

# ORINATION FORM

## Proposed Revisions to the Specifications

(Please provide all information - incomplete forms will be returned)

Date:

Office:

Originator:

Specification Section:

Telephone:

Article/Subarticle:

email:

**\*\*Will the proposed revision require changes to:**

| Publication                                | Yes | No | Office Staff Contacted and date contacted |
|--|-----|----|---|
| Standard Plans Index                       |     |    |   |
| Traffic Engineering Manual                 |     |    |   |
| FDOT Design Manual                         |     |    |   |
| Construction Project Administration Manual |     |    |   |
| Basis of Estimate/Pay Items                |     |    |   |
| Structures Design Guidelines               |     |    |   |
| Approved Product List                      |     |    |   |
| Materials Manual                           |     |    |   |

\*\*This section must be completed prior to processing proposed revisions.

**Will this revision necessitate any of the following:**

Design Bulletin

Construction Bulletin

Estimates Bulletin

Materials Bulletin

Are all references to external publications current?

Yes

No

If not, what references need to be updated? (Please include changes in the redline document.)

Why does the existing language need to be changed?

Summary of the changes:

Are these changes applicable to all Department jobs?

Yes

No

If not, what are the restrictions?

Contact the State Specifications Office for assistance in completing this form.

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KEVIN J. THIBAUT, P.E.  
SECRETARY

**MEMORANDUM**

**DATE:** December 5, 2019

**TO:** Specification Review Distribution List

**FROM:** Daniel Strickland, P.E., State Specifications Engineer

**SUBJECT:** Proposed Specification: **0071400 Legal Requirements and Responsibility to the Public.**

In accordance with Specification Development Procedures, we are sending you a copy of a proposed specification change.

This change was proposed by Olivia Townsend from the Construction Office to revise the risk regime on certain payments for damage caused by unknown third parties.

Please share this proposal with others within your responsibility. Review comments are due within four weeks and should be sent to Mail Station 75 or online at

<http://fdotewp1.dot.state.fl.us/programmanagement/development/industryreview.aspx> .

Comments received after **January 2, 2020**, may not be considered. Your input is encouraged.

DS/VC

Attachment

**LEGAL REQUIREMENTS AND  
RESPONSIBILITY TO THE PUBLIC  
(REV 11-19-19)**

ARTICLE 7-14 is deleted and the following substituted:

**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 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 other than temporary crash cushion 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. Repair costs for damage to temporary crash cushions caused by unknown third parties will be reimbursed as the manufacturer's/distributor's invoice price for the new materials/parts plus 20% markup. The 20% markup is compensation for all necessary work, including but not limited to labor, equipment, supplies and profit, as authorized by the Engineer. Payment for any additional MOT required for the repair of temporary crash cushions will be paid for under the appropriate MOT pay item

Repair cost will be determined in accordance with 4-4. 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.