

LETTING ID: CT090805 CALL ORDER: 001 PROPOSAL ID: T7213 DISTRICT: 07
COUNTIES: PINELLAS, , ,

ROAD NAME: SR 55 (US 19)
LIMITS: FROM A PT N OF WHITNEY RD TO A PT N OF SR 60

FINPROJ NO(S):	25688115201 (*)	FEDERAL AID NO: ARRA280B	WORK MIX: INTERCHANGE (NEW)
	25688115601	FEDERAL AID NO: N/A	WORK MIX: INTERCHANGE (NEW)
	25688115602	FEDERAL AID NO: N/A	WORK MIX: INTERCHANGE (NEW)
	25688115603	FEDERAL AID NO: N/A	WORK MIX: INTERCHANGE (NEW)
	25688115604	FEDERAL AID NO: N/A	WORK MIX: INTERCHANGE (NEW)
	25688115605	FEDERAL AID NO: N/A	WORK MIX: INTERCHANGE (NEW)
	25688115606	FEDERAL AID NO: N/A	WORK MIX: INTERCHANGE (NEW)
	25688115607	FEDERAL AID NO: N/A	WORK MIX: INTERCHANGE (NEW)
	25688115608	FEDERAL AID NO: N/A	WORK MIX: INTERCHANGE (NEW)
	25688115609	FEDERAL AID NO: N/A	WORK MIX: INTERCHANGE (NEW)
	25688125201	FEDERAL AID NO: N/A	WORK MIX: INTERCHANGE (NEW)
	25688125601	FEDERAL AID NO: N/A	WORK MIX: INTERCHANGE (NEW)
	25688125602	FEDERAL AID NO: N/A	WORK MIX: INTERCHANGE (NEW)
	25688125603	FEDERAL AID NO: N/A	WORK MIX: INTERCHANGE (NEW)
	25688125605	FEDERAL AID NO: N/A	WORK MIX: INTERCHANGE (NEW)
	25688125606	FEDERAL AID NO: N/A	WORK MIX: INTERCHANGE (NEW)
	25688125607	FEDERAL AID NO: N/A	WORK MIX: INTERCHANGE (NEW)
	25688125608	FEDERAL AID NO: N/A	WORK MIX: INTERCHANGE (NEW)

Additional Financial Project Numbers for accounting purposes only are: 25688125202, 25688115690, 25688115621, 25688115622 and 25688115623

TOTAL ROADWAY LENGTH:	2.408	MILES	CONTRACT DAYS: 1665
TOTAL BRIDGE LENGTH:	0.345	MILES	LETTING DATE: 08/05/09
TOTAL PROPOSAL LENGTH:	2.753	MILES	CONTRACT EXECUTION DAYS: 60
			SPECIAL START DATE: N/A
			ACQUIS./FLEXIBLE START TIME: 30 DAYS

PROPOSAL BUDGET ESTIMATE: \$162,343,241.00

PROPOSAL PACKAGE FEE: \$5.00

DESCRIPTION:
DVD Media

Ordering documents requires a State of Florida vendor number. Register at www.myfloridamarketplace.com to obtain a vendor number. Allow 3-4 days for processing.

All bids must be submitted through www.bidx.com. Bidding through BidX requires a Digital ID from www.bidx.com. Allow up to 6 days to complete the Digital ID registration.

American Recovery and Reinvestment Act of 2009 (ARRA) Project.

The proposal guarantee to accompany the bid shall be not less than three percent (3%) of the total actual bid.

AWARD CONTINGENT ON RECEIPT OF LOCAL FUNDS AND LOCAL FUND AGREEMENT.

For the purpose of bidding, the Department has established a maximum budget of \$162,343,241. This amount is not the Department's official cost estimate for the work but is the budgetary constraint established for this contract. Submission of a bid under the maximum budget is not a guarantee of contract award and cannot be interpreted as an appropriate or awardable bid amount. For this contract, the Department will reject as non-responsive any bid in which the contractor submits a bid in excess of the maximum budget amount shown above.

During preparation of the bid, if concerns regarding the Department's maximum budget arise, submit a letter of budget concern to Scott W. Collister, P.E. at fax (813) 975-4853 by July 8, 2009. The Department will review the letter of budget concern and determine its next course of action. This process is established to provide the opportunity for bid proposal holders for this contract to express budget constraint issues prior to submission of a bid.

The improvements under this contract consist of reconstruction of roadway on SR 55. This project includes structures (bridge and retaining walls), signing and pavement markings, lighting, signalization, ITS and utilities. The improvements under this contract also include the construction of approximately 5,730 linear feet of 48-inch diameter, potable water transmission main and appurtenances including connections and tie-ins to the existing transmission main.



**Florida Department of Transportation
District Seven**

**BUILD-FINANCE
REQUEST FOR PROPOSALS**

for

**State Road 55/U.S. 19 Reconstruction
from North of Whitney Road to North of State Road 60
Pinellas County, Florida**

Revised July 21, 2009

**Financial Projects Numbers: 256881-1 & 2
Federal Aid Project Numbers: ARRA-280-B & SFT1-158-R
Contract Number: T7213**

Mail or Deliver Proposals To:

Juanita Moore
Contracts Administration Office
Florida Department of Transportation
605 Suwannee Street, MS – 55
Tallahassee, FL 32399
Phone: 850-414-4000
Fax: 850-414-4947
Email: contracts.admin@dot.state.fl.us

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I. Introduction.

The Florida Department of Transportation (Department) has issued this Request for Proposals (RFP) to solicit Proposals consisting of (a) competitive Bid Prices and (b) Financial Qualifications and Project Financial Plan from interested Proposers (Build-Finance Firms) for the reconstruction of the State Road 55/U.S. 19 from North of Whitney Road to North of State Road 60, in Pinellas County. The Financial Qualifications and Project Financial Plan are together collectively referred to herein as the “Financial Proposal.”

The Department has set a Maximum Bid Price of \$162,343,241 and a Maximum Allowable Contract Time of 1665 calendar days for the completion of this project. Bids received shall be determined non-responsive if either the Maximum Bid Price or the Maximum Allowable Contract Time is exceeded.

The Department has prepared and assembled a complete signed and sealed set of project plans and specifications for this project that include estimated quantities. The Standard Specifications for Road and Bridge Construction dated 2007, as amended by contract documents, govern.

A unique aspect of this project is the timetable for the availability of funds the Department has to complete this project. In order to develop a Project Financial Plan, the Build-Finance Firm must consider the Department’s availability of funds as noted in Section IV of this RFP.

Each Build-Finance Firm is required to submit certification of both its Financial Proposal as defined in Section III., C. and its Bid Price for the project.

This project is partially funded by funds designated in the American Recovery and Reinvestment Act of 2009. Accordingly, each Build-Finance Firm will be required to meet the reporting requirements of the Act and otherwise be subject to the Act, as more fully stated in 7-1.11, 9-5.3.3 and 9-8.1, Special Provisions (*See the project plans and specification package*).

Description of Work

The State Road 55/U.S. 19 project involves the reconstruction of U.S. 19 (S.R. 55) from North of Whitney Road to North of State Road 60, in Pinellas County, Florida. The existing six-lane divided highway will be reconstructed to a six-lane controlled-access facility with one-way frontage roads in both directions. Bridges will be constructed at Allen’s Creek, Bellaire Road, and Seville Boulevard. The existing overpass at S.R. 60 will be reconstructed with a wider bridge.

II. Schedule of Events

The schedule of the remaining events that will take place in the contract award process is shown below. The Department reserves the right to make changes or alterations to the schedule as the Department determines are in the best interests of the public. Build-Finance Firms 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 Build-Finance Firm shall constitute absolute deadlines for those activities and failure to fully comply by the time stated shall cause a Build-Finance Firm to be disqualified.

Date	Event
May 27, 2009	Contractor Information Forum (10:00 a.m. local time at the University of South Florida Marshall Student Center, Tampa, FL 33612).
June 3, 2009	Advertisement Date
July 15, 2009	Deadline for submission of questions (10:00 a.m. local time). The Department will review and respond to all questions submitted by July 15 th and determine if a written response is warranted and provide such responses to all Proposers in due course. Responses will be posted at the Department's bid question website (http://www2.dot.state.fl.us/construction/D7/ConstructionBidQuestions.asp). For questions submitted after the 15 th a response cannot be guaranteed.
July 22 August 5, 2009	Financial Proposal and Bid Price Proposal are both due by 4:00 p.m. local time. Note that the Financial Proposal must be timely submitted to Juanita Moore, Contracts Administration Office, Florida Department of Transportation, 605 Suwannee Street, MS – 55, Tallahassee, FL 32399. However, the Bid Price Proposal must be timely submitted to the Department using the Expedite Proposal file by using the internet (Bid Express).
September 03, 2009	Anticipated Posting Date
TBD September 10, 2009	Anticipated Award Date
TBD November 10, 2009	Anticipated Execution Date

III. Threshold Requirements

A. Technical Qualifications

All qualification requirements of Rule 14-22, F.A.C. must be satisfied. The Build-Finance Firm bidding must include at least one contractor on its team prequalified per Rule 14-22, F.A.C. in the work class Major Bridge – Curved Steel Girders.

B. Joint Venture Firm

If a Build-Finance Firm is a joint venture, the parties to the joint venture must execute a Declaration of Joint Venture and Power of Attorney Form (Form 375-020-18) and submit the form to the Department prior to receipt of the bidding document. The form is available at: <http://www.dot.state.fl.us/cc-admin/forms/37502018.pdf>. The proposal shall clearly identify who will be responsible for the individual portions of construction and finance of the work.

C. Financial Qualifications and Project Financial Plan (Financial Proposal)

1. On the due date as shown in the Schedule of Events in Section II of this document, each Build-Finance Firm will deliver to the Department five (5) hard copies, and five (5) digital copies of its Financial Proposal (including the Project Financial Plan in Microsoft Excel). The Financial Proposal is required so the Department can be assured that the Build-Finance Firm has sufficient financial resources

to construct the project within the allotted contract time, based on the timetable for the availability of funds as noted in this RFP.

The minimum required documents the Build-Finance Firm must submit to the Department for performance of financial due diligence shall include, but may not be limited to, the following:

- a. Project Financial Plan, including at a minimum:
 - i. All financial elements to finance the project as proposed.
 - ii. Provision for all project costs (including the Bid Price).
 - iii. Project Sources and Uses of Funds. A statement sufficient to serve as a cash flow needs analysis.
- b. Audited Financial Statements, prepared in accordance with Generally Accepted Accounting Principles, for the most recent two (2) fiscal years. These Financial Statements must be submitted for each party of the Build-Finance Team providing financial support to the project. Required financial statements shall include:
 - i. Opinion Letter (Auditor's Report)
 - ii. Balance Sheet
 - iii. Income Statement
 - iv. Statement of Changes in Cash Flow
 - v. Footnotes
 - vi. If financial statements are prepared in accordance with principles other than U.S. Generally Accepted Accounting Principles, a letter from a certified public accountant must be included addressing in detail the areas of the financial statements that would be impacted by a conversion to U.S. Generally Accepted Accounting Principles and the financial impact thereof.
- c. If audited financials are not available, unaudited financial statements, prepared in accordance with Generally Accepted Accounting Principles, shall be provided and certified as true, correct and complete by the Chief Financial Officer. Requirements are the same as for Audited Financial Statements except an Opinion Letter is not required.
- d. Interim Financial Statements must be submitted for each party of the Build-Finance Team providing financial support to the project. The statements, prepared in accordance with Generally Accepted Accounting Principles and certified by the entity's Chief Financial Officer, shall be provided for the period since the last Audited Financial Statement. Interim Financial Statements through the most recent completed fiscal quarter should be provided. Requirements are the same as for Audited Financial Statements except an Opinion Letter is not required.
- e. Letter of Commitment or Credit from Financial Institution. If using debt financing as a source of funds or guarantee, a preliminary Letter of Commitment or Credit from the financial institution, must be submitted as part of the Financial Proposal and a final Letter of Commitment or Credit/Statement of No Change or updated firm commitment letter submitted prior to award of contract. The Letter of Commitment or Credit should be specific to the project and meet the amount required as identified in the Project Financial Plan.
- f. Attestation by the Chief Financial Officer as to accuracy and completeness of all financial information provided.
- g. Ownership and Organizational structure of all entities involved in the project, including financial relationships with other entities included or involved in the delivery of this project.
- h. An affidavit from a bonding company that certifies contractor has the financial means and capacity to bond 100% payment and performance for the face amount of \$80,000,000 for the project.

- i. Any and all financial warranties, bonds, sureties, certifications and other commitments for the financial security of the project, as may be appropriate.

2. The Department's review of the Financial Proposal shall neither create, modify, nor activate any legal rights or obligations of the Department. The Department's evaluation of a Financial Proposal is solely for the benefit of the Department and not for the benefit of the Build-Finance Firm, any entity related thereto, the public or any member thereof, nor create any third party rights. A claim for damages may not be maintained against the Department based on or arising out of the Department's review of the Financial Proposal. The Department's evaluation of each Financial Proposal will be on a pass/fail basis. Analysis of the Build-Finance Firm's Financial Proposal by the Department will include, but not be limited to, the following:

- a. Review of the Build-Finance Firm's Project Financial Plan to determine if the Plan includes all financial elements to finance the project as proposed.
- b. Review and determine if the Build-Finance Firm's Project Financial Plan demonstrates ability to meet the cash flow needs of the project consistent with the Department's Cash Availability Schedule.
- c. Review of the Financial Statements and Interim Financial Statements.
- d. Review of the Financial Institution Letters of Commitment or Credit.
- e. Review of the attestation by the Build-Finance Firm's Chief Financial Officer as to accuracy and completeness of all financial information provided.
- f. Review of the financial relationships and responsibilities of Ownership and Organizational structure of all of the entities involved.
- g. Review of bonding company certification of contractor capacity for \$80,000,000 payment and performance bond.
- h. Review of any and all financial warranties, bonds, sureties, certifications and other commitments for the financial security of the project, as may be appropriate.

The Department reserves the right to request any additional information or pursue other actions required to meet its obligation to complete the financial due diligence.

IV. Build-Finance Contract Method of Compensation

The Department will enter into a unit price contract with the successful Build-Finance Firm. The terms and conditions of the contract will be based on the unit prices and fixed time bid, with actual payment by the Department for work performed to be made over time and based on the applicable Cash Availability Schedule.

Special Provisions as to Method of Compensation.

A. Subarticle 9-5.1, Partial Payments, General, of the 2007 Standard Specifications for Road and Bridge Construction (Pages 98 and 99), is deleted and the following is substituted:

9-5.1 General: The Engineer will generate monthly estimates based on the amount of work that the Contractor completes during the month (including delivery of certain materials, as specified herein below). The Engineer will make adjustments in quantities on subsequent monthly estimates and the final estimate.

Partial payments will be made on monthly invoices submitted by the Contractor and accepted by the

Engineer, subject to the Cash Availability Schedules. The monthly invoice period shall coincide with the Department's monthly estimate period. The invoice amount shall be a summation of the contract pay item quantities performed over the invoice period multiplied by the corresponding contract pay item unit prices; up to, but not exceeding, the cash available per the appropriate Cash Availability Schedule. The invoices shall be by the appropriate Cash Availability Schedule and based on the lesser of the amount of work the Contractor completes per the monthly estimate and the applicable cash available during the month. The cash available for partial payments will be contingent upon annual legislative appropriation and in accordance with the Cash Availability Schedules shown below.

The cash available for partial payments shown in the Cash Availability Schedules is subject to the availability of funds appropriated annually by the State Legislature and approved by the Governor. The Department shall include partial payments for this project in its tentative five year work program and legislative budget request prepared annually in accordance with Florida Statutes. If the total cash available for partial payments in the Cash Availability Schedules programmed and appropriated in any one fiscal year is not fully paid out during that fiscal year the Department shall include the fund balance in its certified forward request to the State Legislature in order to maintain the availability of those funds. The Department shall ensure that funds for partial payments shown in the Cash Availability Schedules are prioritized ahead of funding for new capacity projects in developing and updating its tentative work program, and that no more than 15% of the total amount of federal and state funds in any fiscal year are obligated for projects administered under Section 334.30, Florida Statutes.

The Build-Finance Firm shall have the right to terminate the Contract in the event the Department fails to make a scheduled and due partial payment due solely to the lack of an annual appropriation to provide the funds shown in the Cash Availability Schedules.

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 invoice, based on the quantities completed and the Contract prices, less payments previously made and less any retainage withheld, limited to the cash available per the applicable Cash Availability Schedule. The Cash Availability Schedules exclude funding for any amounts that may be payable in accordance with the provisions of Subarticle(s) 9-2.1.1 Fuels, 9-2.1.2 Bituminous Material, and 9-2.2 Non-Duplication of Payment of the 2007 Standard Specifications for Road and Bridge Construction, as such payments will be processed consistent with the normal monthly and final estimate process. Any reduction in payment due to insufficient cash available shall be included on the next monthly invoice.

The Cash Availability Schedules are based on the funding as originally programmed. If the bid is lower than the total amount of funds available for payment, the appropriate schedule will be modified with the last available funds being reduced.

Project Number: 256881-1-52					
Fiscal Year	July 1	October 1	January 1	April 1	Total
2009	\$0	\$0	\$0	\$0	\$0
2010	\$41,888,641	\$0	\$0	\$0	\$41,888,641
2011	\$0	\$0	\$0	\$0	\$0
2012	\$0	\$10,061	\$533,781	\$2,472,869	\$3,016,711
2013	\$4,393,250	\$6,269,202	\$7,882,263	\$9,332,910	\$27,877,625
2014	\$10,060,573	\$9,708,991	\$9,871,563	\$9,448,405	\$39,089,532

2015	\$7,771,674	\$6,774,264	\$5,438,312	\$4,074,500	\$24,058,750
2016	\$2,904,151	\$1,941,485	\$1,305,195	\$3,229,052	\$9,379,883
Total	\$67,018,289	\$24,704,003	\$25,031,114	\$28,557,736	\$145,311,142

Project Number: 256881-1-56 (all LF)					
Fiscal Year	July 1	October 1	January 1	April 1	Total
2009	\$0	\$0	\$0	\$0	\$0
2010	\$5,052,927	\$0	\$0	\$0	\$5,052,927
2011	\$0	\$0	\$0	\$0	\$0
2012	\$0	\$0	\$0	\$0	\$0
2013	\$0	\$0	\$0	\$0	\$0
2014	\$0	\$0	\$0	\$0	\$0
2015	\$0	\$0	\$0	\$0	\$0
2016	\$0	\$0	\$0	\$0	\$0
Total	\$5,052,927	\$0	\$0	\$0	\$5,052,927

Project Number: 256881-1-56-02					
Fiscal Year	July 1	October 1	January 1	April 1	Total
2009	\$0	\$0	\$0	\$0	\$0
2010	\$0	\$0	\$0	\$0	\$0
2011	\$0	\$0	\$0	\$0	\$0
2012	\$0	\$0	\$0	\$0	\$0
2013	\$0	\$2,779,211	\$0	\$0	\$2,779,211
2014	\$0	\$0	\$0	\$0	\$0
2015	\$0	\$0	\$0	\$0	\$0
2016	\$0	\$0	\$0	\$0	\$0
Total	\$0	\$2,779,211	\$0	\$0	\$2,779,211

Project Number: 256881-1-56-03					
Fiscal Year	July 1	October 1	January 1	April 1	Total
2009	\$0	\$0	\$0	\$0	\$0
2010	\$900,000	\$0	\$0	\$0	\$900,000
2011	\$0	\$0	\$0	\$0	\$0
2012	\$0	\$1,146,783	\$0	\$0	\$1,146,783
2013	\$0	\$1,146,783	\$0	\$0	\$1,146,783
2014	\$0	\$1,146,783	\$0	\$0	\$1,146,783
2015	\$0	\$0	\$0	\$0	\$0
2016	\$0	\$0	\$0	\$0	\$0
Total	\$900,000	\$3,440,349	\$0	\$0	\$4,340,349

Project Number: 256881-1-56-22					
Fiscal Year	July 1	October 1	January 1	April 1	Total
2009	\$0	\$0	\$0	\$0	\$0
2010	\$0	\$0	\$0	\$0	\$0
2011	\$0	\$0	\$0	\$0	\$0
2012	\$0	\$0	\$0	\$0	\$0
2013	\$0	\$2,487,952	\$0	\$0	\$2,487,952
2014	\$0	\$0	\$0	\$0	\$0
2015	\$0	\$0	\$0	\$0	\$0
2016	\$0	\$0	\$0	\$0	\$0
Total	\$0	\$2,487,952	\$0	\$0	\$2,487,952

Project Number: 256881-1-56-23					
Fiscal Year	July 1	October 1	January 1	April 1	Total
2009	\$0	\$0	\$0	\$0	\$0
2010	\$500,000	\$0	\$0	\$0	\$500,000
2011	\$0	\$0	\$0	\$0	\$0
2012	\$0	\$623,886	\$0	\$0	\$623,886
2013	\$0	\$623,887	\$0	\$0	\$623,887
2014	\$0	\$623,887	\$0	\$0	\$623,887
2015	\$0	\$0	\$0	\$0	\$0
2016	\$0	\$0	\$0	\$0	\$0
Total	\$500,000	\$1,871,660	\$0	\$0	\$2,371,660

GRAND TOTAL

\$162,343,241

Payment will be made to the Contractor by warrant mailed to the Project Specific Escrow Account using a unique vendor number sequence. Complete Form Number 700-011-16B, “Request for Project Specific Escrow Account And Unique Vendor Number Sequence” and submit it to the FDOT Comptroller at 605 Suwannee Street, MS 24, Tallahassee, FL 32399-0424 to set up the unique vendor number sequence. Note: The unique vendor sequence number must be established through the FDOT Comptroller, in coordination with MyFloridaMarketplace/Department of Financial Services, and the Contractor should not contact MyFloridaMarketplace/Department of Financial Services to do so. This Project Specific Escrow Account payment process shall be irrevocable unless a mutual written request to the Department (using Form Number 700-011-17B, “Request for Direct Payment to firm’s Primary Vendor”) is made by the Contractor, its Surety and its Lender, and thereafter approved by the Department.

Retainage will not be withheld until 75% of the allowable Contract time has expired. From that time forward, the Department will withhold 10% of the amount due on the current estimate as retainage when the percent of allowable 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. Contract time is defined as the original Contract time adjusted by approved Contract time extensions.

Retainage will be determined for each FPID (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 be paid after final acceptance and in accordance with the Cash Availability Schedule.

9-5.1.1 Prompt Payment Law

The Department has 10 working days from the date the monthly progress invoice or quarterly invoice is received by the Department to inspect the work. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the date the invoice is received and the work is inspected and approved. Invoices will be reduced for amounts invoiced in excess of the amounts earned per the monthly progress estimates as outlined in 9-5.1. Invoices will also be reduced for amounts invoiced in excess of the cash available per the Cash

Availability Schedules as outlined in 9-5.1.

If a payment is not available within 40 days, a separate interest penalty at a rate as established pursuant to Section 55.03(1), F.S., will be due and payable, in addition to the invoice amount, to the Contractor. Interest penalties of less than one (1) dollar will not be enforced unless the Contractor requests payment. Invoices returned to the Contractor because of Contractor preparation errors may result in a delay in payment. The invoice payment requirements do not start until a properly completed invoice is accepted by the Department.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for contractors/vendors who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516 or by calling the Department of Financial Services Hotline at 1-877-693-5236.

B. Article 9-8, Acceptance and Final Payment of the Supplemental Specifications, 2007 Standard Specifications for Road and Bridge Construction is deleted and the following is substituted:

~~9-8.1—Acceptance~~8.1 Acceptance and Final Payment Documents: 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 in the final estimate.

Following final acceptance (in accordance with 5-10 and 5-11), payment will be made based on quarterly invoices submitted by the Contractor for an amount equal to that quarter's cash available shown in the Cash Availability Schedule(s), plus any prior quarter's cash not previously paid. The Department will pay the invoice, 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 executed supplemental agreements received after final acceptance, subject to the cash available per the Cash Availability Schedule(s).

If the Contractor fails to furnish all required Contract Documents as listed in (a) through (g) below within 90 days of the Department's offer of final payment subject to the Cash Availability Schedule(s), 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.

a. 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 estoppel, 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 particulars 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 offer of final payment subject to the Cash Availability Schedule. The overpayment refund check from the Contractor, if required, will be considered a part of any Acceptance Letter executed.

b. The Contractor has properly maintained the project, as specified hereinbefore.

c. 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.

d. 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.

e. The Contractor has complied with and settled all requirements pertaining to any wage-rate provisions.

f. The Contractor has furnished all required mill tests and analysis reports to the Engineer.

g. 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.

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 return the signed notification to the Department within the timeframe specified in 9-8.1. If the notification is received after the time specified in 9-8.1 has expired, return to the Department within 30 days signifying agreement or disagreement with the findings. For disagreement items, provide 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 return the signed notification or to furnish 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.

V. Disadvantaged Business Enterprise (DBE) Availability Goal Percentage

A. DBE Availability Goal Percentage

The Department of Transportation has an overall eight point one percent (8.1%) race-neutral DBE goal. This means that the State's goal is to spend at least 8.1% of the highway dollars with Certified DBEs as either prime contractors or subcontractors. Race-neutral means that the Department believes that the 8.1% overall goal can be achieved through the normal competitive procurement process. The Department has reviewed this project and assigned a DBE availability goal shown on the bid blank/contract front page under "% DBE Availability Goal". Although not a contract requirement, the Department believes that this DBE percentage can realistically be achieved on this project based on the number of DBEs associated with the different types of work that will be required.

Under Section 49 Code of Federal Regulations Part 26, if the 8.1% 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 Build-Finance Firms to actively pursue obtaining bids and quotes from Certified DBEs.

B. Anticipated DBE Participation Statement

The Department is reporting to the FHWA the planned commitments to use DBEs. This information is being collected through the Anticipated DBE Participation Statement. This Statement shall be submitted to the District Procurement Officer who will then submit it electronically to the Equal Opportunity Office. Although these statements will not become a mandatory part of the contract, they will assist the Department in tracking and reporting planned or estimated DBE utilization.

VI. Award of the Contract

The Department is not obligated to award the contract and the Department may reject all proposals. If awarded, the basis of the award will be as stated in Article 3-2 of the 2007 Standard Specifications for Road and Bridge Construction, as amended for this project. The Financial Proposal submitted by the Build-Finance Firm must also meet all the stipulated requirements and receive an evaluation rating of "passed".