs incurred in connection with the work performed hereunder within three hundred sixty (360) days. All project cost records and accounts shall be subject to audit by a representative of the **UAO** for a period of three (3) years after final close out of the Project. The **UAO** will be notified of the final cost. Both parties agree that in the event the final accounting of total project costs pursuant to the terms of this agreement is less than the total deposits to date, a refund of the excess will be made by the **FDOT** to the **UAO** in accordance with Section 215.422, Florida Statutes. In the event said final accounting of total project costs is greater than the total deposits to date, the **UAO** will pay the additional amount within forty (40) calendar days from the date of the invoice. The **UAO** agrees to pay interest at a rate as established pursuant to Section 55.03, Florida Statutes, on any invoice not paid within the time specified in the preceding sentence until the invoice is paid.

8. The remaining sections of the agreement are hereby renumbered as follows:

Section Number	Section Title	New Section Number
3	Default	4
4	Indemnification	5
5	Force Majeure	6
6	Miscellaneous	7
7	Certification	8

City of Gulf Breeze, Watermain			
Pay Item	Unit	Description	Estimated Quantities
1055 51112	EA	UTILITY FITTINGS, DUCTILE IRON/CAST IRON, FURNISH & INSTALL ELBOW, 12"	35
1050 31212	LF	UTILITY PIPE- POLY VINYL CHLORIDE, FURNISH & INSTALL, WATER/SEWER, 12"	370
1080 21400	EA	UTILITY FIXTURE, VALVE/METER BOX, RELOCATE	4
1055 51108	EA	UTILITY FITTINGS, DUCTILE IRON/CAST IRON, FURNISH & INSTALL ELBOW, 8"	16
1050 31208	LF	UTILITY PIPE- POLY VINYL CHLORIDE, FURNISH & INSTALL, WATER/SEWER, 8"	125
1050 31206	LF	UTILITY PIPE- POLY VINYL CHLORIDE, FURNISH & INSTALL, WATER/SEWER, 6"	1140
1080 24106	EA	UTILITY FIXTURE, VALVE ASSEMBLY, FURNISH AND INSTALL, 6"	1
1050 31204	LF	UTILITY PIPE- POLY VINYL CHLORIDE, FURNISH & INSTALL, WATER/SEWER, 4"	10
1050 31203	LF	UTILITY PIPE- POLY VINYL CHLORIDE, FURNISH & INSTALL, WATER/SEWER, 3"	210
---	EA	6" ELBOWS (INCLUDED IN COST)	88
---	EA	4" ELBOWS (INCLUDED IN COST)	4
---	EA	3" ELBOWS (INCLUDED IN COST)	4
1050 16003	LF	UTILITY PIPE,REMOVE & DISPOSE, 5-7.9"	1140
1050 16002	LF	UTILITY PIPE,REMOVE & DISPOSE, 2-4.9"	210
1050 16004	LF	UTILITY PIPE,REMOVE & DISPOSE, 8-19.9"	495
0101 1	LS	MOBILIZATION	1
---	LF	DEWATERING (INCLUDED IN COST)	380
---	EA	CUT IN 6" PVC (INCLUDED IN COST)	44
---	EA	CUT IN 4" PVC (INCLUDED IN COST)	2
---	EA	CUT IN 3" PVC (INCLUDED IN COST)	2
---	EA	CUT IN 8" PVC (INCLUDED IN COST)	8
---	EA	CUT IN 12" PVC (INCLUDED IN COST)	28
TOTAL ESTIMATED COST			\$ 321,387.00
Note: Pipe cut-ins, reconnection services, 3"/4"/6" elbows, and dewatering are included in the total cost estimate, however FDOT pay items were not assigned to these tasks.			\$ 207,045.00
			\$ 20,704.00
			<b>Estimates Total</b>
			<b>\$ 227,749.00</b>



STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**UTILITY WORK BY HIGHWAY CONTRACTOR AGREEMENT**  
(LUMP SUM)

Form No. 710-010-57  
UTILITIES  
07/14

<b>Financial Project ID: 220440-1-56-05</b>	<b>Federal Project ID: FUNDED</b>
<b>Financial Project ID:</b>	
<b>Financial Project ID:</b>	
<b>Financial Project ID:</b>	
<b>County: Santa Rosa</b>	<b>State Road No.: 30</b>
<b>District Document No:</b>	
<b>Utility Agency/Owner (UAO): CITY OF GULF BREEZE (SEWER)</b>	

1/23/2020 | 5:20 PM EST

**THIS AGREEMENT**, entered into this \_\_\_\_\_ day of \_\_\_\_\_, year of \_\_\_\_\_, by and between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**, hereinafter referred to as the "**FDOT**," and **CITY OF GULF BREEZE (SEWER)**, hereinafter referred to as the "**UAO**";

**WITNESSETH:**

**WHEREAS**, the **UAO** owns certain utility facilities which are located on the public road or publicly owned rail corridor identified below, hereinafter referred to as the "Facilities" (said term shall be deemed to include utility facilities as the same may be relocated, adjusted, or placed out of service); and

**WHEREAS**, the **FDOT**, is currently engaging in a project which involves constructing, reconstructing, or otherwise changing a public road and other improvements located on a public road or publicly owned rail corridor identified as SR 30 (US 98) from Bayshore Road to Portside Drive, State Road No. 30, hereinafter referred to as the "Project"; and

**WHEREAS**, the Project requires minor modifications to the Facilities or the **FDOT's** design more particularly described in Exhibit A attached hereto and by this reference made a part hereof, hereinafter referred to as "Utility Work," and full plans and technical specifications for the Utility Work are not required; and

**WHEREAS**, the **FDOT** will perform the Utility Work as part of the Project; and

**WHEREAS**, the **UAO**, pursuant to the terms and conditions hereof, will bear certain costs associated with the Utility Work; and

**WHEREAS**, the **FDOT** and the **UAO** desire to enter into an agreement which establishes the terms and conditions applicable to the Utility Work;

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants contained herein, the **FDOT** and the **UAO** hereby agree as follows:

**1. Performance of Utility Work**

- a. The **FDOT** will include the Utility Work in its plans and specifications for the Project and will include the Utility Work as part of the **FDOT's** construction of the Project. The preparation of the plans and specifications and the construction of the Project will be performed in such manner as the **FDOT**, in its discretion, deemed appropriate.
- b. All location, protection, relocation, adjustment, or removal of the **UAO's** Facilities which is not listed in Exhibit A shall be performed pursuant to a separate agreement.

**2. Cost of Utility Work**

- a. The **UAO** will, at least \_\_\_\_\_ (\_\_\_\_\_) calendar days prior to the date on which the **FDOT** advertises the Project for bids, pay the **FDOT** the amount of \$ \_\_\_\_\_ for the cost of the Utility Work. Said amount will be deposited into the State Transportation Trust Fund.

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- b. The **FDOT** and the **UAO** acknowledge and agree that the amount stated above includes an additional ten percent (10%) to cover the **UAO's** obligation for the cost of the Utility Work as set forth in Section 337.403(1)(b), Florida Statutes.
- c. Except for costs associated with any changes or additions to the Utility Work, the **FDOT** and the **UAO** agree that the deposit shall be an asset of the **FDOT** and that it constitutes a full and final lump sum payment for the cost of the Utility Work, without any requirement for a subsequent accounting for the use of the deposit.
- d. Pursuant to Section 337.403(1)(b), Florida Statutes, no changes or additions to the Utility Work will be made during the construction of the Project unless the **UAO** has made an additional deposit to cover the cost of the changes or additions. To the extent that the amount stated in Subparagraph 2.a. above exceeds the amount of the **FDOT contractor's** bid that applies to the Utility Work, such excess may be applied to cover the cost of the changes or additions. All changes or additions shall be subject to the limitations on supplemental agreements and change orders contained in Section 337.11(8), Florida Statutes.

### 3. Default

- a. In the event that the **UAO** breaches any provision of this Agreement, then in addition to any other remedies which are otherwise provided for in this Agreement, the **FDOT** may exercise one or more of the following options, provided that at no time shall the **FDOT** be entitled to receive double recovery of damages:
  - (1) Terminate this Agreement if the breach is material and has not been cured within 60 days from written notice thereof from the **FDOT**.
  - (2) Pursue a claim for damages suffered by the **FDOT**.
  - (3) Suspend the issuance of further permits to the **UAO** for the placement of Facilities on **FDOT** property if the breach is material and has not been cured within 60 days from written notice thereof from **FDOT** until such time as the breach is cured.
  - (4) Pursue any other remedies legally available.
  - (5) Perform any work with its own forces or through contractors and seek repayment for the cost thereof under Section 337.403(3), Florida Statutes.
- b. In the event that the **FDOT** breaches any provision of this Agreement, then in addition to any other remedies which are otherwise provided for in the Agreement, the **UAO** may exercise one or more of the following options:
  - (1) Terminate this Agreement if the breach is material and has not been cured within 60 days from written notice thereof from the **UAO**.
  - (2) Pursue any other remedies legally available.
- c. Termination of this Agreement shall not relieve either party from any obligations it has pursuant to other agreements between the parties and from any statutory obligations that either party may have with regard to the subject matter hereof.

### 4. Indemnification

#### FOR GOVERNMENT-OWNED UTILITIES:

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To the extent provided by law, the **UAO** shall indemnify, defend, and hold harmless the **FDOT** and all of its officers, agents, and employees from any claim, loss, damage, cost, charge, or expense arising out of any acts, action, error, neglect, or omission by the **UAO**, its agents, employees, or contractors during the performance of the Agreement, whether direct or indirect, and whether to any person or property to which **FDOT** or said parties may be subject, except that neither the **UAO**, its agents, employees, or contractors will be liable under this section for damages arising out of the injury or damage to persons or property directly caused by or resulting from the negligence of the **FDOT** or any of its officers, agents, or employees during the performance of this Agreement.

When the **FDOT** receives a notice of claim for damages that may have been caused by the **UAO** in the performance of services required under this Agreement, the **FDOT** will immediately forward the claim to the **UAO**. The **UAO** and the **FDOT** will evaluate the claim and report their findings to each other within fourteen (14) working days and will jointly discuss options in defending the claim. After reviewing the claim, the **FDOT** will determine whether to require the participation of the **UAO** in the defense of the claim or to require the **UAO** to defend the **FDOT** in such claim as described in this section. The **FDOT's** failure to notify the **UAO** of a claim shall not release the **UAO** from any of the requirements of this section. The **FDOT** and the **UAO** will pay their own costs for the evaluation, settlement negotiations, and trial, if any. However, if only one party participates in the defense of the claim at trial, that party is responsible for all costs.

**FOR NON-GOVERNMENT-OWNED UTILITIES:**

The **UAO** shall indemnify, defend, and hold harmless the **FDOT** and all of its officers, agents, and employees from any claim, loss, damage, cost, charge, or expense arising out of any acts, action, error, neglect, or omission by the **UAO**, its agents, employees, or contractors during the performance of the Agreement, whether direct or indirect, and whether to any person or property to which **FDOT** or said parties may be subject, except that neither the **UAO**, its agents, employees, or contractors will be liable under this section for damages arising out of the injury or damage to persons or property directly caused by or resulting from the negligence of the **FDOT** or any of its officers, agents, or employees during the performance of this Agreement.

The **UAO's** obligation to indemnify, defend, and pay for the defense or at the **FDOT's** option, to participate and associate with the **FDOT** in the defense and trial of any damage claim or suit and any related settlement negotiations, shall arise within fourteen (14) days of receipt by the **UAO** of the **FDOT's** notice of claim for indemnification to the **UAO**. The notice of claim for indemnification shall be served by certified mail. The **UAO's** obligation to defend and indemnify within fourteen (14) days of such notice shall not be excused because of the **UAO's** inability to evaluate liability or because the **UAO** evaluates liability and determines the **UAO** is not liable or determines the **FDOT** is solely negligent. Only a final adjudication or judgment finding the **FDOT** solely negligent shall excuse performance of this provision by the **UAO**. The **UAO** shall pay all costs and fees related to this obligation and its enforcement by the **FDOT**. The **FDOT's** delay in notifying the **UAO** of a claim shall not release **UAO** of the above duty to defend.

**5. Force Majeure**

Neither the **UAO** nor the **FDOT** shall be liable to the other for any failure to perform under this Agreement to the extent such performance is prevented by an act of God, war, riots, natural catastrophe, or other event beyond the control of the non-performing party and which could not have been avoided or overcome by the exercise of due diligence; provided that the party claiming the excuse from performance has (a) promptly notified the other party of the occurrence and its estimate duration, (b) promptly remedied or mitigated the effect of the occurrence to the extent possible, and (c) resumed performance as soon as possible.

**6. Miscellaneous**

- a. To the Facilities shall at all times remain the property of and be properly protected and maintained by the **UAO** in accordance with the then current Utility Accommodation Manual and the current utility permit for the Facilities.

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- b. Pursuant to Section 287.058, Florida Statutes, the **FDOT** may unilaterally cancel this Agreement for refusal by the **UAO** to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the **UAO** in conjunction with this Agreement.
- c. This Agreement constitutes the complete and final expression of the parties with respect to the subject matter hereof and supersedes all prior agreements, understandings, or negotiations with respect thereto, except that the parties understand and agree that the **FDOT** has manuals and written policies and procedures which shall be applicable at the time of the Project and the relocation of the Facilities and except that the **UAO** and the **FDOT** may have entered into other agreements for work not included in Exhibit A for Facilities located within the limits of the Project. Copies of **FDOT** manuals, policies, and procedures will be provided to the **UAO** upon request.
- d. This Agreement shall be governed by the laws of the State of Florida. Any provision hereof found to be unlawful or unenforceable shall be severable and shall not affect the validity of the remaining portions hereof.
- e. Time is of essence in the performance of all obligations under this Agreement.
- f. All notices required pursuant to the terms hereof may be sent by first class United States Mail, facsimile transmission, hand delivery, or express mail and shall be deemed to have been received by the end of five business days from the proper sending thereof unless proof of prior actual receipt is provided. The **UAO** shall have a continuing obligation to notify each District of the **FDOT** of the appropriate persons for notices to be sent pursuant to this Agreement. Unless otherwise notified in writing, notices shall be sent to the following addresses:

If to the **UAO**:

Mr. Thomas Lambert, Assistant Director of Public Services
1070 Shoreline Drive
Gulf Breeze, FL 32561

If to the **FDOT**:

Mr. Jonathan Harris, District Utility Administrator
1074 Highway 90
Chipley, FL 32428

## 7. Certification

This document is a printout of an **FDOT** form maintained in an electronic format and all revisions thereto by the **UAO** in the form of additions, deletions, or substitutions are reflected only in an Appendix entitled Changes to Form Document and no change is made in the text of the document itself. Hand notations on affected portions of this document may refer to changes reflected in the above-named Appendix but are for reference purposes only and do not change the terms of the document. By signing this document, the **UAO** hereby represents that no change has been made to the text of this document except through the terms of the appendix entitled Changes to Form Document."

You MUST signify by selecting or checking which of the following applies:

- No changes have been made to this Form Document and no Appendix entitled "Changes to Form Document" is attached.
- No changes have been made to this Form Document, but changes are included on the attached Appendix entitled "Changes to Form Document."

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective the day and year first written.

UTILITY: CITY OF GULF BREEZE (SEWER)

BY: (Signature) *Cherry Fitch*  
(Typed Name: Cherry Fitch)  
(Typed Title: Mayor)

DATE: 1-21-2020

Recommend Approval by the District Utility Office

BY: (Signature) *[Signature]*  
DocuSigned by:  
406500A7FF14422...

DATE: 1/23/2020 | 9:54 AM EST

FDOT Legal review

BY: (Signature) *[Signature]*  
DocuSigned by:  
481EE50740804F5...  
**District Counsel**

DATE: 1/23/2020 | 12:35 PM EST

STATE OF FLORIDA  
DEPARTMENT OF TRANSPORTATION

BY: (Signature) *Tim Smith, P.E.*  
DocuSigned by:  
00EA010DEA3D404...  
(Typed Name: Tim Smith, P.E.)  
(Typed Title: Director of Transportation Development)

DATE: 1/23/2020 | 5:20 PM EST

FEDERAL HIGHWAY ADMINISTRATION (if applicable)

BY: \_\_\_\_\_  
(Typed Name: \_\_\_\_\_)  
(Typed Title: \_\_\_\_\_)

DATE: \_\_\_\_\_

UTILITY WORK BY HIGHWAY CONTRACTOR AGREEMENT (LUMP SUM)

**UAO: CITY OF GULF BREEZE - SEWER**

**APPENDIX**

**CHANGES TO FORM DOCUMENT**

FINANCIAL PROJECT ID: 220440-1-56-05

FEDERAL PROJECT ID: D319-079-B

The Utility Work by Highway Contractor Agreement (LUMP SUM) between the State of Florida Department of Transportation (“**FDOT**”) and the City of Gulf Breeze - Sewer (“**UAO**”) dated the \_\_\_\_ day of 1/23/2020, year of 2020, is amended as follows:

1. The third recital, or “whereas” clause, is amended to read as follows:

“WHEREAS, the Project requires the location (vertically and/or horizontally), protection, relocation, adjustment or removal of the Facilities, or some combination thereof, hereinafter referred to as “Utility Work”; and”

2. The fourth recital, or “whereas” clause, is amended to read as follows:

“WHEREAS, the **FDOT** and the **UAO** desire to enter into an agreement for the Utility Work to be accomplished by the **FDOT**’s Design-Build Firm as part of the construction of the Project; and”

3. The fifth recital, or “whereas” clause, is amended to read as follows:

“WHEREAS, the **UAO** pursuant to the terms and conditions hereof, will bear all costs associated with the Utility Work and the Utility Design; and”

4. A new Section 1 is hereby inserted in the agreement before the section for “Performance of Utility Work” to read as follows:

**“1. Design of Utility Work**

- a. **UAO** shall prepare, at **UAO** ’s sole cost and expense, a conceptual engineering design, plans and technical special provisions to be included as attachments to the Request for Proposal for the Project, and a cost estimate for the Utility Work, hereinafter referred to as the “Plans Package,” on or before September 30, 2019.”
- b. The Plans Package shall be in the same format as the **FDOT**’s contract documents for the Request for Proposal and shall be suitable for reproduction.”
- c. [Intentionally left blank]
- d. The Plans Package shall be prepared in compliance with the **FDOT**’s Utility Accommodation Manual and the **FDOT**’s Design Manual in effect at the time the Plans Package is prepared, and the **FDOT**’s contract documents for the Request for Proposal. If the **FDOT**’s Design Manual has been updated and conflicts with the Utility Accommodation Manual, the Utility Accommodation Manual shall apply where such conflicts exist.

- e. The technical special provisions which are a part of the Plans Package shall be prepared in accordance with the **FDOT's** guidelines on preparation of technical special provisions and shall not duplicate or change the general contracting provisions of the **FDOT's** Standard Specifications for Road and Bridge Construction and any Supplemental Specifications, Special Provisions, or Developmental Specifications of the **FDOT** for the Plans.
- f. The **FDOT** shall review the Plans Package to see that it complies with the requirements of this Agreement.
- g. In the event that the **FDOT** finds any deficiencies in the Plans Package, the **FDOT** will notify the **UAO** in writing of the deficiencies within the time specified in the plans review transmittal. The **FDOT's** review of the documents shall not relieve the **UAO** from responsibility for subsequently discovered errors or omissions.
- h. The **FDOT** shall furnish the **UAO** such information from the **FDOT's** files as requested by the **UAO**; however, the **UAO** shall at all times be and remain solely responsible for proper preparation of the Plans Package and for verifying all information necessary to properly prepare the Plans Package. The providing of information by the **FDOT** shall not relieve the **UAO** of this obligation nor transfer any of that responsibility to the **FDOT**. This Plans Package will be included in the **FDOT** Design-Build Request For Proposal (RFP) package for the Project. The **UAO** shall have the selected Design Build Firm complete the final design on their behalf using the provided Technical Special Provisions and other requirements as outlined in the RFP.
- i. The Facilities and the Utility Work will include all utility facilities of the **UAO** which are located within the limits of the Project, except as generally summarized as follows:    N/A   . These exceptions shall be handled by separate arrangement.
- j. If any facilities of the **UAO** located within the project limits are discovered after work on the project commences to be qualified for relocation at the **FDOT's** expense, but not previously identified as such, the **UAO** shall file a claim with the **FDOT** for recovery of the cost of relocation thereof. The filing of the claim shall not necessarily entitle the **UAO** to payment, and resolution of the claim shall be based on a determination of fault for the error. The discovery of facilities not previously identified as being qualified for relocation at the **FDOT's** expense shall not invalidate this Agreement.
- k. The **UAO** shall fully cooperate with all other right of way users in the preparation of the Plans Package. Any conflicts that cannot be resolved through cooperation shall be resolved in the manner determined by the **FDOT**.
- l. Upon completion of the Utility Work, the Facilities shall be deemed to be located on the public road or publicly owned rail corridor under and pursuant to the Utility Permit issued after the letting of the project.



5. The section for "Performance of Utility Work" in the agreement is deleted and the following is inserted in its place as new Section 2:

**"2. Performance of Utility Work**

- a. The **FDOT** shall incorporate the Plans Package into its contract for design-build of the Project.
- b. The **FDOT** shall procure a contract for construction of the Project in accordance with the **FDOT's** requirements.
- c. The **FDOT** shall perform all engineering inspection, testing, and monitoring of the Utility Work to insure it is properly performed in accordance with the Plans Package, except for the following activities:   NONE    
**FDOT** will furnish daily diary records showing approved quantities and amounts for weekly, monthly, and final estimates in accordance with the format required by **FDOT** procedures.
- d. The **UAO** shall fully cooperate with the **FDOT** and the **FDOT's** contractor in all matters relating to the performance of the Utility Work.
- e. The **FDOT's** engineer has full authority over the Project and the **UAO** shall be responsible for coordinating and cooperating with the **FDOT's** engineer. In so doing, the **UAO** shall make such adjustments and changes in the Plans Package as the **FDOT's** engineer shall determine are necessary for the prosecution of the Project.
- f. The **UAO** shall not make any changes to the Plans Package after the date on which the **FDOT's** contract documents are advertised for the Request for Proposal unless those changes fall within the categories of changes allowed pursuant to the **FDOT** design-build project requirements and **FDOT** design-build policies and procedures.
- g. If the portion of the bid of the contractor selected by the **FDOT** which is for performance of the Utility Work exceeds the **FDOT's** official estimate for the Utility Work by more than ten percent (10%) and the **FDOT** does not elect to participate in the cost of the Utility Work pursuant to Section 337.403(1)(b), Florida Statutes, the **UAO** may elect to have the Utility Work removed from the **FDOT's** contract by notifying the **FDOT** in writing within   5   days from the date that the **UAO** is notified of the bid amount. Unless this election is made, the Utility Work shall be performed as part of the Project by the **FDOT's** contractor.
- h. If the **UAO** elects to remove the Utility Work from the **FDOT's** contract in accordance with Subparagraph 2. g., the **UAO** shall perform the Utility Work.

6. Section 2, "Cost of Utility Work," is renumbered as Section 3.

7. Renumbered Section 3. is deleted and the following is inserted in its place as new Section 3:

- a. Upon execution of this Agreement and delivery to **FDOT**, The **UAO** will execute the Promissory Note with **FDOT** in the amount of \$ 875,526.00 for the cost of the Utility Work. In the event the **UAO** does not execute the Promissory Note the Utility Work will be removed from the Request for Proposal for the Project and the **UAO** shall perform the Utility Work.
- b. The **FDOT** and the **UAO** acknowledge and agree that the amount stated above includes an additional ten percent (10%) to cover the **UAO**'s obligation for the cost of the Utility Work as set forth in Section 337.403(1)(b), Florida Statutes.
- c. Payment of the funds pursuant to this paragraph will be made directly to the **FDOT** for deposit into the State Transportation Trust Fund.
- d. If the portion of the contractor's bid selected by the **FDOT** for performance of the Utility Work exceeds the amount of the deposit made pursuant to Subparagraph a. above, then subject to and in accordance with the limitations and conditions established by Subparagraph 2. g. hereof regarding **FDOT** participation in the cost of the Utility Work and the **UAO**'s election to remove the Utility Work from the Request for Proposal for the Project, the **UAO** shall, within fourteen (14) calendar days from notification from the **FDOT** or prior to posting of the accepted bid, whichever is earlier, pay an additional amount to the **FDOT** to bring the total amount paid to the total obligation of the **UAO** for the cost of the Utility Work, plus Allowances and 10% Contingency Fund. In the event **UAO** does not deposit funds the Utility Work will be removed from the Request for Proposal for the Project and the **UAO** shall perform the Utility Work.. The **FDOT** will notify the **UAO** as soon as it becomes apparent the accepted bid amount plus allowances and contingency is in excess of the advance deposit amount; however, failure of the **FDOT** to so notify the **UAO** shall not relieve the **UAO** from its obligation to pay for its full share of project costs on final accounting as provided herein below. In the event that the **UAO** is obligated under this Subparagraph 3.d. to pay an additional amount and the additional amount that the **UAO** is obligated to pay does not exceed the Contingency Fund already on deposit, the **UAO** shall have sixty (60) calendar days from notification from the **FDOT** to pay the additional amount, regardless of when the accepted bid is posted.
- e. If the accepted bid amount plus allowances and contingency is less than the advance deposit amount, the **FDOT** will refund the amount that the advance deposit exceeds the bid amount, plus allowances and contingency if such refund is requested by the **UAO** in writing and approved by the Comptroller of the **FDOT** or his/her designee.
- f. Pursuant to Section 337.403(1)(b), Florida Statutes, no changes or additions to the Utility Work will be made during the construction of the Project unless the **UAO** has made an additional deposit to cover the cost of the changes or

additions prior to those changes or additions being made to the Utility Work. To the extent that the amount stated in Subparagraph 3.a. above exceeds the amount of the **FDOT** contractor's bid that applies to the Utility Work, such excess may be applied to cover the cost of the changes or additions. All changes or additions shall be subject to the limitations on supplemental agreements and change orders contained in Section 337.11(9), Florida Statutes.

- g. Upon final payment to the Contractor, the **FDOT** intends to have its final and complete accounting of all costs incurred in connection with the work performed hereunder within three hundred sixty (360) days. All project cost records and accounts shall be subject to audit by a representative of the **UAO** for a period of three (3) years after final close out of the Project. The **UAO** will be notified of the final cost. Both parties agree that in the event the final accounting of total project costs pursuant to the terms of this agreement is less than the total deposits to date, a refund of the excess will be made by the **FDOT** to the **UAO** in accordance with Section 215.422, Florida Statutes. In the event said final accounting of total project costs is greater than the total deposits to date, the **UAO** will pay the additional amount within forty (40) calendar days from the date of the invoice. The **UAO** agrees to pay interest at a rate as established pursuant to Section 55.03, Florida Statutes, on any invoice not paid within the time specified in the preceding sentence until the invoice is paid.

8. The remaining sections of the agreement are hereby renumbered as follows:

Section Number	Section Title	New Section Number
3	Default	4
4	Indemnification	5
5	Force Majeure	6
6	Miscellaneous	7
7	Certification	8

<b>City of Gulf Breeze, Forcemain</b>			
<b>Pay Item</b>	<b>Unit</b>	<b>Description</b>	<b>Estimated Quantities</b>
1050 31212	LF	UTILITY PIPE- POLY VINYL CHLORIDE, FURNISH & INSTALL, WATER/SEWER, 12"	12310
1055 31112	EA	UTILITY FITTINGS FOR PVC PIPE, FURNISH AND INSTALL, ELBOW, 12"	12
1055 31212	EA	UTILITY FITTINGS FOR PVC PIPE, FURNISH AND INSTALL, TEE, 12"	5
1050 31204	LF	UTILITY PIPE- POLY VINYL CHLORIDE, FURNISH & INSTALL, WATER/SEWER, 4"	60
---	EA	4" ELBOWS (INCLUDED IN COST)	8
1050 16004	LF	UTILITY PIPE,REMOVE & DISPOSE, 8-19.9"	12310
---	LF	DEWATERING (INCLUDED IN COST)	2850
0337 7 83	TN	ASPHALT CONCRETE FRICTION COURSE,TRAFFIC C, FC-12.5, PG 76-22	2.5
0101 1	LS	MOBILIZATION	1
1080 24112	EA	UTILITY FIXTURE, VALVE ASSEMBLY, FURNISH AND INSTALL, 12"	4
1050 42202	LF	UTILITY PIPE- HIGH DENSITY POLYETHYLENE, FURNISH & INSTALL, WATER/SEWER	10
---	EA	CUT IN 12" PVC (INCLUDED IN COST)	12
---	EA	CUT IN 4" PVC (INCLUDED IN COST)	4
---	EA	2" ELBOWS (INCLUDED IN COST)	2
		<b>TOTAL ESTIMATED COST</b>	<b>\$ 665,200.00</b>
			<b>\$ 795,933.00</b>
			<b>\$ 79,593.00</b>
		<b>Estimates Total</b>	<b>\$ 875,526.00</b>

**Note: Pipe cut-ins, 2"/4" elbows, and dewatering are included in the total cost estimate, however FDOT pay items were not assigned to these tasks.**

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(LUMP SUM)

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<b>Financial Project ID: 220440-1-56-06</b>	<b>Federal Project ID: FUNDED</b>
<b>Financial Project ID:</b>	
<b>Financial Project ID:</b>	
<b>Financial Project ID:</b>	
<b>County: Santa Rosa</b>	<b>State Road No.: 30</b>
<b>District Document No:</b>	
<b>Utility Agency/Owner (UAO): CITY OF GULF BREEZE (GAS)</b>	

1/23/2020 | 5:20 PM EST

**THIS AGREEMENT**, entered into this \_\_\_\_\_ day of \_\_\_\_\_, year of \_\_\_\_\_, by and between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**, hereinafter referred to as the "**FDOT**," and **CITY OF GULF BREEZE (GAS)**, hereinafter referred to as the "**UAO**";

**WITNESSETH:**

**WHEREAS**, the **UAO** owns certain utility facilities which are located on the public road or publicly owned rail corridor identified below, hereinafter referred to as the "Facilities" (said term shall be deemed to include utility facilities as the same may be relocated, adjusted, or placed out of service); and

**WHEREAS**, the **FDOT**, is currently engaging in a project which involves constructing, reconstructing, or otherwise changing a public road and other improvements located on a public road or publicly owned rail corridor identified as SR 30 (US 98) from Bayshore Road to Portside Drive, State Road No. 30, hereinafter referred to as the "Project"; and

**WHEREAS**, the Project requires minor modifications to the Facilities or the **FDOT's** design more particularly described in Exhibit A attached hereto and by this reference made a part hereof, hereinafter referred to as "Utility Work," and full plans and technical specifications for the Utility Work are not required; and

**WHEREAS**, the **FDOT** will perform the Utility Work as part of the Project; and

**WHEREAS**, the **UAO**, pursuant to the terms and conditions hereof, will bear certain costs associated with the Utility Work; and

**WHEREAS**, the **FDOT** and the **UAO** desire to enter into an agreement which establishes the terms and conditions applicable to the Utility Work;

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants contained herein, the **FDOT** and the **UAO** hereby agree as follows:

**1. Performance of Utility Work**

- a. The **FDOT** will include the Utility Work in its plans and specifications for the Project and will include the Utility Work as part of the **FDOT's** construction of the Project. The preparation of the plans and specifications and the construction of the Project will be performed in such manner as the **FDOT**, in its discretion, deemed appropriate.
- b. All location, protection, relocation, adjustment, or removal of the **UAO's** Facilities which is not listed in Exhibit A shall be performed pursuant to a separate agreement.

**2. Cost of Utility Work**

- a. The **UAO** will, at least \_\_\_\_\_ (\_\_\_\_\_) calendar days prior to the date on which the **FDOT** advertises the Project for bids, pay the **FDOT** the amount of \$ \_\_\_\_\_ for the cost of the Utility Work. Said amount will be deposited into the State Transportation Trust Fund.

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- b. The **FDOT** and the **UAO** acknowledge and agree that the amount stated above includes an additional ten percent (10%) to cover the **UAO's** obligation for the cost of the Utility Work as set forth in Section 337.403(1)(b), Florida Statutes.
- c. Except for costs associated with any changes or additions to the Utility Work, the **FDOT** and the **UAO** agree that the deposit shall be an asset of the **FDOT** and that it constitutes a full and final lump sum payment for the cost of the Utility Work, without any requirement for a subsequent accounting for the use of the deposit.
- d. Pursuant to Section 337.403(1)(b), Florida Statutes, no changes or additions to the Utility Work will be made during the construction of the Project unless the **UAO** has made an additional deposit to cover the cost of the changes or additions. To the extent that the amount stated in Subparagraph 2.a. above exceeds the amount of the **FDOT contractor's** bid that applies to the Utility Work, such excess may be applied to cover the cost of the changes or additions. All changes or additions shall be subject to the limitations on supplemental agreements and change orders contained in Section 337.11(8), Florida Statutes.

### 3. Default

- a. In the event that the **UAO** breaches any provision of this Agreement, then in addition to any other remedies which are otherwise provided for in this Agreement, the **FDOT** may exercise one or more of the following options, provided that at no time shall the **FDOT** be entitled to receive double recovery of damages:
  - (1) Terminate this Agreement if the breach is material and has not been cured within 60 days from written notice thereof from the **FDOT**.
  - (2) Pursue a claim for damages suffered by the **FDOT**.
  - (3) Suspend the issuance of further permits to the **UAO** for the placement of Facilities on **FDOT** property if the breach is material and has not been cured within 60 days from written notice thereof from **FDOT** until such time as the breach is cured.
  - (4) Pursue any other remedies legally available.
  - (5) Perform any work with its own forces or through contractors and seek repayment for the cost thereof under Section 337.403(3), Florida Statutes.
- b. In the event that the **FDOT** breaches any provision of this Agreement, then in addition to any other remedies which are otherwise provided for in the Agreement, the **UAO** may exercise one or more of the following options:
  - (1) Terminate this Agreement if the breach is material and has not been cured within 60 days from written notice thereof from the **UAO**.
  - (2) Pursue any other remedies legally available.
- c. Termination of this Agreement shall not relieve either party from any obligations it has pursuant to other agreements between the parties and from any statutory obligations that either party may have with regard to the subject matter hereof.

### 4. Indemnification

#### FOR GOVERNMENT-OWNED UTILITIES:

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To the extent provided by law, the **UAO** shall indemnify, defend, and hold harmless the **FDOT** and all of its officers, agents, and employees from any claim, loss, damage, cost, charge, or expense arising out of any acts, action, error, neglect, or omission by the **UAO**, its agents, employees, or contractors during the performance of the Agreement, whether direct or indirect, and whether to any person or property to which **FDOT** or said parties may be subject, except that neither the **UAO**, its agents, employees, or contractors will be liable under this section for damages arising out of the injury or damage to persons or property directly caused by or resulting from the negligence of the **FDOT** or any of its officers, agents, or employees during the performance of this Agreement.

When the **FDOT** receives a notice of claim for damages that may have been caused by the **UAO** in the performance of services required under this Agreement, the **FDOT** will immediately forward the claim to the **UAO**. The **UAO** and the **FDOT** will evaluate the claim and report their findings to each other within fourteen (14) working days and will jointly discuss options in defending the claim. After reviewing the claim, the **FDOT** will determine whether to require the participation of the **UAO** in the defense of the claim or to require the **UAO** to defend the **FDOT** in such claim as described in this section. The **FDOT's** failure to notify the **UAO** of a claim shall not release the **UAO** from any of the requirements of this section. The **FDOT** and the **UAO** will pay their own costs for the evaluation, settlement negotiations, and trial, if any. However, if only one party participates in the defense of the claim at trial, that party is responsible for all costs.

**FOR NON-GOVERNMENT-OWNED UTILITIES:**

The **UAO** shall indemnify, defend, and hold harmless the **FDOT** and all of its officers, agents, and employees from any claim, loss, damage, cost, charge, or expense arising out of any acts, action, error, neglect, or omission by the **UAO**, its agents, employees, or contractors during the performance of the Agreement, whether direct or indirect, and whether to any person or property to which **FDOT** or said parties may be subject, except that neither the **UAO**, its agents, employees, or contractors will be liable under this section for damages arising out of the injury or damage to persons or property directly caused by or resulting from the negligence of the **FDOT** or any of its officers, agents, or employees during the performance of this Agreement.

The **UAO's** obligation to indemnify, defend, and pay for the defense or at the **FDOT's** option, to participate and associate with the **FDOT** in the defense and trial of any damage claim or suit and any related settlement negotiations, shall arise within fourteen (14) days of receipt by the **UAO** of the **FDOT's** notice of claim for indemnification to the **UAO**. The notice of claim for indemnification shall be served by certified mail. The **UAO's** obligation to defend and indemnify within fourteen (14) days of such notice shall not be excused because of the **UAO's** inability to evaluate liability or because the **UAO** evaluates liability and determines the **UAO** is not liable or determines the **FDOT** is solely negligent. Only a final adjudication or judgment finding the **FDOT** solely negligent shall excuse performance of this provision by the **UAO**. The **UAO** shall pay all costs and fees related to this obligation and its enforcement by the **FDOT**. The **FDOT's** delay in notifying the **UAO** of a claim shall not release **UAO** of the above duty to defend.

**5. Force Majeure**

Neither the **UAO** nor the **FDOT** shall be liable to the other for any failure to perform under this Agreement to the extent such performance is prevented by an act of God, war, riots, natural catastrophe, or other event beyond the control of the non-performing party and which could not have been avoided or overcome by the exercise of due diligence; provided that the party claiming the excuse from performance has (a) promptly notified the other party of the occurrence and its estimate duration, (b) promptly remedied or mitigated the effect of the occurrence to the extent possible, and (c) resumed performance as soon as possible.

**6. Miscellaneous**

- a. To the Facilities shall at all times remain the property of and be properly protected and maintained by the **UAO** in accordance with the then current Utility Accommodation Manual and the current utility permit for the Facilities.

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- b. Pursuant to Section 287.058, Florida Statutes, the **FDOT** may unilaterally cancel this Agreement for refusal by the **UAO** to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the **UAO** in conjunction with this Agreement.
- c. This Agreement constitutes the complete and final expression of the parties with respect to the subject matter hereof and supersedes all prior agreements, understandings, or negotiations with respect thereto, except that the parties understand and agree that the **FDOT** has manuals and written policies and procedures which shall be applicable at the time of the Project and the relocation of the Facilities and except that the **UAO** and the **FDOT** may have entered into other agreements for work not included in Exhibit A for Facilities located within the limits of the Project. Copies of **FDOT** manuals, policies, and procedures will be provided to the **UAO** upon request.
- d. This Agreement shall be governed by the laws of the State of Florida. Any provision hereof found to be unlawful or unenforceable shall be severable and shall not affect the validity of the remaining portions hereof.
- e. Time is of essence in the performance of all obligations under this Agreement.
- f. All notices required pursuant to the terms hereof may be sent by first class United States Mail, facsimile transmission, hand delivery, or express mail and shall be deemed to have been received by the end of five business days from the proper sending thereof unless proof of prior actual receipt is provided. The **UAO** shall have a continuing obligation to notify each District of the **FDOT** of the appropriate persons for notices to be sent pursuant to this Agreement. Unless otherwise notified in writing, notices shall be sent to the following addresses:

If to the **UAO**:

Mr. Thomas Lambert, Assistant Director of Public Services
1070 Shoreline Drive
Gulf Breeze, FL 32561

If to the **FDOT**:

Mr. Jonathan Harris, District Utility Administrator
1074 Highway 90
Chipley, FL 32428

## 7. Certification

This document is a printout of an **FDOT** form maintained in an electronic format and all revisions thereto by the **UAO** in the form of additions, deletions, or substitutions are reflected only in an Appendix entitled Changes to Form Document and no change is made in the text of the document itself. Hand notations on affected portions of this document may refer to changes reflected in the above-named Appendix but are for reference purposes only and do not change the terms of the document. By signing this document, the **UAO** hereby represents that no change has been made to the text of this document except through the terms of the appendix entitled Changes to Form Document."

You MUST signify by selecting or checking which of the following applies:

- No changes have been made to this Form Document and no Appendix entitled "Changes to Form Document" is attached.
- No changes have been made to this Form Document, but changes are included on the attached Appendix entitled "Changes to Form Document."



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IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective the day and year first written.

UTILITY: CITY OF GULF BREEZE (GAS)

BY: (Signature) *Cherry Fitch*  
(Typed Name: Cherry Fitch)  
(Typed Title: Mayor)

DATE: 1-21-2020

Recommend Approval by the District Utility Office

BY: (Signature) *[Signature]*  
DocuSigned by:  
480536A7FF14422...

DATE: 1/23/2020 | 9:54 AM EST

FDOT Legal review

BY: (Signature) *[Signature]*  
DocuSigned by:  
481EE6674C804F5...  
**District Counsel**

DATE: 1/23/2020 | 12:35 PM EST

STATE OF FLORIDA  
DEPARTMENT OF TRANSPORTATION

BY: (Signature) *Tim Smith, P.E.*  
DocuSigned by:  
00EA910BEA3D404...  
(Typed Name: Tim Smith, P.E.)  
(Typed Title: Director of Transportation Development)

DATE: 1/23/2020 | 5:20 PM EST

FEDERAL HIGHWAY ADMINISTRATION (if applicable)

BY: \_\_\_\_\_  
(Typed Name: \_\_\_\_\_)  
(Typed Title: \_\_\_\_\_)

DATE: \_\_\_\_\_

UTILITY WORK BY HIGHWAY CONTRACTOR AGREEMENT (LUMP SUM)

**UAO: CITY OF GULF BREEZE - GAS**

**APPENDIX**

**CHANGES TO FORM DOCUMENT**

FINANCIAL PROJECT ID: 220440-1-56-06

FEDERAL PROJECT ID: D319-079-B

The Utility Work by Highway Contractor Agreement (LUMP SUM) between the State of Florida Department of Transportation (“**FDOT**”) and the City of Gulf Breeze - GAS (“**UAO**”) dated the \_\_\_\_ day of 1/23/2020 <sup>5:20 PM EST</sup>, year of 2020, is amended as follows:

1. The third recital, or “whereas” clause, is amended to read as follows:

“WHEREAS, the Project requires the location (vertically and/or horizontally), protection, relocation, adjustment or removal of the Facilities, or some combination thereof, hereinafter referred to as “Utility Work”; and”

2. The fourth recital, or “whereas” clause, is amended to read as follows:

“WHEREAS, the **FDOT** and the **UAO** desire to enter into an agreement for the Utility Work to be accomplished by the **FDOT**’s Design-Build Firm as part of the construction of the Project; and”

3. The fifth recital, or “whereas” clause, is amended to read as follows:

“WHEREAS, the **UAO** pursuant to the terms and conditions hereof, will bear all costs associated with the Utility Work and the Utility Design; and”

4. A new Section 1 is hereby inserted in the agreement before the section for “Performance of Utility Work” to read as follows:

**“1. Design of Utility Work**

- a. **UAO** shall prepare, at **UAO** ’s sole cost and expense, a conceptual engineering design, plans and technical special provisions to be included as attachments to the Request for Proposal for the Project, and a cost estimate for the Utility Work, hereinafter referred to as the “Plans Package,” on or before September 30, 2019.”
- b. The Plans Package shall be in the same format as the **FDOT**’s contract documents for the Request for Proposal and shall be suitable for reproduction.”
- c. [Intentionally left blank]
- d. The Plans Package shall be prepared in compliance with the **FDOT**’s Utility Accommodation Manual and the **FDOT**’s Design Manual in effect at the time the Plans Package is prepared, and the **FDOT**’s contract documents for the Request for Proposal. If the **FDOT**’s Design Manual has been updated and conflicts with the Utility Accommodation Manual, the Utility Accommodation Manual shall apply where such conflicts exist.

- e. The technical special provisions which are a part of the Plans Package shall be prepared in accordance with the **FDOT's** guidelines on preparation of technical special provisions and shall not duplicate or change the general contracting provisions of the **FDOT's** Standard Specifications for Road and Bridge Construction and any Supplemental Specifications, Special Provisions, or Developmental Specifications of the **FDOT** for the Plans.
- f. The **FDOT** shall review the Plans Package to see that it complies with the requirements of this Agreement.
- g. In the event that the **FDOT** finds any deficiencies in the Plans Package, the **FDOT** will notify the **UAO** in writing of the deficiencies within the time specified in the plans review transmittal. The **FDOT's** review of the documents shall not relieve the **UAO** from responsibility for subsequently discovered errors or omissions.
- h. The **FDOT** shall furnish the **UAO** such information from the **FDOT's** files as requested by the **UAO**; however, the **UAO** shall at all times be and remain solely responsible for proper preparation of the Plans Package and for verifying all information necessary to properly prepare the Plans Package. The providing of information by the **FDOT** shall not relieve the **UAO** of this obligation nor transfer any of that responsibility to the **FDOT**. This Plans Package will be included in the **FDOT** Design-Build Request For Proposal (RFP) package for the Project. The **UAO** shall have the selected Design Build Firm complete the final design on their behalf using the provided Technical Special Provisions and other requirements as outlined in the RFP.
- i. The Facilities and the Utility Work will include all utility facilities of the **UAO** which are located within the limits of the Project, except as generally summarized as follows:    N/A   . These exceptions shall be handled by separate arrangement.
- j. If any facilities of the **UAO** located within the project limits are discovered after work on the project commences to be qualified for relocation at the **FDOT's** expense, but not previously identified as such, the **UAO** shall file a claim with the **FDOT** for recovery of the cost of relocation thereof. The filing of the claim shall not necessarily entitle the **UAO** to payment, and resolution of the claim shall be based on a determination of fault for the error. The discovery of facilities not previously identified as being qualified for relocation at the **FDOT's** expense shall not invalidate this Agreement.
- k. The **UAO** shall fully cooperate with all other right of way users in the preparation of the Plans Package. Any conflicts that cannot be resolved through cooperation shall be resolved in the manner determined by the **FDOT**.
- l. Upon completion of the Utility Work, the Facilities shall be deemed to be located on the public road or publicly owned rail corridor under and pursuant to the Utility Permit issued after the letting of the project.

5. The section for "Performance of Utility Work" in the agreement is deleted and the following is inserted in its place as new Section 2:

**"2. Performance of Utility Work**

- a. The **FDOT** shall incorporate the Plans Package into its contract for design-build of the Project.
- b. The **FDOT** shall procure a contract for construction of the Project in accordance with the **FDOT's** requirements.
- c. The **FDOT** shall perform all engineering inspection, testing, and monitoring of the Utility Work to insure it is properly performed in accordance with the Plans Package, except for the following activities:       NONE        
**FDOT** will furnish daily diary records showing approved quantities and amounts for weekly, monthly, and final estimates in accordance with the format required by **FDOT** procedures.
- d. The **UAO** shall fully cooperate with the **FDOT** and the **FDOT's** contractor in all matters relating to the performance of the Utility Work.
- e. The **FDOT's** engineer has full authority over the Project and the **UAO** shall be responsible for coordinating and cooperating with the **FDOT's** engineer. In so doing, the **UAO** shall make such adjustments and changes in the Plans Package as the **FDOT's** engineer shall determine are necessary for the prosecution of the Project.
- f. The **UAO** shall not make any changes to the Plans Package after the date on which the **FDOT's** contract documents are advertised for the Request for Proposal unless those changes fall within the categories of changes allowed pursuant to the **FDOT** design-build project requirements and **FDOT** design-build policies and procedures.
- g. If the portion of the bid of the contractor selected by the **FDOT** which is for performance of the Utility Work exceeds the **FDOT's** official estimate for the Utility Work by more than ten percent (10%) and the **FDOT** does not elect to participate in the cost of the Utility Work pursuant to Section 337.403(1)(b), Florida Statutes, the **UAO** may elect to have the Utility Work removed from the **FDOT's** contract by notifying the **FDOT** in writing within   5   days from the date that the **UAO** is notified of the bid amount. Unless this election is made, the Utility Work shall be performed as part of the Project by the **FDOT's** contractor.
- h. If the **UAO** elects to remove the Utility Work from the **FDOT's** contract in accordance with Subparagraph 2. g., the **UAO** shall perform the Utility Work.

6. Section 2, "Cost of Utility Work," is renumbered as Section 3.

7. Renumbered Section 3. is deleted and the following is inserted in its place as new Section 3:

- a. Upon execution of this Agreement and delivery to **FDOT**, The **UAO** will execute the Promissory Note with **FDOT** in the amount of \$ 832,004.00 for the cost of the Utility Work. In the event the **UAO** does not execute the Promissory Note the Utility Work will be removed from the Request for Proposal for the Project and the **UAO** shall perform the Utility Work.
- b. The **FDOT** and the **UAO** acknowledge and agree that the amount stated above includes an additional ten percent (10%) to cover the **UAO**'s obligation for the cost of the Utility Work as set forth in Section 337.403(1)(b), Florida Statutes.
- c. Payment of the funds pursuant to this paragraph will be made directly to the **FDOT** for deposit into the State Transportation Trust Fund.
- d. If the portion of the contractor's bid selected by the **FDOT** for performance of the Utility Work exceeds the amount of the deposit made pursuant to Subparagraph a. above, then subject to and in accordance with the limitations and conditions established by Subparagraph 2. g. hereof regarding **FDOT** participation in the cost of the Utility Work and the **UAO**'s election to remove the Utility Work from the Request for Proposal for the Project, the **UAO** shall, within fourteen (14) calendar days from notification from the **FDOT** or prior to posting of the accepted bid, whichever is earlier, pay an additional amount to the **FDOT** to bring the total amount paid to the total obligation of the **UAO** for the cost of the Utility Work, plus Allowances and 10% Contingency Fund. In the event **UAO** does not deposit funds the Utility Work will be removed from the Request for Proposal for the Project and the **UAO** shall perform the Utility Work.. The **FDOT** will notify the **UAO** as soon as it becomes apparent the accepted bid amount plus allowances and contingency is in excess of the advance deposit amount; however, failure of the **FDOT** to so notify the **UAO** shall not relieve the **UAO** from its obligation to pay for its full share of project costs on final accounting as provided herein below. In the event that the **UAO** is obligated under this Subparagraph 3.d. to pay an additional amount and the additional amount that the **UAO** is obligated to pay does not exceed the Contingency Fund already on deposit, the **UAO** shall have sixty (60) calendar days from notification from the **FDOT** to pay the additional amount, regardless of when the accepted bid is posted.
- e. If the accepted bid amount plus allowances and contingency is less than the advance deposit amount, the **FDOT** will refund the amount that the advance deposit exceeds the bid amount, plus allowances and contingency if such refund is requested by the **UAO** in writing and approved by the Comptroller of the **FDOT** or his/her designee.
- f. Pursuant to Section 337.403(1)(b), Florida Statutes, no changes or additions to the Utility Work will be made during the construction of the Project unless the **UAO** has made an additional deposit to cover the cost of the changes or

additions prior to those changes or additions being made to the Utility Work. To the extent that the amount stated in Subparagraph 3.a. above exceeds the amount of the **FDOT** contractor's bid that applies to the Utility Work, such excess may be applied to cover the cost of the changes or additions. All changes or additions shall be subject to the limitations on supplemental agreements and change orders contained in Section 337.11(9), Florida Statutes.

- g. Upon final payment to the Contractor, the **FDOT** intends to have its final and complete accounting of all costs incurred in connection with the work performed hereunder within three hundred sixty (360) days. All project cost records and accounts shall be subject to audit by a representative of the **UAO** for a period of three (3) years after final close out of the Project. The **UAO** will be notified of the final cost. Both parties agree that in the event the final accounting of total project costs pursuant to the terms of this agreement is less than the total deposits to date, a refund of the excess will be made by the **FDOT** to the **UAO** in accordance with Section 215.422, Florida Statutes. In the event said final accounting of total project costs is greater than the total deposits to date, the **UAO** will pay the additional amount within forty (40) calendar days from the date of the invoice. The **UAO** agrees to pay interest at a rate as established pursuant to Section 55.03, Florida Statutes, on any invoice not paid within the time specified in the preceding sentence until the invoice is paid.

8. The remaining sections of the agreement are hereby renumbered as follows:

Section Number	Section Title	New Section Number
3	Default	4
4	Indemnification	5
5	Force Majeure	6
6	Miscellaneous	7
7	Certification	8

City of Gulf Breeze, 6-inch Gasmain			
Pay Item	Unit	Description	Estimated Quantities
1050 43306	LF	UTILITY PIPE- MEDIUM DENSITY POLYETHYLENE, FURNISH & INSTALL, GAS, 6"	6867
---	EA	6" ELBOWS (INCLUDED IN COST)	298
---	EA	CUT IN 6" PE (INCLUDED IN COST)	102
0337 7 83	TN	ASPHALT CONCRETE FRICTION COURSE,TRAFFIC C, FC-12.5, PG 76-22	1
0101 1	LS	MOBILIZATION	1
1050 16003	LF	UTILITY PIPE,REMOVE & DISPOSE, 5-7.9"	6867
---	LF	DEWATERING	2460
TOTAL ESTIMATED COST			\$514,449.00

\$	75.00	\$	515,025.00
\$	185.00	\$	185.00
\$	16.00	\$	109,872.00
		\$	625,082.00
		\$	62,508.00
		\$	<b>687,590.00</b>

**Note: Pipe cut-ins, 6" elbows, and dewatering are included in the total cost estimate, however FDOT pay items were not assigned to these tasks.**

**Estimates Total**

City of Gulf Breeze, 4-inch Gasmain			
Pay Item	Unit	Description	Estimated Quantities
1050 51204	LF	UTILITY PIPE- DUCTILE IRON/CAST IRON, FURNISH & INSTALL, WATER/SEWER, 4"	712
---	EA	4" ELBOWS (INCLUDED IN COST)	100
---	EA	CUT IN 4" STEEL GM (INCLUDED IN COST)	50
0337 7 83	TN	ASPHALT CONCRETE FRICTION COURSE,TRAFFIC C, FC-12.5, PG 76-22	1.5
0101 1	LS	MOBILIZATION	1
1050 16002	LF	UTILITY PIPE,REMOVE & DISPOSE, 2-4.9"	712
---	LF	DEWATERING	237
TOTAL ESTIMATED COST			\$124,141.00

\$	140.00	\$	99,680.00
\$	185.00	\$	277.00
\$	44.00	\$	31,328.00
		\$	131,285.00
		\$	13,128.00
		\$	<b>144,414.00</b>

**Note: Pipe cut-ins, 4" elbows, and dewatering are included in the total cost estimate ,however FDOT pay items were not assigned to these**

**Estimates Total**



**tasks.**