



NORTH BAY VILLAGE
EST. 1945

North Bay Village

Invitation to Bid

North Bay Village Baywalk Plaza Area

North - Phase 1

ITB No. 2022-001

Date: 05/02/2022



North Bay Village

Invitation to Bid ITB No. 2022-001

North Bay Village Baywalk Plaza Area North - Phase 1

NOTICE: Pursuant to North Bay Village Procurement Ordinance, sealed bids for consideration to provide the services detailed in the scope of services listed below shall be received by Angela Atkinson, Chief Financial Officer, North Bay Village, 1666 Kennedy Causeway, Suite 300, Florida 33141 until **02:00 PM on Monday, June 6, 2022**. Bids shall be submitted in a sealed box/envelope clearly marked on the exterior **"ITB No. 2022-001 - North Bay Village Baywalk Plaza Area North-Phase 1"**

All bids shall be publicly opened and recorded on Monday, June 6, 2022 at 02:00 PM. Late submittals shall not be accepted or considered. **A mandatory pre-bid conference shall be held on Thursday, May 12, 2022 at 10:00 AM at North Bay Village Hall, 1666 Kennedy Causeway, Florida 33141, First Floor Conference Room.**

Bidders are to deliver **One (1) original and three (3) copies** in separate 3 ring binders of the submittal statements of qualifications and experience and other pertinent information for consideration, as indicated in this Invitation to Bid. In addition, bidders are to deliver two (2) flash drives containing a complete PDF copy of all materials submitted in the bid. **No bid will be accepted without this requirement.**

North Bay Village reserves the right to accept any bid deemed to be in the best interest of the Village or to waive any informality in any proposal. The Village may reject any or all bids and re-advertise.

PROJECT OVERVIEW

North Bay Village is seeking to construct the "Baywalk Plaza Area North: Phase 1" overlooking Biscayne Bay in North Bay Village. This Baywalk Plaza area is now known as a part of Island Walk. Once completed, the "Baywalk Plaza Area North : Phase 1" will consist of two plaza areas at the base of the John F. Kennedy Causeway (NW 79th Street) bridge that links North Bay Village to Miami Beach, at the Village's easternmost area. The South Plaza across the Causeway has already been constructed with plans in future to connect it to this North Plaza project with a walkway beneath the bridge. The North Plaza offers public access to the Intracoastal Waterway/Biscayne Bay and provides access to the future Island Walk/ Boardwalk project. Once completed, the Island Walk/Boardwalk project, a 3,400 linear foot trail overlooking Biscayne Bay, will provide bicycle and pedestrian facilities, seating, and links to the 79th Street bike lanes. North Bay Village will be reimbursed under

North Bay Village desires to retain the services of a qualified General Contractor and State of Florida Department of Transportation (FDOT) Certified Engineering Contractor for the purpose of constructing this North Plaza with concrete retaining walls and stairway down from the Causeway to seawall area within the FDOT right of way. Construction will include landscaping with irrigation, new electrical lighting, and stormwater drainage well (Phase 1 DERM approval has been obtained with awarded contractor to apply for FDEP well construction permit). Through the Invitation to Bid (ITB) process described herein, licensed and FDOT pre-qualified certified General Contractors interested in assisting the Village with the provision of such services must prepare and submit a bid packet in accordance with the procedure and schedule of this ITB. The Village will review submittals only from those contractors that submit an ITB packet which includes all the information required to be included as described herein.

The Village intends to award a contract for **"ITB No. 2022-001 - North Bay Village Baywalk Plaza Area North - Phase 1"** to the contractor that: possesses qualified man power, equipment, administrative capabilities to provide the proposed services, possesses previous experience on this type of work and provides the best offer and prices deemed to be in the greatest benefit to the Village.

Florida Law (Chapter 337.14 F.S.) And Rules of the State of Florida, Department of Transportation, (Chapter 14-22, F.A.C.) require contractors to be prequalified with the Florida Department of Transportation in order to bid for the performance of road, bridge, or public transportation construction contracts greater than \$250,000.00. Contractors shall be prequalified as required by FDOT and as stated herein. Major prequalification work classes for this project fall under Class 40 include: Curbs; Grout Injection, Gutter; Handrails; Retaining Wall; Tiedback Walls; Tree Removal; Tree Trimming; Underground Utilities (Electric); and Utility Work. Minor FDOT pre-qualification work classes for this project include following numbered categories: Class 7- Drainage; Class 8 – Electrical; Class 11 – Grading; Class 12 – Grassing, Seeding and Sodding; Class 18 – Landscaping; and Class 40- Sidewalk.

A copy of the complete bid package may be obtained from the North Bay Village website, www.nbvillage.com, by clicking on the under Business tab menu. Select the "Bids (RFP's & RFQ's)" link. It is important that you click on the "register and download" hyperlink to access the entire document. Please note that a brief registration process is required prior to download. Once registered

you will receive an activation code that will grant you access to the documents.

All questions or comments should be directed to Angela Atkinson, Chief Financial officer at the following email: aatkinson@nbvillage.com Inquiries must reference ***"ITB No. 2022-001 - North Bay Village Baywalk Plaza Area North - Phase 1"*** in the subject line. No phone calls will be accepted in reference to this ITB. Any communications regarding matters of clarification must be made in writing to the email address listed above. In the event that it become necessary to provide additional clarifying data or information that revises any part of this ITB, supplements or revisions will be made available via written addendum.

North Bay Village reserves the right to accept any bid deemed to be in the best interest of the Village or to waive any informality in any bid. The Village may reject any or all bids and re-advertise.

REMAINDER OF PAGE LEFT BLANK

SCHEDULE OF EVENTS

SCHEDULE OF PROCUREMENT EVENTS

Event	Date	Time EST
ITB Available on DemandStar www.DemandStar.com and www.northbayvillage-fl.gov	Monday, May 2, 2022	TBD
Mandatory Pre-Bid Site Visit/Conference 1666 Kennedy Causeway, 1 st Floor Conference Rm North Bay Village, FL 33141	Thursday, May 12, 2022	10:00 AM
Deadline for Written Questions To be sent to aatkinson@nbvillage.com	Friday, May 27, 2022	4:00 PM
Village Response to Written Questions www.DemandStar.com and www.northbayvillage-fl.gov	Monday, May 30, 2022	4:00 PM
Deadline for Proposal Submittal	Monday, June 6, 2022	2:00 PM
Proposal Opening through CFO's/Purchasing Office- 3 rd Floor	Monday, June 6, 2022	2:00 PM
Distribution of Respondents to Committee Members for Individual Review	Tuesday, June 7, 2022	5:00 PM
To be Approved by Village Commission	Tuesday, July 12, 2022	TBD
Notice of Intent to Award to be Posted on www.DemandStar.com and www.northbayvillage-fl.gov	TBD	TBD
Contract Sent to Vendor	TBD	TBD
Notice to Proceed	TBD	TBD

END OF SECTION

REMAINDER OF PAGE LEFT BLANK

RESPONDING TO AN ELECTRONIC BID

Responding to an Electronic Bid

5 Step Instructions

Step 1

Many governments are moving toward requiring bid responses electronically. Here are the steps to respond to a bid Electronically.

- Click on the solicitation name

The screenshot shows a web application interface for managing bids. At the top, there are navigation tabs: 'Board', 'Bids', 'Quotes', 'Activities', 'Messages', and 'Responses'. The 'Bids' tab is currently selected. Below the navigation, there is a 'Bids' section with a 'Sort By' dropdown menu set to 'Due Date'. A list of bid entries is displayed, each with a status indicator 'Active' in a yellow box. A red arrow points to the first bid entry.

ID	Broadcast	Due	Planholders	Watch
TSEBIDVINO24.JAN01	1/24/2020	3/1/2020	3	Watch
AA-BB-CC-DD-EE	2/4/2020	2/29/2020	0	Watch
TESTBID				

Step 2

Once you are in the solicitation, you will see the Bid Details page that is standard for all solicitations

- When you are ready to submit your bid, click on “Submit E-Bid Proposal”

TESTBID

Bid Details

Agency Name: agency2.0
Bid Writer: agency2.0
Bid ID: EBID-123456-0-2020AD
Bid Type: EBID-0-0-0
Broadcast Date: 02/26/2020 09:00 AM Eastern
Fiscal Year: 2020
Due: 02/26/2020 10:00 PM Eastern
Bid Status Text: BID STATUS

Scope of Work

Scope to Work:

Documents

Filename	Type	Date Modified	Status
file	Attachment	02/26/2020	Complete

Distribution Info

Bid Bond: none
Plan (Blueprint): none
E-Bidding: Submit
Distribution By: Demo-Other
Distribution Method: Download and Mail
Distribution Options: Bid has no blueprints associated with it
Project Estimated Budget: 1220,000.00
Distribution Notes: none

Publications

View Large: 0

Pre-Bid Conference

Has Pre-Bid Conference Data Found:

Commodity Code

[001-999-00] PHYSICAL SERVICES

Submit E-Bid Proposal

Step 3

Enter information requested page-by-page and you can see what will come next via the menu bar on the left under “E-Bid Progress”

If there is not a total bid amount in your submission, please put “0”

Example: a request for qualifications opportunity may not require a bid amount so vendors will input “0” under “Bid Amount”

DEMANDSTAR Dashboard **Bids** Quotes **Company Count** **Activities** **Company Count** **Messages** **Responses** Robyn Gallardi

Home > Bids > TESTBID > My Bid Response

Bid Details

Agency Name: agency2.0
Bid Number: EBID-123456-0-2020AD
Bid Due Date: 02/26/2020 (PST)
Bid Opening: 23 days, 04 hours, 23 minutes, 54 seconds Remaining
Bid Name: TESTBID

E-Bid Progress

- Contact Information
- Documents Upload
- Review Bid

E-Bid Response

Contact Information

Company Name: Calgon Carbon Corporation
Address 1: R. O. Box 717
Address 2: Address 2 (optional)
City: Pittsburgh
Country: United States of Ame... State/Province: Pennsylvania
County: Select... Postal Code: 15230-0717
Phone Number: 4127878810 Extension: Extension (optional)
Bid Amount: 127,000 Alternate Bid Amount: Alternate Bid Amount (optional)
Notes: For the full 6 month contract

Next

Step 4

After you click NEXT on the Contact Information page, you will be directed to enter the documents required. In this example, they only ask for one document, however, in others, they may ask for multiple documents that each need to be uploaded separately.

TIP:
There is a place for you to add "Supplemental", i.e. non-required, documents.

The screenshot shows the DEMANDSTAR E-Bid Response interface. On the left, the 'Bid Details' section includes: Agency Name: Agency 01, Bid Number: EBD-223456-0-2020AD, Bid Due Date: 08/26/2020 (PST), Bid Opening: 23:00:00, 08/26/2020, 11:00:00 AM (Remaining), and Bid Name: T3378D. Below this is the 'E-Bid Progress' section with steps: Contact Information, Documents Upload, and Review Bid. The main area is titled 'E-Bid Response' and contains 'Required Documents' and 'Supplemental Documents' sections. The 'Required Documents' section lists 'Agency Accepted File Formats' such as Adobe Acrobat (.PDF), AutoCAD Drawing Web Format (.DWG), etc. Below this is a table with columns 'Required Document', 'Submission Option', and 'Uploaded Document'. One row shows 'Service Doc Agency 01' with a 'None' submission option and a 'Choose a File' button. The 'Supplemental Documents' section has a text input for 'Document Title' and an 'Add Document' button. At the bottom are 'Previous' and 'Next' buttons.

Step 4 continued

TIP:
There is a place for you to add "Supplemental", i.e. non-required, documents.

This screenshot shows the same DEMANDSTAR E-Bid Response interface as the previous one, but with more data. The 'Bid Details' section now includes: Agency Name: Agency 02, Bid Number: EBD-223456-0-2020AD, Bid Due Date: 02/28/2020 (PST), Bid Opening: 08:00:00, 02/28/2020, 12:00:00 PM (Remaining), and Bid Name: T3378D. The 'E-Bid Progress' section remains the same. In the 'Required Documents' section, the table now has two rows: 'Service Doc Agency 02' with 'Electronic/Online' submission and 'Service Doc Agency 02.PDF' uploaded, and 'References' with 'Electronic/Online' submission and 'References.PDF' uploaded. The 'Supplemental Documents' section now has two rows: 'References' with 'Electronic/Online' submission and 'References.PDF' uploaded, and 'Plans' with 'Online Electronic' submission and a 'Choose a File' button. At the bottom are 'Previous' and 'Upload' buttons.

Step 5

Review Your E-Bid Response, and if everything is correct, then press “Submit Response”

You are done! And the government to which you’ve submitted this will download your responses and documents and see the day and time upon which you submitted your proposal.

The screenshot shows the DEMANDSTAR web interface for reviewing an e-bid response. The page is titled "Review Your E-Bid Response" and features several sections:

- Bid Details:** Agency Name: agency123; Bid Number: 000012345678901234567890; Bid Start Date: 2023-03-01 09:00:00; Bid Opening: 2023-03-01 10:00:00; Bid Name: 7527502.
- E-Bid Progress:** A progress bar showing "Contact Information" as the current step.
- Contact Info:** Company Name: Calger (Calger Equipment); Address 1: P.O. Box 107; Address 2: Pittsburgh; State: Pennsylvania; County: Allegheny; Postal Code: 15202-0107; Phone Number: 412-759-0000; Fax: ; Bid Account: 0007-00000; Alternate Bid Account: ; Notes: For the full e-bid contract.
- Agency Required Documents:** A green checkmark indicates "Review this agency's E-Bid Requirements".
- Supplemental Documents:** A green checkmark indicates "Review this agency's Documents".
- Instructions:** A list of instructions for clicking "Submit Response":
 - This will start the following process and begin.
 - This will start that your response is complete as follows.
 - You will receive a confirmation email with your confirmation number and date/time stamp of your upload.
 - You will receive a confirmation email indicating a successful response is complete.
 - You may track your response submission under the Response page.

At the bottom of the page, there are two buttons: "Previous" and "Submit Response". A red arrow points to the "Submit Response" button.

TABLE OF CONTENTS

ADVERTISEMENT

SCHEDULE OF EVENTS

RESPONDING TO AN ELECTRONIC BID

TABLE OF CONTENTS

SECTION 00010 – ATTACHMENTS

Exhibit A – Insurance

Exhibit B – Construction Plans

SECTION 00200 – INSTRUCTIONS TO BIDDERS

SECTION 00300 – TRENCH SAFETY

SECTION 00410 – BID FORM

SECTION 00420 – IDENTICAL TIE BIDS

SECTION 00432 – BID BOND

SECTION 00434 – LIST OF PROPOSED SUBCONTRACTORS

SECTION 00450 – BIDDER QUALIFICATION STATEMENT

SECTION 00454 – NON-COLLUSION AFFIDAVIT

SECTION 00456 – PUBLIC ENTITY CRIMES

SECTION 00510 – NOTICE OF AWARD

SECTION 00550 – NOTICE TO PROCEED

SECTION 00600 – BONDS AND CERTIFICATES

SECTION 00612 - FORM OF PAYMENT BOND

SECTION 00614 - FORM OF PERFORMANCE BOND

SECTION 00620 – ACKNOWLEDGMENT OF CONFORMANCE WITH OSHA STANDARDS

SECTION 00710 – GENERAL CONDITIONS

SECTION 00810 – SPECIAL CONDITIONS

SECTION 00900 – SUPPLEMENTAL TERMS AND CONDITIONS

SECTION 01000- LAP DIVISION 1 SPECIFICATIONS

APPENDIX A- FDOT FORMS AND FHW-1273

APPENDIX B – GENERAL FORMS (NORTH BAY VILLAGE)

1. SOLICITATION RESPONSE FORM
2. GENERAL INFORMATION WORKSHEET
3. BUSINESS ENTITY AFFIDAVIT (VENDOR/BIDDER DISCLOSURE)
4. AMERICANS WITH DISABILITIES ACT (ADA) DISABILITY NONDISCRIMINATION STATEMENT

TABLE OF CONTENTS (continued)

5. CONE OF SILENCE CERTIFICATION
6. PROPOSER'S CERTIFICATION
7. ITB SIGNATURE FOR SOLE PROPRIETOR OR PARTNERSHIP ITB SIGNATURE PAGE
FOR CORPORATION
8. DOMESTIC PARTNERSHIP CERTIFICATION

APPENDIX C – TECHNICAL SPECIFICATIONS (separate volume)

APPENDIX D - PLAN SET (separate volume)

APPENDIX E – DERM APPROVED DRAINAGE WELL PERMIT PLANS (separate volume)

SECTION 00010 – ATTACHMENTS

SECTION 00010 – ATTACHMENTS EXHIBIT A MINIMUM INSURANCE REQUIREMENTS

I. Commercial General Liability

- A. Limits of Liability
 - Bodily Injury & Property Damage Liability
 - Each Occurrence \$2,000,000
 - Policy Aggregate (Per Project/Job) \$2,000,000
 - Personal & Advertising Injury \$1,000,000
 - Products & Completed Operations \$2,000,000
- B. Endorsements Required
 - North Bay Village listed as an additional insured
 - Contingent & Contractual Liability Premises and Operations Liability
 - Primary Insurance Clause Endorsement
 - Explosion, Collapse & Underground Hazard

II. Business Automobile Liability

- A. Limits of Liability
 - Bodily Injury and Property Damage
 - Combined Single Limit
 - Any Auto/Owned Autos or Scheduled Autos
 - Including hired and Non Owned Autos
 - Any One Accident \$2,000,000
- B. Endorsements Required
 - North Bay Village listed as an additional insured

III. Workers Compensation

Statutory- State of Florida

Employer's Liability Limits:

\$1,000,000 for bodily injury caused by an accident, each accident
\$1,000,000 for bodily injury caused by disease, each employee
\$1,000,000 for bodily injury caused by disease, policy limit

Confirmation that Workers Compensation is provided for all persons fulfilling this contract, whether employed, contracted, temporary or subcontracted is required.

IV. **Umbrella or Excess Liability** insurance can be utilized to provide the required limits. Coverage shall be “following form” and shall not be more restrictive than the underlying insurance policy coverages, including all special endorsements and Village as Additional Insured status.

V. **INSTALLATION FLOATER (If Applicable for materials)** \$Bid Cost

Causes of Loss: All Risk/Special Form Coverage

Valuation: Replacement Cost

Deductible: 10,000 AOP, 5% Wind and Hail

Subcontractors’ Compliance: It is the responsibility of the contractor to insure that all subcontractors comply with all insurance requirements.

The above policies shall provide the North Bay Village with written notice of cancellation or material change from the insurer in accordance to policy provisions. If the policies do not provide such provision, Contractor is responsible for such notice to the Village.

Companies authorized to do business in the State of Florida with the following qualifications shall issue all insurance policies required above. Village reserves the right but not the obligation to reject any insurer providing coverage due to poor or deteriorating financial condition.

The Company must be rated no less than “A-” as to management, and no less than “Class V” as to financial strength, by the latest edition of Best Insurance Guide published by A.M. best Company, or its equivalent. All policies or certificates of insurance are subject to review and verification by Risk Management.

END OF SECTION

SECTION 00200 - INSTRUCTIONS TO BIDDERS

SECTION 00200 - INSTRUCTIONS TO BIDDERS

IT IS THE RESPONSIBILITY OF THE BIDDER TO ENSURE THAT THE BID REACHES THE OFFICE OF THE VILLAGE MANAGER/CHIEF FINANCIAL OFFICER/PURCHASING ON OR BEFORE THE CLOSING HOUR AND DATE STATED ON THE INVITATION TO BID FORM.

1.1 Taxes: Bidder shall include all applicable taxes in the Bid.

1.2 Purpose of Bid: North Bay Village intends to secure a source of services/supply (s) at the lowest responsive and responsible price. The Village reserves the right to award the Bid considered the best to serve the Village's interests.

1.3 Questions: Any questions regarding this ITB should be directed in writing to Angela Atkinson, Chief Financial Officer via email at: aatkinson@nbvillage.com. All inquiries must have in the subject line the following: **"ITB No. 2022-001 - North Bay Village Baywalk Plaza Area North - Phase 1"**.

Bidders requiring clarification or interpretation of the ITB must submit them via e-mail on or before **04:00 PM, May 27, 2022**. The person or firm submitting the request shall be responsible for its timely delivery. Written responses will be compiled and shall be issued only in addendum format and distributed to all potential Proposers via Village website and Demandstar. In addition, inquiries and responses may also be posted on the North Bay Village website and Demandstar. Only questions answered by written addenda shall be binding. Oral interpretations or clarifications shall be without legal effect. No plea of ignorance or delay or required need of additional information shall exempt a BIDDER from submitting their Bid on the required date and time as publicly noted.

1.4 BIDDER warrants that the prices, terms, and conditions quoted in the Bid will be firm for a period of 120 days from the date of the Bid opening unless otherwise stated in the Bid Form. Incomplete, unresponsive, irresponsible, vague, or ambiguous responses to the invitations to Bid will be cause for rejection, as determined by the Village.

1.5 Pursuant to the provisions of paragraph (2) (a) of 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 a Bid on a contract to provide any goods or services to a public entity, may not submit a Bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded to perform work as a contractor, supplier, subcontractor, or contractor 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 287.107, for category two for a period of 36 months from the date of being placed on the convicted vendor list".

2.1 Submission of Bids

BIDDER's shall use the Bid Form(s) furnished by the Village. Failure to do so may cause the Bid to be rejected. Removal of any of the Bid forms will invalidate the Bid. BIDDER shall deliver to the Village, as Bid package:

1. This entire Bid document, with all sections executed.
2. A copy of all issued addenda.
3. One (1) Original and three (3) duplicates in three-ring binders, 2 CD Copies of the response and Bid Form completely executed and properly labeled.
4. Bid Security, (Bid Bond from Surety Company) attached to the front inside cover of the Bid document.
5. Certificates of Competencies.
6. Certificate of Insurance and or Letter of Insurability

The entire Bid Package shall be placed in a sealed opaque envelope, box, or container and clearly marked with the BIDDER's name and address.

2.1.1 Bids having an erasure or corrections must be initialed by the BIDDER in ink. Bids shall be signed in ink; all quotations shall be typewritten or printed and filled in with ink.

2.1.2 Guaranties: no guarantee or warranty is given or implied by the Village as to the total amount that may or may not be purchased from any resulting Contract or Award. These quantities are for bidding purposes only and will be used for tabulation and presentation of the Bid. The Village reserves the right to reasonably increase or decrease quantities as required. The prices offered herein, and the percentage rate of discount applies to other representative items not listed in this Bid.

2.2 Delivery: all items shall be delivered f.o.b. destination (i.e. at a specific North Bay Village address), and delivery costs and charges (if any) will be included in the Bid Price. Exceptions shall be noted.

2.3 Mistake: if there is a discrepancy in the unit and extended prices, the **unit prices(s)** will prevail and the extensions adjusted to coincide. Bidders are responsible for checking their calculations. Failure to do so will be at the Bidder's risk, and errors will not release the BIDDER from their responsibility as noted herein.

3.1 Brand Names: if a brand name, make, of any "or equal" manufacturer trade name, or vendor catalog is mentioned whether or not followed by the words "approved equal" it is for the purpose of establishing a grade or quality of material only. Bidder may offer equals with appropriate identification, samples, and/or specifications on such item(s). The Village shall be the sole judge concerning the merits of items Bid as equals.

3.2 Material: material(s) delivered to the Village under this bid shall remain the property of the seller until accepted to the satisfaction of the Village. In the event materials supplied to Village

are found to be defective or do not conform to specifications, the Village reserves the right to return the product (s) to the seller at the sellers' expense.

3.3 Pricing: prices should be stated in units of quantity specified in the Bid Form. In case of a discrepancy, the Village reserves the right to make the final determination at the lowest net cost to the Village.

3.4 Safety Standards: the BIDDER warrants that the product(s) supplied to the Village conforms in all respects to the standards set forth in the Occupational Safety and Health Act (OSHA) and its amendments. Bids must be accompanied by a materials data safety sheet (M.S.D.S.) when applicable.

3.5 Payments: payment will be made after commodities/services have been received, accepted, and properly invoiced as indicated in the contract and/or purchase order. Invoices must bear the purchase order number.

4.1 Liability, Insurance, Licenses & Permits: where BIDDER's are required to enter onto North Bay Village property to deliver materials or to perform work or services as a result of a Bid award, the BIDDER will assume the full duty, obligation, and expense of obtaining all necessary licenses, permits, inspections, and insurance required. The BIDDER shall be liable for any damages or loss to the Village occasioned by negligence of the BIDDER (or their agent) or any person the BIDDER has designated in the completion of their contract as a result of the Bid. Contractor shall be required to furnish a certified copy of all licenses, certificates of competency or other licenser requirements necessary to practice their profession as required by Florida State Statute, Florida Building Code, Miami-Dade County, or North Bay Village Code. Contractors shall include current FDOT Qualifications Certificates of Competency. These **documents shall be furnished to the Village along with the Bid response.** Failure to furnish these documents or to have required licenser will be grounds for rejecting the Bid and forfeiture of the Bid Bond.

4.2 BIDDER shall furnish to the Deputy Village Manager, North Bay Village, 1666 Kennedy Causeway, Suite 300, Florida 33141, certificate(s) of insurance which indicate that insurance coverage has been obtained from an insurance company authorized to do business in the State of Florida or otherwise secured in a manner satisfactory to the Village, for those coverage types and amounts listed in Exhibit A - Insurance Requirements. At the time of Bid submission, the BIDDER must submit certificates of insurance.

5.1 All insurance shall be issued by companies rated A-: Class V or better per A.M. Best's Key Rating Guide, latest edition and authorized to issue insurance in the State of Florida. It shall be the responsibility of the BIDDER and insurer to notify the Deputy Village Manager of North Bay Village of cancellation, lapse, or material modification of any insurance policies insuring the BIDDER, which relate to the activities of such vendor and North Bay Village. Such notification shall be in writing and shall be submitted to the Deputy Village Manager thirty (30) days prior to cancellation of such policies. This requirement shall be reflected on the certificate of insurance.

5.2 Failure to fully and satisfactorily comply with the Village's insurance and bonding

requirements set forth herein will result in the Rejection of the Bid by the Village. The BIDDER hereby holds North Bay Village harmless and agrees to indemnify North Bay Village and covenants not to sue North Bay Village by virtue of such rejection.

Copy rights and/or Patent Rights: BIDDER warrants that there has been no violation of copyrights or patent rights in manufacturing, producing or selling of goods shipped or ordered, as a result of this Bid. The bidder agrees to indemnify Village from any and all liability, loss, or expense occasioned by any such violation.

6.1 Warranty/Guaranty: successful BIDDER shall take all necessary steps and complete all forms for Warranty / Guarantee coverage under this Contract. BIDDER warrants by signature on the Bid Form that prices quoted here are in conformity with the latest Federal Price Guidelines.

6.2 Samples: samples of items, when required, must be furnished by the BIDDER free of charge to the Village. Each individual sample must be labeled with the BIDDER's name and manufacturer's brand name and delivered by them within ten (10) calendar days of the Bid opening unless schedule indicates a different time. If samples are requested subsequent to the Bid opening, they should be delivered within ten (10) calendar days of the request. The Village will not be responsible for returning samples.

6.3 Governmental Restrictions: in the event any governmental restrictions may be imposed which would necessitate alteration of the material quality, workmanship, or performance of the items offered on this Bid prior to their delivery, it shall be the responsibility of the successful BIDDER to notify the Village at once, indicating in their letter the specific regulation which required an alteration. The North Bay Village reserves the right to accept any such alteration, including any price adjustments occasioned thereby, or to cancel at no further expense to the Village.

6.4 Assignment: the BIDDER shall not transfer or assign the performance required by this Bid without prior written consent of the Village Manager. Any award issued pursuant to the Invitation to Bid and monies which may be due hereunder are not assignable except with prior written approval of the Village Manager. Further, in the event that the majority ownership or control of the BIDDER changes hands subsequent to the award of this contract, BIDDER shall promptly notify VILLAGE in writing of such change in ownership or control at least thirty (30) days prior to such change and VILLAGE shall have the right to terminate the contract upon sixty (60) days written notice, at VILLAGE's sole discretion.

6.5 Award of Bids: The North Bay Village reserves the right to accept or reject any and / or all bids or parts of bids, to waive any informality, irregularities, or technicalities, to re-advertise for bids, or take any other actions that may be deemed to be in the best interests of the Village. The Village also reserves the right to award the Contract on a split order basis, group by group, or item by item, or such combination as will best serve the interests of the Village, unless otherwise stated. The Village also reserves the right to waive minor variations to the specifications (interpretation of such to be made by the applicable department personnel). Final determination and award of Bid(s) shall be made by the Village Commission. In addition,

each bidder agrees to waive any claim it has or may have against the VILLAGE, the Successful Bidder, and the respective employees, arising out of or in connection with the administration, evaluation, or recommendation of any bid.

6.6 Discrepancies: in case of discrepancies, computed dimensions shall govern over scaled dimensions; supplemental specifications shall govern over standard specifications; and special specifications shall govern over drawings, supplemental and standard specifications.

7.1 Evaluation of Bids: The Village, at its sole discretion, reserves the right to inspect any / all BIDDER's facilities to determine their capability of meeting the requirements for the Contract. Also, price, responsibility, and responsiveness of the BIDDER, the financial position, experience, staffing, equipment, materials, references, and past history of service to the Village and/or with other units of state, and/or local governments in Florida, or comparable private entities, will be taken into consideration in the Award of the Contract.

7.2 Identical (tie bids): shall be awarded by the Village, in the event of an identical tie Bid, preference shall be given to a business to responsive and qualified bidder with the most years in experience doing this type of work. Failure to provide proof of compliance when requested shall be cause for rejection of the Bid as determined by the Village.

7.3 Preference to Local Businesses: No local preference for this ITB.

7.4 Hold Harmless: all BIDDERS shall hold the Village, its officials and employees harmless and covenant not to sue the Village, its officials and employees in reference to their decisions to reject, award, or not award a Bid, as applicable.

7.5 Cancellation: failure on the part of the BIDDER to comply with the conditions, specifications, requirements, and terms as determined by the Village, shall be just cause for cancellation of the Award.

7.6 Disputes: if any dispute concerning a question of fact arises under the Contract, other than termination for default or convenience, the BIDDER and the VILLAGE department responsible for the administration of the Contract shall make a good faith effort to resolve the dispute. If the dispute cannot be resolved by agreement, then the department with the advice of the VILLAGE Attorney shall resolve the dispute and send a written copy of its decision to the CONTRACTOR, which shall be binding on both parties.

7.7 Protests: Any bidder/contractor that has submitted a formal response to the VILLAGE, and who is adversely affected by an intended decision with respect to the bid award, has the right to protest an intended decision posted by the City as part of the solicitation process.

"Decisions" are emailed to all bidders/contractors once a recommendation has been received. A full copy of the Bid Protest Procedure can be obtained by request to Procurement Services.

- In order to preserve the right to protest, an initial "**Notice of Intent To File A Protest**"

must be filed with the VILLAGE Chief Financial Officer by 4:00 p.m. Seventy-two (72) hours after the decision affecting your rights is received by email.

- The notice must clearly state the basis and reasons for the protest.
- The notice must be physically received by the Chief Financial Officer with-in the required time frame. No additional time will be granted for mailing.

To secure the right to protest a **“Protest Bond”** and written **“Formal Protest”** document must be filed within 10 calendar days after the date of the initial *“Notice of Intent to File a Protest”* is received by the Chief Financial Officer.

Failure to following the protest procedures requirement within the time frame as prescribed herein and established by the VILLAGE shall constitute a waiver of the right to protest and bar any resulting claims.

8.1 Non-conformance to Contract: The North Bay Village may withhold acceptance of, or reject items which are found upon examination, not to meet the specification requirements. Upon written notification of rejection, items shall be repaired to the Village’s satisfaction within (5) calendar days by the contractor at their own expense and redelivered at their expense. Rejected goods left longer than thirty (30) calendar days will be regarded as abandoned and the Village shall have the right to dispose of them as its own property. Rejection for non-conformance or failure to meet delivery schedules may result in the Contractor being found in default.

8.2 Default Provision: in case of default by the BIDDER or CONTRACTOR, the North Bay Village may procure the articles or services from other sources and hold the BIDDER or CONTRACTOR responsible for any excess costs occasioned or incurred thereby.

8.3 Indemnification: the CONTRACTOR shall indemnify, save harmless, and defend the North Bay Village, its’ officers, agents and employees from and against any claims, demands or causes of action of whatsoever kind or nature arising out of error, omission, negligent act, conduct, or misconduct of the CONTRACTOR, their agents, servants or employees in the provision of goods or the performance of services pursuant to this Bid and/or from any procurement decision of the Village including without limitation, awarding the Contract to the CONTRACTOR.

8.4 Secondary/Other Vendors: The Village reserves the right in the event the primary bidder cannot provide an item(s) or service(s) in a timely manner as requested, to seek other sources without violating the Contract.

8.5 Specifications: All construction and materials furnished by the successful BIDDER shall conform to the Standard and Specifications of the North Bay Village, Miami-Dade County Public Works Department Standards and Specifications Parts 1, 2 & 3, The Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways, The Florida Department of Transportation Roadway and Traffic Design Standards, and the Florida Department of Transportation Standards and Specifications. BIDDER shall also perform all work in a safe manner, specifically, the rules and regulations of the Occupational Safety and Health Administration (OSHA) and the Manual of Uniform Traffic Control Devices (MUTCD) shall

be strictly observed.

8.6 Cone of Silence Provisions: Notwithstanding any other provision of these specifications, the provisions of Village "Cone of Silence" are applicable to this transaction. The "Cone of Silence," as used herein, means a prohibition on any communication regarding a particular Request for Proposal ("RFP"), Request for Qualification ("RFQ") or bid, between:

A potential vendor, service provider, proposer, bidder, lobbyist, or contractor, and:

The Village Commission, Village's professional staff including, but not limited to, the Village Manager and his or her staff, any member of the Village's selection or evaluation committee.

The Cone of Silence shall be imposed upon each ITB, RFQ and bid after the advertisement of said ITB, RFQ, or bid.

The Cone of Silence shall terminate at the time the Village Manager makes his or her written recommendation to the Village Commission. However, if the Village Commission refers the Manager's recommendation back to the Manager or staff for further review, the Cone of Silence shall be re-imposed until such time as the Manager makes a subsequent written recommendation.

The Cone of Silence shall not apply to:

- 1) oral communications at pre-bid conferences;
- 2) oral presentations before selection or evaluation committees;
- 3) public presentations made to the Village Commission during any duly noticed public meeting;
- 4) communication in writing at any time with any Village employee, unless specifically prohibited by the applicable ITB, RFQ or bid documents. The bidder or proposer shall file a copy of any written communication with the Chief Financial Officer. The Chief Financial Officer shall make copies available to any person upon request;
- 5) communications regarding a particular ITB, RFQ or bid between a potential vendor, service provider, proposer, bidder, lobbyist or contractor and the Village's Chief Financial Officer or Village employee designated responsible for administering the procurement process for such ITB, RFQ or bid, provided the communication is limited strictly to matters of process or procedure already contained in the corresponding solicitation document;
- 6) communications with the Village Attorney and his or her staff;
- 7) duly noticed site visits to determine the competency of bidders regarding a particular bid during the time period between the opening of bids and the time the Village Manager makes his or her written

- recommendation;
- 8) any emergency procurement of goods or services pursuant to Village Code;
 - 9) responses to the Village's request for clarification or additional information;
 - 10) contract negotiations during any duly noticed public meeting; and
 - 11) communications to enable Village staff to seek and obtain industry comment or perform market research, provided all communications related thereto between a potential vendor, services provider, proposer, bidder, lobbyist, or contractor and a member of the Village's professional staff including, but not limited to, the Village Manager and his or her staff are in writing or are made at a duly noticed public meeting.

Contact the Village Attorney for any questions concerning Cone of Silence compliance.

Violation of the Cone of Silence by a particular bidder or proposer shall render any ITB award or RFQ award to said bidder or proposer voidable by the Village Commission and/or Village Manager.

9.1 Bonding Requirements: The BIDDER, in submitting this Bid, must include a 5% Bid Bond for the amount of the base Bid. Such bond shall be from a Surety Company in the amount of 5% of the total amount of the base Bid. A company, cashier or personal check shall not be deemed a valid Bid Security.

9.1.1 Performance and Payment Bond: The North Bay Village shall require the successful BIDDER to furnish a Performance Bond and Payment bond, each, in the amount of 100% of the total Bid Price, with the North Bay Village as the Obligee, as security for the faithful performance of the Contract and for the payment of all persons performing labor or furnishing materials in connection herewith. The bonds shall be with a surety company authorized to do business in the State of Florida.

9.1.2 Bid Guaranty: The successful BIDDER shall execute the Contract (Agreement) and provide the required Performance Bond, Payment Bond, and Certificates of Insurance within ten (10) calendar days of notification of the award by the Village.

The BIDDER who has the Contract awarded to them and who fails to execute the Contract, furnish the Performance and Payment Bonds, and/or Insurance Certificates within the specified time shall forfeit the Bid Security that accompanied their Bid, and the Bid Security shall be retained as liquidated damages by the Village, and it is agreed that this sum is a fair estimate of the amount of damages the Village will sustain in case the BIDDER fails to enter into the Contract and furnish the Bonds as herein before provided. Bid Security deposited in the form of a cashier's check drawn on a local bank in good standing shall be subject to the same requirements as a Bid Bond.

9.1.3 Contract Time and Contract Time Extensions: The time of completion of the work to be performed under this contract is the essence of the contract. Delays and

extensions of time may be allowed only in accordance with the provisions stated in the appropriate section of the general conditions. Contract completion time is as follows:

ITB 2022-001 North Bay Village Baywalk Plaza Area North - Phase 1
Contract Completion Time: 270 calendar days

END OF SECTION

SECTION 00300

TRENCH SAFETY FORM

This form must be completed and signed by the Bidder.

Failure to complete this form may result in the bid being declared non-responsive.

Bidder acknowledges that the Florida Trench Safety Act, Section 553.60 *et seq*, Fla. Stat. which became effective October 1, 1990, shall be in effect during the period of construction of the Project. The Bidder by signing and submitting the Bid is, in writing, assuring that it will perform any trench excavation in accordance with applicable trench safety standards. The Bidder further identifies the following separate item of cost of compliance with the applicable trench safety standards as well as the method of compliance:

Method of Compliance

Cost

Total: \$ _____

Bidder acknowledges that this cost is included in the applicable items of the Bid and in the Total Base Bid. Failure to complete the above may result in the bid being declared non-responsive.

The Bidder is, and the VILLAGE and ENGINEER are not, responsible to review or assess Bidder's safety precautions, programs of costs, of the means, methods, techniques or technique adequacy, reasonableness of cost, sequences of procedures of any safety precaution, program or cost, including but not limited to, compliance with any and all requirements of Section 553.60 *et. seq.*, Fla. Stat. cited as the "Trench Safety Act". Bidder is, and the VILLAGE and ENGINEER are not, responsible to determine, if any safety or safety related standards apply to the Project, including but not limited to, the "Trench Safety Act".

Witness Signature

Bidder's Signature

Printed Name

Printed Name

Date

Title

Date

SECTION 00410 - BID FORM

ITB No. 2022-001 - North Bay Village Baywalk Plaza Area North - Phase 1

THIS BID IS SUBMITTED TO:

North Bay Village
1666 Kennedy Causeway, Suite 300
North Bay Village FL 33141

1. The undersigned BIDDER proposes and agrees, if this Bid is accepted, to enter into an agreement with North Bay Village in the form included in the Contract Documents to perform and furnish all Work as specified or indicated in the Contract Documents for the Contract Price and within the Contract Time indicated in this Bid and in accordance with the other terms and conditions of the Contract Documents.
2. BIDDER accepts all of the terms and conditions of the Advertisement or Invitation to Bid and Instructions to BIDDER'S, including without limitation those dealing with the disposition of Bid Security. This Bid will remain subject to acceptance for 90 days after the day of Bid opening. BIDDER agrees to sign and submit the Agreement with the Bonds and other documents required by the Bidding Requirements within ten days after the date of Village's Notice of Award.
3. In submitting this Bid, BIDDER represents, as more fully set forth in the Agreement, that:
 - (a) BIDDER has examined copies of all the Bidding Documents and of the following Addenda (receipt of all which is hereby acknowledged.)

Addendum No. _____ Dated: _____

Addendum No. _____ Dated: _____

Addendum No. _____ Dated: _____

Addendum No. _____ Dated: _____

- (b) BIDDER has familiarized themselves with the nature and extent of the Contract Documents, Work, site, locality, and all local conditions and Law and Regulations that in any manner may affect cost, progress, performance, or furnishing of the Work.
 - (c) BIDDER has studied carefully all reports and drawings of subsurface conditions and drawings of physical conditions.
 - (d) BIDDER has obtained and carefully studied (or assumes responsibility for obtaining and carefully studying) all such examinations, investigations, explorations, tests and studies (in addition to or to supplement those referred to in (c) above) which pertain to the subsurface or physical conditions at the site or otherwise may affect the cost, progress, performance, or furnishing of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, and no additional examinations, investigations, explorations, tests, reports or similar information or data are or will be required by BIDDER for such purposes.
 - (e) BIDDER has correlated the results of all such observations, examinations, investigations, explorations, tests, reports, and studies with the terms and conditions of the Contract Documents.
 - (f) BIDDER has given the Village written notice of all conflicts, errors, discrepancies that it has discovered in the Contract Documents and the written resolution thereof by the Village is acceptable to BIDDER.
 - (g) This Bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization, or corporation; BIDDER has not directly or indirectly induced or solicited any other BIDDER to submit a false or sham Bid; BIDDER has not solicited or induced any person, firm or corporation to refrain from bidding; and BIDDER has not sought by collusion to obtain for itself any advantage over any other BIDDER or over the Village.
4. BIDDER understands and agrees that this is a unit rate contract. **The prices submitted on the bid form are to furnish and deliver all of the Work complete in place.** The quantities provided on the form are for the purpose of Bid Evaluation and should be considered estimates only. Contractor's unit prices will not be adjusted to reflect any deviation from the provided quantities. As such the Contractor shall furnish all labor, materials, equipment, tools, supervision, safety measures, and services necessary to provide the stated units of work for the Bid Price of:

BID FORM for ITB 2022-007??

PROJECT: FM #440846-1-58 NORTH BAY VILLAGE BAYWALK PLAZA AREA NORTH - PHASE 1

NORTH BAY VILLAGE BAYWALK PLAZA AREA NORTH - PHASE 1						
Item	FDOT Pay Item	Description	Unit	Unit Cost	Quantity	Total Amount
		A. GENERAL				\$
1	0101-1	Mobilization	LS		1	\$
2	0104-10-3	Sediment Barrier for Erosion Control	LS		1	\$
3	102-1	Maintenance of Traffic	LS		1	\$
4	No FDOT #	Permitting (FDOT)	LS		1	\$
5	120-1	Excavate, Load and Haul	LS		1	\$
6	No FDOT	Site Grading	LS		1	\$
		B. DEMOLITION				\$
7	0536-73	Remove Guardrail	LF		85	\$
8	0110-04	Remove Concrete	SY		82	\$
9	0110-1-1	Clearing and Grubbing	AC		0.08	\$
		C. PAVING & CONCRETE				\$
10	0522-2	Concrete Sidewalk (6" thick (includes subgrade)	SY		286	\$
11	No FDOT #	Adjust Existing Rim Elevations	LS		1	\$
12	No FDOT #	Pavement/Trench Restoration	SF		1640	\$
13	0400-0-11	Retaining Wall	CY		233	\$
		D. DRAINAGE SYSTEM				\$
14	1436-1-1	Zurn Z882 Perma Trench Drain	LF		13	\$
15	0425-10	15" Nyloplast Inline Drain with Dome Grate	EA		2	\$
16	1050-42206	8" Solid HDPE Pipe	LF		4	\$
17	1050-42206	12" Solid HDPE Pipe	LF		59	\$
18	No FDOT #	Drainage Well	LS		1	\$
		E. WATER MAIN CONNECTION				\$
19	No FDOT #	2" Corporation Stop for Irrigation Service	EA		1	\$
20	1080-23102	Connection to Existing 8 inch Water Service	EA		1	\$
21	1080-21102	2" Single Water Service (Incl. Meter and Vault)	EA		1	\$
22	No FDOT #	2" Presssure Vacuum Breaker for Irrigation System	EA		1	\$
23	1050-42202	2" HDPE Pipe	LF		188	\$
		F. HARDSCAPE				\$
24	0526-1-2	Paving - H-101 , H-102 and H-103 Colored Concrete	SY		135	\$
25	0515-2111	Ramp Railings	LF		89	\$
26	0400-0-13	Concrete Step Stairs	CY		3	\$
		G. FURNISHINGS				\$
27	No FDOT #	Cliff Hanger Bench	LF		35	\$
28	0515-3-1	Metal Railing	LF		13	\$
		H. LIGHTING				\$
29	0715-4-11	City Elements Light Pole	EA		6	\$
30	No FDOT #	Recessed LED Wall Lights	LF		218	\$
31	0639-2-1	Elec. Service, Elec. Conduit, Conductors & Misc. Lighting Components	LS		1	\$
		I. LANDSCAPE				\$
32	0110-23	Tree Removal	LS		1	\$
33	No FDOT #	Cabbage Palm	EA		7	\$
34	No FDOT #	Florida Thatch Palm	EA		8	\$
35	No FDOT #	Florida Thatch Palm	EA		1	\$
36	No FDOT #	Bay Cedar	EA		6	\$
37	No FDOT #	Saw Palmetto	EA		46	\$
38	No FDOT #	Spanish Stopper	EA		4	\$
39	0580-7253	Ficus microcarpa	EA		45	\$
40	No FDOT #	Golden Creeper	EA		121	\$
41	No FDOT #	Beach Sunflower	EA		101	\$
42	No FDOT #	Railroad Vine	EA		138	\$
43	0580-7253	Sea Lavender	EA		149	\$
44	No FDOT #	Planting Soil (4137 SF @ 6")	CY		42	\$
45	No FDOT #	Mulch (4137 SF @ 3")	CY		21	\$
		J. IRRIGATION				\$
46	1050-41102	Dripline	SF		2,555	\$
47	No FDOT #	Turf Spray	SF		1,099	\$
48	No FDOT #	Tree Bubblers (2 per tree)	EA		26	\$
49	1080-21102	Valves	EA		3	\$
50	0590-70	Controller System	EA		1	\$
51	0591-1200	Piping / 2 inch Sleeving	LF		813	\$
52	No FDOT #	Miscellaneous Fittings	LS		1	\$
		K. SIGN				\$
53	0700-1-21	Monument Sign on Pylon	LS		1	\$
54	0700-1-50	Sign Relocation	AS		1	\$
						\$
BID TOTAL						\$

NOTE: BID EVALUATION SHALL BE BASED ON TOTAL BASE BID PROJECT COST FOR “ITB 2022-001 - North Bay Village North Bay Village Baywalk Plaza Area North - Phase 1.

Work to be included for all items:

Furnishing all labor, equipment, materials and any and all costs for the term of the warranty or as deemed necessary by the Village, necessary to complete the work per the specifications and as required shall be included in the above bid.

NOTES TO BIDDERS:

1. Contractor shall fill the entire bid form; no spaces are to be left blank.
2. The Village reserves the right to utilize any combination of the base bid, add alternates as they so desire to achieve the proper balance between the required improvements, desired improvements, and the Village’s available project budget.
3. The Village reserves the right to request per unit/each pricing of materials listed on the bid form for clarification or to purchase additional materials.
4. Contract Time will commence on the date the Agreement is executed and continue consecutively for a period of three hundred and sixty-five (365) calendar days. The Village reserves the right to extend the contract for an additional two one (1) year periods. No extension of time will be given unless stated in writing.
5. The contract prices resultant from this solicitation shall prevail for no less than two (2) year from the contract’s initial effective date. It is the bidder’s responsibility to request any price adjustment 90 days prior to the then current 12-month term. The adjustment request should not be in excess of the relevant pricing index change. The Village may consider an adjustment to price upward or downward based on changes to the Consumer Price Index (CPI), all urban consumers, workers in Miami Dade/Ft. Lauderdale Area for goods and services.

PROJECT COST:

_____ Dollars
(Written Total Base Bid Price)

6. BIDDER agrees that the work will be completed as scheduled from the date stipulated in the work orders executed under the terms of this contract.

7. Communications concerning this Bid shall be addressed to:

BIDDER: _____

Address: _____

Telephone: _____

Facsimile Number: _____

Attention: _____

8. The terms used in this Bid which are defined in the General Conditions of the Contract included as part of the Contract documents have the meanings assigned to them in the General Conditions.

SUBMITTED THIS _____ DAY OF _____, 20_____

If BIDDER is:

AN INDIVIDUAL

By: _____ (SEAL)
(Individual's Name)

Doing business as: _____

Business address: _____

Phone No.: _____ Facsimile No.: _____

A PARTNERSHIP

By: _____(SEAL)
(Firm's Name)

(General Partner)

Business address: _____

Phone No.: _____ Facsimile No.: _____

A CORPORATION

By: _____
(Corporation Name)

(State of Incorporation)

By: _____
(Name of Person Authorized to Sign)

(Title)

(Corporate Seal)

Attest: _____
(President)

Business address: _____

Phone No.: _____ Facsimile No.: _____

A JOINT VENTURE

By: _____
(Name)

(Address)

By: _____
(Name)

(Address)

(Each joint venture must sign. The manner of signing for each individual, partnership, and corporation that is a party to the joint venture should be in the manner indicated above.)

CERTIFICATE OF AUTHORITY

(IF CORPORATION)

STATE OF _____)

) SS:

COUNTY OF _____)

I HEREBY CERTIFY that a meeting of the Board of DIRECTORS of the

a Corporation existing under the laws of the State of _____,
held on _____, 20____, the following resolution was duly passed and adopted:

“RESOLVED, that, as President of the Corporation, be and is hereby authorized to execute the Bid dated, _____, 20____, to the North Bay Village and this Corporation and that their execution thereof, attested by the Secretary of the Corporation, and with the Corporate Seal affixed, shall be the official act and deed of this Corporation”.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Corporation this____, day of _____, 20____.

Secretary: _____

(SEAL)

CERTIFICATE OF AUTHORITY

(IF PARTNERSHIP)

STATE OF _____)

) SS:

COUNTY OF _____)

I HEREBY CERTIFY that a meeting of the Partners of the

a Corporation existing under the laws of the State of _____,
held on _____, 20____, the following resolution was duly passed and adopted:

“RESOLVED, that, _____, as _____ of the Partnership, be and is
hereby authorized to execute the Bid dated, _____, 20____, to the North
Bay Village and this Partnership and that their execution thereof, attested by the _____,
shall be the official act and deed of this Partnership”.

I further certify that said resolution is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand this _____, day of _____, 20____.

Secretary: _____

(SEAL)

CERTIFICATE OF AUTHORITY

(IF JOINT VENTURE)

STATE OF _____)

) SS:

COUNTY OF _____)

I HEREBY CERTIFY that a meeting of the Principals of the

a Corporation existing under the laws of the State of _____,
held on _____, 20____, the following resolution was duly passed and adopted:

“RESOLVED, that, _____, as _____ of the Joint Venture, be and is
hereby authorized to execute the Bid dated, _____, 20____, to the North
Bay Village official act and deed of this Joint Venture”.

I further certify that said resolution is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand this _____, day of _____, 20_____.

Secretary: _____

(SEAL)

END OF SECTION

SECTION 00420 - AWARD PREFERENCE FOR IDENTICAL TIE BIDS

Whenever two or more Bids which are equal with respect to price, quality, and service are received by the Village or by any political subdivision for the procurement of commodities or contractual services, a Bid received from a contractor that certifies that it has been in the business for greater number of years shall be given preference in the award process. Established procedures for processing tie Bids will be followed.

(a) Contracts shall be awarded in the following order of priority when two or more low bids are equal in all respects:

(1) a bidder that certifies that it has been in the business for greater number of years with an overall satisfactory performance record is given preference over a bidder lesser experience and known to have a less satisfactory performance record.

(b) If two or more bidders still remain equally eligible after application of paragraph (a) of this section, award shall be made by a drawing by lot limited to those bidders. If time permits, the bidders involved shall be given an opportunity to attend the drawing. The drawing shall be witnessed by at least three persons, and the contract file shall contain the names and addresses of the witnesses and the person supervising the drawing.

(c) When an award is to be made by using the priorities under this Section 00420, the contracting officer shall include a written agreement in the contract that the contractor will perform, or cause to be performed, the contract in accordance with the circumstances justifying the priority used to break the tie or select bids for a drawing by lot.

As the person authorized to sign the statement, I certify that this firm understands and complies fully with the above requirements.

BIDDERS SIGNATURE: _____

END OF SECTION

SECTION 00432 - BID BOND

STATE OF)

) SS:

COUNTY OF)

KNOW ALL MEN BY THESE PRESENTS, that we, _____, as Principal, and _____, as Surety, are held firmly bound unto the North Bay Village, a municipal corporation of the State of Florida in the sum of _____ Dollars (\$ _____), lawful money of the United States, for the payment of which sum and truly to be made, we bind ourselves, our heirs, executors, administrators and successors jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that whereas the Principal has submitted the accompanying Bid dated, _____, 20__ for: _____.

WHEREAS, it was a condition precedent to the submission of said Bid that a or Bid Bond in the amount of five percent (5%) of the Base Bid be submitted with said Bid as a guarantee that the BIDDER would, if awarded the Contract, enter into a written Contract with the Village for the performance of said Contract, within ten (10) consecutive calendar days after written notice having been given of the Award of the Contract.

NOW, THEREFORE, the conditions of this obligation are such that if the Principal within ten (10) consecutive calendar days after written notice of such acceptance, enters into a written Contract with the North Bay Village and furnishes the Performance and Payment Bonds, satisfactory to the Village, each in an amount equal to one hundred percent (100%) of the Contract Price, and provides all required Certificates of Insurance, then this obligation shall be void; otherwise the sum herein stated shall be due and payable to the North Bay Village and the Surety herein agrees to pay said sum immediately, upon demand of the Village, in good and lawful money of the United States of America, as liquidated damages for failure thereof of said Principal.

IN WITNESS WHEREOF, the above bonded parties have executed this instrument under their several seals this _____ day of _____, 20____, the name and the corporate seal of each corporate party being hereto affixed and these presents being duly signed by its undersigned representative.

IN PRESENCE OF:

(Individual or Partnership Principal)

_____(SEAL)
(Business Name)

(Business Address)

(Village/State/Zip)

(Business Phone)

ATTEST:

(Corporate Surety)*

By: _____

*Impress Corporate Seal

IMPORTANT

Surety companies executing bonds must appear on the Treasury Department's most current list (circular 570 as amended) and be authorized to transact business in the State of Florida.

Signed, sealed and delivered in the presence of:

_____ By: _____

_____ (Printed Name) _____ (Title)

ACKNOWLEDGMENT

State of Florida

County of _____

On this the _____ day of _____, 20_____, before me, the undersigned Notary Public of the State of Florida, personally appeared

_____ and
(Name(s) of individual(s) who appeared before notary)

Whose name(s) is/are Subscribed to the within instrument, and he/she/they acknowledge that he/she/they executed it.

WITNESS in my hand and official seal.

NOTARY PUBLIC, STATE OF FLORIDA

NOTARY PUBLIC:

SEAL OF OFFICE:

(Name of Notary Public: Print, Stamp, or Type as Commissioned)

- Personally known to me, or
- Personally identification:

(Type of Identification Produced)

- Did take an oath, or
- Did NOT take an oath,

OPTIONAL INFORMATION:

Type of Document _____ Number of Pages: _____

Number of Signatures Notarized: _____

END OF SECTION

SECTION 00434 - LIST OF PROPOSED SUBCONTRACTORS

BIDDER shall list all Proposed Subcontractors to be used on this project if they are awarded the contract.

CLASSIFICATION

SUBCONTRACTOR NAME, ADDRESS OF WORK AND LICENSE #

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

If, prior to Notice of the Award, the Village or the Contractor has reasonable objection to and refuses to accept any Contractor, Supplier, person or organization listed, the BIDDER may, prior to Notice of Award, submit an acceptable substitute without an increase in their bid price.

END OF SECTION

SECTION 00450 - BIDDER QUALIFICATION STATEMENT

The BIDDER's response to this questionnaire will be utilized as part of the Village's overall Bid Evaluation and Contractor selection.

The following minimum experience is required for this project:

- Successful completion, verifiable with references, of at least three roadway and plaza building construction projects of at least four hundred and fifty thousand dollars (\$450,000) each in construction costs performed in Miami-Dade County in the last three years.
- All these projects must have been performed for local government, County and/or state agency.
- 5 years' experience performing similar work under current business name.

Failure to meet these minimum guidelines will be considered an unresponsive submittal and the documents will not be considered.

List projects experience consistent with the requirements stated below (DO NOT RESPOND AS "SEE ATTACHED". YOU MUST FILL THE INFORMATION).

1. Project Name/Location	_____
Project Description	_____ _____ _____
Owner Name	_____
Contact Person	_____
Contact Telephone No.	_____
Yearly Budget/Cost	_____
Dates of Contract	_____

(Continued on following page)

2. Project Name/Location _____

Project Description _____

Owner Name _____

Contact Person _____

Contact Telephone No. _____

Yearly Budget/Cost _____

Dates of Contract _____

3. Project Name/Location _____

Project Description _____

Owner Name _____

Contact Person _____

Contact Telephone No. _____

Yearly Budget/Cost _____

Dates of Contract _____

END OF SECTION

SECTION 00454 – NON-COLLUSION AFFIDAVIT

STATE OF _____)

) SS:

COUNTY OF _____)

_____ being first duly sworn deposes and says that:

- (1) He/She/They is/are the _____
(Owner, Partner, Officer, Representative or Agent) of
_____ the BIDDER that has submitted the attached Bid;
- (2) He/She/They is/are fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;
- (3) Such Bid is genuine and is not a collusive or sham Bid;
- (4) Neither the said BIDDER nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, have in any way colluded, conspired, connived or agreed, directly or indirectly, with any other BIDDER, firm, or person to submit a collusive or sham Bid in connection with the Work for which the attached Bid has been submitted; or to refrain from bidding in connection with such Work; or have in any manner, directly or indirectly, sought by agreement or collusion, or communication, or conference with any BIDDER, firm, or person to fix any overhead, profit, or cost elements of the Bid or of any other BIDDER, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against (Recipient), or any person interested in the proposed Work;
- (5) The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the BIDDER or any other of its agents, representatives, owners, employees or parties in interest, including this affiant.

Signed, sealed and delivered in the presence of:

By:

(Printed Name)

(Title)

ACKNOWLEDGMENT

State of Florida

County of _____

On this the _____ day of _____, 20_____, before me, the undersigned Notary Public of the State of Florida, personally appeared

_____ and

(Name(s) of individual(s) who appeared before notary)

Whose name(s) is/are Subscribed to the within instrument, and he/she/they acknowledge that he/she/they executed it.

WITNESS in my hand and official seal.

NOTARY PUBLIC, STATE OF FLORIDA

NOTARY PUBLIC:

SEAL OF OFFICE:

(Name of Notary Public: Print, Stamp, or Type as Commissioned)

Personally known to me, or

Personally identification:

(Type of Identification Produced)

- Did take an oath, or
- Did NOT take an oath,

OPTIONAL INFORMATION:

Type of Document _____ Number of Pages: _____

Number of Signatures Notarized: _____

END OF SECTION

SECTION 00456 - PUBLIC ENTITY CRIMES

Pursuant to the provisions of paragraph (2) (a) of Section 287.133, Florida State 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 a Bid on a Contract to provide any goods or services to a public entity, may not submit a Bid on a Contract with a public entity for the construction or repair of a public building or public Work, may not submit bids on leases of real property to a public entity, may not be awarded to perform Work as a Contractor, supplier, Subcontractor, or Contractor under a Contract with any public entity, and may not transact business with any public entity in excess of the threshold amount Category Two of Sec. 287.017, FS for thirty six months from the date of being placed on the convicted vendor list".

CONFLICTS OF INTEREST

The award of any contract hereunder is subject to the provisions of Chapter 112, Florida State Statutes. BIDDER's must disclose with their Bids, the name of any officer, director, partner, associate or agent who is also an officer or employee of the North Bay Village or its' agencies.

END OF SECTION

**SWORN STATEMENT PERSUANT TO SECTION 287.133(3)(a)
FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES**

THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS.

1. This sworn statement is submitted to _____
_____ by _____ for _____
_____ whose business address is _____
_____ and (if applicable) its Federal Employer Identification
Number (FEIN) is _____ (if the entity has no FEIN, include
the Social Security Number of the individual signing this sworn statement: _____).

2. I understand that a "public entity crime" as defined in Paragraph 287.133(1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any Bid or Contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state of the United State and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

3. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment of information after July 1, 1989, as a result of a jury verdict, non-jury trial, or entry of a plea of guilty or nolo contendere.

4. I understand that an "affiliate" as defined in Paragraph 287.133(1)(a), Florida Statutes, means:

- a. A predecessor or successor of a person convicted of a public entity crime; or
- b. Any entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executors, partners, shareholders, employees, members, and agents who are active in management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prime facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during a preceding 36 month shall be considered and affiliate.

5. I understand that a "person" as defined in Paragraph 287.133(1)(e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding Contract and which Bids or applies to Bid on Contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "persons" includes those officers, directors,

executives, partners, shareholders, employees, members, and agents who are active in management of any entity.

6. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. (Indicate which statement applies.)

_____ Neither the entity submitting this sworn statement, nor any of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

_____ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

_____ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list. (Attach a copy of the final order.)

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 (ONE) ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND, THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES, FOR CATEGORY TWO OF ANY, CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

By: _____

(Printed Name)

(Title)

Sworn to and subscribed before me this _____ day of _____, 20_____

- Personally known to me, or
- Personally identification:

(Type of Identification Produced)

- Did take an oath, or
- Did NOT take an oath,

(Notary Signature)

(Printed, typed, or stamped commission name of notary public)

END OF SECTION

SECTION 00510 – NOTICE OF AWARD

To: _____

PROJECT DESCRIPTION: North Bay Village **“ITB No. 2022-001- North Bay Village Baywalk Plaza Area North - Phase 1”** in accordance with Contract Documents as prepared by the Village

and

The Village has considered the Bid submitted by you for the above described WORK in response to its Advertisement for Bid and Instruction to BIDDERS.

You are hereby notified that your Bid has been accepted for the North Bay Village **“ITB No. 2022-001 - North Bay Village Baywalk Plaza Area North - Phase 1”**, in a not to exceed amount of

\$ _____ Dollars.

You are required by the instruction to BIDDER’s to execute the Agreement and furnish the required CONTRACTOR’s Performance Bond, Payment Bond and Certificated of Insurance within ten (10) days from the date of this Notice to you.

If you fail to execute said Agreement and to furnish said Bonds and Insurance within ten (10) days from the date of this Notice, said Village will be entitled to, revoke the award and retain the Bid Security.

By: _____

Title: Village Manager

Dated this _____ day of _____, 20 _____.

END OF SECTION

ACCEPTANCE OF NOTICE OF AWARD

Receipt of the above Notice of Award is hereby acknowledged by

this/the _____ day of _____, 20_____

By: _____

Title: _____

You are required to return an acknowledged copy of this Notice of Award to the Village.

END OF SECTION

SECTION 00550 – NOTICE TO PROCEED

To: _____

Date: _____

PROJECT DESCRIPTION: ITB No. 2022-001 - North Bay Village Baywalk Plaza Area North - Phase 1, in accordance with Contract Documents as prepared by the North Bay Village.

Site Number/Name: _____

Site Location: _____

You are hereby notified to commence all the work that conforms to the scope of work in accordance with the Contract Agreement dated_____. This work is to be completed in _____calendar days, on or before_____, 20__, with both parties being in total and full agreement or the Contractor shall be subject to the liquidated damages clauses of the Agreement. The cost to perform the scope of work in accordance with the Agreement shall not exceed \$_____.

North Bay Village

By: _____

Ralph Rosado

Title: Village Manager

END OF SECTION

ACCEPTANCE OF NOTICE TO PROCEED

Receipt of the above NOTICE TO PROCEED is hereby acknowledge by _____,

This _____ day of _____, 20_____.

By: _____

Title: _____

END OF SECTION

SECTION 00600 - BONDS AND CERTIFICATES

SECTION 00612 - FORM OF PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS:

That, pursuant to the requirements of Florida Statute 255.05, we, _____ as Principal, hereinafter called Contractor, and _____, as Surety, are bound to the North Bay Village, Florida as Obligee, hereinafter called Village, in the amount of _____ Dollars (\$ _____) for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally.

WHEREAS, Contractor has by written agreement entered into a Contract, **ITB No. 2022-001**, awarded the _____ day of _____, 20____, with the North Bay Village for **Baywalk Plaza Area North - Phase 1, ITB No. 2022-001** in accordance with specifications prepared by the North Bay Village which Contract is by reference made a part hereof, and is hereafter referred to as the Contract;

THE CONDITION OF THIS BOND is that if the Contractor:

1. Indemnifies and pay Obligee all losses, damages (including, but not limited to, damages for delay (specifically, liquidated damages as per section 00710 – General Conditions of the ITB and section 3.4 of the Construction Contract) and actual damages caused or arising out of the acts, omissions or negligence of Contractor), expenses, costs, and attorney's fees including attorney's fees incurred in appellate proceedings, that Obligee sustain because of default by Contractor under the Contract; and
2. Promptly makes payments to all claimants as defined by Florida Statute 255.05(1) supplying Contractor with all labor, materials and supplies used directly or indirectly by Contractor in the prosecution of the Work provided for in the Contract, then this obligation shall be void; otherwise, it shall remain in full force and effect subject, however, to the following conditions:
 - 2.1 A claimant, except a laborer, who is not in privity with the Contractor and who has not received payment for their labor, materials, or supplies shall, within forty-five (45) days after beginning to furnish labor, materials, or supplies for the prosecution of the Work, furnish to the Contractor a notice that they intend to look to the Bond for protection.

- 2.2 A claimant who is not in privity with the Contractor and who has not received payment for their labor, materials, or supplies shall, within ninety (90) days after performance of the labor, or after complete delivery of the materials or supplies, deliver to the Contractor and to the Surety, written notice of the performance of the labor or delivery of the materials or supplies and of the non-payment.
- 2.3 No action for the labor, materials, or supplies may be instituted against Contractor or the Surety unless the notices stated under the preceding paragraphs 2.1 and 2.2 have been given.
- 2.4 Any action under this Bond must be instituted in accordance with the Notice and Time Limitations provisions prescribed in Section 255.05(2), Florida Statutes.

The Surety hereby waives notice of and agrees that any changes in or under the Contract Documents and compliance or noncompliance with any formalities connected with the Contract or the changes do not affect the Surety's obligation under this Bond.

Signed and sealed this _____ day of _____, 20__.

WITNESS:

By: _____

(Signature and Title)

(CORPORATE SEAL)

 (Type Name and Title signed above)

WITNESS:

 (Name of Corporation)

Secretary

By: _____

(Type Name and Title signed above)

IN THE PRESENCE OF;

INSURANCE COMPANY:

By: _____

*Agent and Attorney-in-Fact

Address: _____

(Street) _____

(Village/State/Zip Code) _____

Telephone No.: (_____) _____

* (Power of Attorney must be attached)

State of _____

County of _____

On this, the day of _____, 20____, before me, the undersigned Notary Public of the State of _____, the foregoing instrument was acknowledged by (name of corporate officer), (title), of (name of Corporation), a (state of corporation) corporation, on behalf of the corporation.

WITNESS my hand

and official seal

Notary Public, State of

Printed, typed or stamped name of Notary
Public exactly as commissioned

Personally known to me, or

Produced identification: _____

(type of identification produced)

Did take an oath, or

Did not take an oath

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, _____, certify that I am the Secretary of the Corporation named as Principal in the foregoing Payment Bond; that _____, who signed the Bond on behalf of the Principal, was then _____ of said corporation; that I know his/her their signature; and his/her their signature thereto is genuine; and that said Bond was duly signed, sealed and attested to on behalf of said Corporation by authority of its governing body.

(CORPORATE SEAL)

(Name of Corporation)

END OF SECTION

SECTION 00614 - FORM OF PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That, pursuant to the requirements of Florida Statute 255.05, we, _____, as Principal, hereinafter called Contractor, and _____, as Surety, are bound to the North Bay Village, Florida, as Obligee, hereinafter called Village, in the amount of _____ Dollars (\$) for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally.

WHEREAS, Contractor has by written agreement entered into a Contract, ITB No. 2022-001 - North Bay Village Baywalk Plaza Area North - Phase 1 awarded the ____ day of __, 20__, with North Bay Village for Roadway Milling and Resurfacing of Bituminous Paving and Miscellaneous Right-of Way Improvements – Treasure Island, ITB No. 2022-001 in accordance with drawings (plans) and specifications which Contract is by reference made a part hereof, and is hereafter referred to as the Contract;

THE CONDITION OF THIS BOND is that if the Contractor:

1. Fully performs the Contract between the Contractor and the Village for: "ITB No. 2022-001 - North Bay Village Baywalk Plaza Area North - Phase 1" as scheduled after the date of Contract commencement as specified in the Notice to Proceed and in the manner prescribed in the Contract; and bid specifications.
2. Indemnifies and pay Obligee all losses, damages (including, but not limited to, damages for delay (specifically, liquidated damages as per section 00710 – General Conditions of the ITB and section 3.4 of the Construction Contract) and actual damages caused or arising out of the acts, omissions or negligence of Contractor), expenses, costs, and attorney's fees including attorney's fees incurred in appellate proceedings, that Obligee sustain because of default by Contractor under the Contract; and
3. Upon notification by the North Bay Village, corrects any and all defective or faulty Work or materials which appear within ONE (1) YEAR.
4. Performs the guarantee of all Work and materials furnished under the Contract for the time specified in the Contract, then this Bond is void, otherwise it remains in full force.

Whenever Contractor shall be, and declared by Village to be, in default under the Contract, the Village having performed their obligations thereunder, the Surety may promptly remedy the default, or shall promptly:

- 4.1 Complete the Contract in accordance with its terms and conditions; or
- 4.2 Obtain a Bid or Bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the best, lowest, qualified, responsible and responsive BIDDER, or, if the Village elects, upon determination by the

Village, and Surety jointly of the best, lowest, qualified, responsible and responsive BIDDER, arrange for a Contract between such BIDDER and Village, and make available as Work progresses (even though there should be a default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the Contract Price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the Contract Price." as used in this paragraph, shall mean the total amount payable by North Bay Village to Contractor under the Contract and any amendments thereto, less the amount properly paid by North Bay Village to Contractor.

No right of action shall accrue on this Bond to or for the use of any person or Corporation other than the Village named herein.

The Surety hereby waives notice of and agrees that any changes in or under the Contract Documents and compliance or noncompliance with any formalities connected with the Contract or the changes do not affect Surety's obligation under this Bond.

Signed and sealed this ____ day of _____, 20__

WITNESSES: _____

(Name of Corporation) _____

By: _____

Secretary

(Signature and Title)

(CORPORATE SEAL)

(Type Name & Title signed above)

IN THE PRESENCE OF:

INSURANCE COMPANY: _____

By:

*(Agent and Attorney-in-Fact)

Address:

(Street)

(Village/State/Zip Code)

Telephone No.: (_____) _____

* (Power of Attorney must be attached)

State of _____

County of _____

On this, the _____ day of _____, 20____, before me, the undersigned

Notary Public of the State of _____, the foregoing instrument was acknowledged by (name of Corporate officer), _____ (title), of _____ (name of Corporation), a _____ (state of corporation) corporation, on behalf of the corporation.

WITNESS my hand and official seal

Printed, typed or stamped name of Notary Public

exactly as commissioned

Notary Public, State of _____

Personally known to me, or

Produced identification:

(type of identification produced)

Did take an oath, or

Did not take an oath

Bonded by: _____

END OF SECTION

SECTION 00620

ACKNOWLEDGEMENT OF CONFORMANCE WITH OSHA STANDARDS

To the North Bay Village,

We _____, hereby acknowledge and (*General Contractor*) agree that we, as the General Contractor for the North Bay Village, “**ITB No. 2022-001 - North Bay Village Baywalk Plaza Area North - Phase 1**”, as specified, have the sole responsibility for compliance with all requirements of the Federal Occupational Safety and Health Act of 1970, and all State and local safety and health regulations, and agree to indemnify and hold harmless the North Bay Village, against any and all liability, claims, damages, losses and expenses they may incur due to the failure of:

(Subcontractor’s Name)

(Subcontractor’s Name)

to comply with such act or regulation.

By: (General Contractor)

Printed Name

END OF SECTION

SECTION 00710 – GENERAL CONDITIONS

ARTICLE I – DEFINITIONS

Wherever used in these General Conditions or in the other Contract Documents, the following terms shall have the meaning indicated which shall be applicable to both the singular and plural thereof:

Acceptance: By the VILLAGE of the Work as being fully complete in accordance with the Contract Documents subject to waiver of claims.

Agreement: The written Agreement between the VILLAGE and the CONTRACTOR covering the Work to be performed, which includes the Contract Documents.

Addenda: Written or graphic instruments issued prior to the Bid Opening which modify or interpret the Contract Documents, Drawings and Specifications, by addition, deletions, clarifications or corrections.

Application for Payment: The form furnished by the VILLAGE which is to be used by the CONTRACTOR in requesting progress payments.

Approved: Means approved by the VILLAGE.

Bid: The offer or proposal of the BIDDER submitted on the prescribed form setting forth the prices for the Work to be performed.

BIDDER: Any person, firm or corporation submitting a Bid for Work.

Bonds: Bid, Performance and Payment Bonds and other instruments of security, furnished by the CONTRACTOR and their surety in accordance with the Contract Documents and in accordance with the law of the State of Florida.

Change Order: A written order to the CONTRACTOR signed by the VILLAGE authorizing an addition, deletion or revision in the Work, or an adjustment in the Contract Price or the Contract Time issued after execution of the Agreement.

VILLAGE: North Bay Village, 1666 Kennedy Causeway (NE 79th Street), Suite 300 North Bay Village, FL 33141

Contract Documents: Contract Documents shall include Instruction to BIDDERS, CONTRACTOR's Bid, the Bonds, the Notice of Award, these General Conditions, Special Conditions, the Technical Specifications, Drawings and Modifications, Notice to Proceed, Invitation to Bid, Insurance Certificates, Change Orders and Acknowledgement of Conformance with North Bay Village.

Contract Price: The total moneys payable to the CONTRACTOR under the Contract Documents.

Contract Time: The number of calendar days stated in the Agreement for the completion of the Work.

Contracting Officer: The individual who is authorized to sign the contract documents on behalf of the Village's governing body.

CONTRACTOR: The person, firm or corporation with whom the VILLAGE has executed the Agreement.

CONSULTANT: The person, firm or corporation that is an authorized representative of the North Bay Village.

Day: A calendar day of twenty-four (24) hours measured from midnight to the next midnight.

Drawings: The drawings which show the character and scope of the Work to be performed and which have been prepared or approved by the CONSULTANT and are referred to in the Contract Documents.

FDEP: State of Florida Department of Environmental Protection.

FDOT: State of Florida Department of Transportation.

Field Order: A written order issued by the VILLAGE which clarified or interprets the Contract Documents in accordance with Paragraph 9.2 or orders minor changes in the Work in accordance with Paragraph 10.2.

Modifications: (a) A written amendment of the Contract Documents signed by both parties, (b) a Change Order, (c) a written clarification or interpretation if issued by the VILLAGE in accordance with Paragraph 9.2 or (d) a written order for minor change or alteration in the Work issued by the VILLAGE pursuant to Paragraph 10.2. A modification may only be issued after execution of the Agreement.

Notice of Award: A written notice given by the VILLAGE to the CONTRACTOR fixing the date on which the Contract Time will commence to run and on which the CONTRACTOR shall start to perform their obligations under the Contract Documents.

Project: The entire Project to be performed as provided in the Contract Documents.

Construction Observer: An authorized representative of the VILLAGE assigned to observe the Work performed and materials furnished by the CONTRACTOR or such other person as may be appointed by the VILLAGE as his representative. The CONTRACTOR shall be notified in writing of the identity of this representative.

Shop Drawings: All drawings, diagrams, illustrations, brochures, schedules and other data which are prepared by the CONTRACTOR, a Subcontractor, manufacturer, supplier, or distributor, and which illustrate the equipment, material or some portion of the work and as required by the Contracts Documents.

Samples: Physical examples which illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

Specifications: Those portions of the Contract Documents consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the Work.

Subcontractor: An individual, firm or corporation having a direct contract with the CONTRACTOR or with any other Subcontractor for the performance of a part of the Work at the site.

Substantial Completion: The date as certified by the VILLAGE when the construction of the Project or a certified part thereof is sufficiently completed, in accordance with the Contract Documents, so that the Project or specified part can be utilized for the purposes which it was intended; or if there be no such certification, the date when final payment is due.

Supplier: Any person or organization who supplies materials or equipment for the Work, including that fabricated to a special design, but who does not perform labor at the site.

Surety: The corporate body which is bound with the CONTRACTOR and which engages to be responsible for the CONTRACTOR and their acceptance performance of the Work.

Work: Any and all obligations, duties and responsibilities necessary to the successful completion of the Project assigned to or undertaken by the CONTRACTOR under the Contract Documents, including all labor, materials, equipment and other incidentals, and the furnishing thereof.

Written Notice: The term "Notice" as used herein shall mean and include all written notices, demands, instructions, claims, approvals and disapprovals required to obtain compliance with Contract requirements. Written notice shall be deemed to have been duly served if delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or to an authorized representative or such individual, firm, or corporation, or if delivered at or sent by registered mail to the last business address known to them who gives the notice. Unless otherwise stated in writing, any notice to or demand upon the VILLAGE under this Contract shall be delivered to the VILLAGE.

ARTICLE 2 – PRELIMINARY MATTERS

Award:

2.1 The VILLAGE reserves the right to reject any and all Bids at its sole discretion. Bids shall be awarded by the VILLAGE to the lowest responsive and responsible BIDDER; after the

VILLAGE performs all necessary searches, inquiries, exploration, and analysis of the bids. No Notice of Award will be given until the VILLAGE has conducted any investigation(s) as they deem necessary to establish the BIDDER's capability to perform the services as described in this CONTRACT, as substantiated by the required professional experience, client references, technical knowledge and qualifications; and sufficient labor and equipment to comply with the VILLAGE's established standards, as well as the financial capability of the BIDDER to perform the Work in accordance with the Contract Documents to the satisfaction of the VILLAGE within the time prescribed. The VILLAGE reserves the right to reject the Bid of any BIDDER on the basis of these queries and investigations and who does not meet the VILLAGE's satisfaction, even though the firm may possibly be the apparent lowest bidder. In analyzing Bids, the VILLAGE will also take into consideration client references, past work experience and work product, proven ability to satisfactorily perform the manufacturing and installation of roadway directional signage to VILLAGE standards; and alternate and unit prices if requested by the Bid form. If the Contract is awarded, the VILLAGE will issue the Notice of Award and give the successful BIDDER a Contract for execution within ninety (90) days after opening of Bids. The VILLAGE specifically reserves the right to award the Contract to a bidder who is not necessarily the lowest bidder on the basis of the results of these queries and investigation(s).

Execution of Agreement:

2.2 At least three counterparts of the Agreement, the Performance and Payment Bond, the Certificates of Insurance and such other Documents as required by the Contract Documents shall be executed and delivered by the CONTRACTOR to the VILLAGE within ten (10) calendar days of receipt of the Notice of Award.

Forfeiture of Bid Security/Performance and Payment Bond:

2.3 Within ten (10) calendar days of being notified of the Award, the CONTRACTOR shall furnish a Performance Bond and a Payment Bond containing all the provisions of the Performance Bond and Payment Bond attached.

2.3.1 Each Bond shall be in the amount of one hundred percent (100%) of the Contract Price guaranteeing to the Village the completion and performance of the Work covered in such Contract as well as full payment of all suppliers, material man, laborers, of Subcontractors employed pursuant to this Project. Each Bond shall be with a Surety company meeting the qualifications of Sections 2.3.4, 2.3.5, and 2.3.6.

2.3.2 Each Bond shall continue in effect for one and one half (1 ½) years after final completion and acceptance of the Work with the liability equal to one hundred percent (100%) of the Contract Sum. The Performance Bond shall be conditioned that the CONTRACTOR will, upon notification by the VILLAGE, correct any defective or faulty Work or materials which appear within one and a one half (1 ½) years after final completion of the Contract.

2.3.3 Pursuant to the requirements of Section 255.05(1), Florida Statutes, the CONTRACTOR shall ensure that the Bond(s) referenced above shall be recorded in the public records of Dade County and Provide the VILLAGE with evidence of such

recording.

2.3.4 Each Bond must be executed by a surety company authorized to do business in the State of Florida as a surety, having a resident agent in the State of Florida and having been in business with a record of successful continuous operation for at least five (5) years.

2.3.5 The surety company shall hold a current certificate of authority as acceptable surety on federal bonds in accordance with the United States Department of Treasury Circular 570, current Revisions.

2.3.6 The VILLAGE will accept a surety bond from a company with a rating of A- or better.

2.3.7 Failure of the successful BIDDER to execute and deliver the Agreement and deliver the required bonds and Insurance Certificates as stipulated in paragraph 2.2 shall be cause for the VILLAGE to annul the Notice of Award and declare the Bid and any security therefore forfeited.

Contractor's Pre-Start Representation:

2.4 The CONTRACTOR represents that they have familiarized themselves with, and assumes full responsibility for having familiarized themselves with the nature and extent of the Contract Documents, Work, locality, and with all local conditions and federal, State and local laws, ordinances, rules and regulations that may in any manner affect performance of the Work, and represents that they have correlated their study and observations with the requirements of the Contract Documents. The CONTRACTOR also represents that they have studied all surveys and investigations reports of subsurface and latent physical conditions referred to in the specifications and made such additional surveys and investigations as they deem necessary for the performance of the Work in the Contract Documents and that they have correlated the results of all such data with the requirements of the Contract Documents. Additional monies will not be paid, over and above the CONTRACT amount, in the event rock is encountered.

Commencement of Contract Time:

2.5 The Contract Time will start on the date the Agreement is executed and continue to run consecutively for the period as established in the contract. No extension of time will be given unless stated in writing.

Starting the Project:

2.6 The CONTRACTOR shall start to perform their obligations under the Contract Documents on the date stipulated in the Notice to Proceed (NTP) for each site. No Work shall be done at the site prior to the date on which the NTP commences to run, except with the written consent of the VILLAGE. No work will be done on Saturday without written consent of the VILLAGE or after the end of a normal business day unless prior approval is given by the VILLAGE in writing. No work shall be permitted on Sundays or on national holidays.

Before Starting Contract:

2.7 Before undertaking each part of the Work, the CONTRACTOR shall carefully study and compare the Contract Documents and check and verify pertinent figures shown thereon and all applicable field measurements which shall be approximate. The CONTRACTOR shall field verify utility locations and notify the VILLAGE of any conflicts so that the conflict is avoided prior to beginning of construction. Any modifications to the proposed work, once construction has begun, will be at no cost to the VILLAGE.

Schedule of Completion:

2.8 Within five (5) days after delivery of the Notice to Proceed, the CONTRACTOR will submit to the Village, a Schedule defining hours and/or days required to complete each section of work as outlined.

2.9 Within five (5) days after delivery of the executed Agreement by the VILLAGE to the CONTRACTOR, but before starting the Work, a preconstruction conference will be held to review the above schedules, and provide procedures for processing Applications for Payment, and to establish a working understanding between the parties as to the Project. Present at the conference will be the VILLAGE representative, and the CONTRACTOR.

Liquidated Damages:

2.10 Upon failure of the CONTRACTOR to complete the Work within the time specified for completion, (plus approved extensions if any) the CONTRACTOR shall pay to the VILLAGE the sum of **ONE THOUSAND SIX HUNDRED AND NINETY-FOUR DOLLARS AND 00/100 (\$1,694.00)** for each calendar day that the completion of the Work is delayed beyond the time specified in the Contract for completion, as fixed and agreed liquidated damages and not as a penalty. Liquidated damages are hereby fixed and agreed upon between the parties, recognizing the impossibility of precisely ascertaining the amount of damages that will be sustained by the VILLAGE as a consequence of such delay and both parties desiring to obviate any question of dispute concerning the amount of said damages and the cost and effect of the failure of the CONTRACTOR to complete the Contract on time. Regardless of whether or not a single Contract is involved, the above-stated liquidated damages shall apply separately to each portion of the Work for which a time of completion is given. The VILLAGE shall have the right to deduct from and retain out moneys which may be then due, or which may become due and payable to the CONTRACTOR, the amount of such liquidated damages, the CONTRACTOR shall pay in full such liquidated damages.

ARTICLE 3 – CORRELATION, INTERPRETATION AND INTENT OF CONTRACT DOCUMENTS

3.1 It is the intent of the Specifications to describe a complete Project to be delivered in accordance with the Contract Documents. The Contract Documents comprise the entire Agreement between the VILLAGE and the CONTRACTOR. They may be altered only by a Modification.

3.2 The Contract Documents are complementary; what is called for by one is as binding as if called for by all. If CONTRACTOR finds a conflict, error or discrepancy in the Contract Documents, they shall call it to the Village's attention in writing at once and before proceeding with the Work affected thereby; however, they shall not be liable to VILLAGE or CONTRACTOR for their failure to

discover any conflict, error or discrepancy in the Specifications or Drawings. The various Contract Documents shall be given precedence in case of conflict, error or discrepancy, as follows: Change Orders, Supplemental General Conditions, Agreement Modifications, Addenda, Special Conditions, Instructions to BIDDERS, General Conditions, Specifications and Drawings. If the requirements of other Contract Documents are more stringent than those of the Supplemental General Conditions, the more stringent requirements shall apply.

3.3 The words “furnish” and “furnish and install”, “install”, and “provide” or words with similar meaning shall be interpreted, unless otherwise specifically stated, to mean “furnish and install complete in place and ready for service”.

3.4 Miscellaneous items and accessories which are not specifically mentioned, but which are essential to produce a complete and properly operating installation, or usable structure or plant, providing the indicated function, shall be furnished and installed without change in the Contract Price. Such miscellaneous items and accessories shall be of the same quality standards, including material, style, finish, strength, class, weight and other applicable characteristics, as specified for the major component of which the miscellaneous item or accessory is an essential part, and shall be approved by the VILLAGE before installation. The above requirement is not intended to include major components not covered by or inferable from the Drawings and Specifications.

3.5 The Work of all trades under this Contract shall be coordinated by the CONTRACTOR in such manner as to obtain the best workmanship possible for the entire Project, and all components of the Work shall be installed or erected in accordance with the best practices of the particular trade.

ARTICLE 4 – AVAILABILITY OF LANDS SUBSURFACE CONDITIONS REFERENCE POINTS

Availability of Lands:

4.1 The VILLAGE will furnish, as indicated in the Contract Documents, the lands upon which the Work is to be done, rights-of-way for access thereto, and such other lands which are designed for the use of the CONTRACTOR. Easements for permanent structures or permanent changes in existing facilities will be obtained and paid for by the VILLAGE unless otherwise specified in the Contract Documents.

ARTICLE 5 – INSURANCE

5.1 The CONTRACTOR shall provide and maintain in force until all the Work to be performed under this Contract has been completed and accepted by Village (or for such duration as is otherwise specified hereinafter), the insurance coverage set forth: in Exhibit A titled Insurance Requirements.

5.2 The CONTRACTOR agrees that if any part of the Work under the Contract is sublet, they will require the Subcontractor(s) to carry insurance as required, and that they will require the Subcontractor(s) to furnish to them insurance certificates similar to those required by the VILLAGE in Section 5.1

Cancellation and Re-Insurance:

5.3 If any insurance should be canceled or changed by the insurance company or should any insurance expire during the period of this contract, the CONTRACTOR shall be responsible for securing other acceptable insurance to provide the coverage specified in this section to maintain coverage during the life of this Contract.

5.4 All deductibles must be declared by the CONTRACTOR and must be approved by the VILLAGE. At the option of the VILLAGE, either the CONTRACTOR shall eliminate or reduce such deductible or the CONTRACTOR shall procure a Bond, in a form satisfactory to the VILLAGE, covering the same. The contractor is responsible for any and all deductibles, if applicable, following a loss.

ARTICLE 6 – CONTRACTOR’S RESPONSIBILITIES

Concerning Subcontractors:

6.1 The CONTRACTOR will not employ any Subcontractor, against whom the VILLAGE may have reasonable objection, nor will the CONTRACTOR be required to employ any Subcontractor who has been accepted by the VILLAGE, unless the VILLAGE determines that there is good cause for doing so.

6.2 The CONTRACTOR shall be fully responsible for all acts and omissions of their Subcontractors and of persons and organizations directly or indirectly employed by them and of persons and organizations for whose acts any of them may be liable to the same extent that they are responsible for the acts and omissions of persons directly employed by them. Nothing in the Contract Documents shall create any contractual relationship between VILLAGE and any Subcontractor or other person or organization having a direct contract with CONTRACTOR, nor shall it create any obligation on the part of VILLAGE to pay or to see to payment of any persons due any Subcontractor or other person or organization, except as may otherwise be required by law. VILLAGE may furnish to any Subcontractor or other person or organization, to the extent practicable, evidence of amounts paid to the CONTRACTOR on account of specified Work done in accordance with the schedule values.

6.3 The divisions and sections of the Specifications and the identifications of any Drawings shall not control the CONTRACTOR in dividing the Work among Subcontractors or delineating the Work performed by any specific trade.

6.4 The CONTRACTOR agrees to bind specifically every Subcontractor to the applicable terms and conditions of the Contract Documents for the benefit of the VILLAGE.

6.5 All Work performed for the CONTRACTOR by a Subcontractor shall be pursuant to an appropriate agreement between the CONTRACTOR and the Subcontractor.

6.6 The CONTRACTOR shall be responsible for the coordination of the trades, Subcontractors, materials and men engaged upon their Work.

6.6.1 The CONTRACTOR shall cause appropriate provisions to be inserted in all subcontracts relative to the Work to bind Subcontractors to the CONTRACTOR by the terms of these General Conditions and other Contract Documents insofar as applicable to the Work of Subcontractors and give the CONTRACTOR the same power as regards to terminating any subcontract that the VILLAGE may exercise over the CONTRACTOR under any provisions of the Contract Documents.

6.6.2 The VILLAGE will not undertake to settle any differences between the CONTRACTOR and their Subcontractors or between Subcontractors.

6.6.3 If in the opinion of the VILLAGE, any Subcontractor on the Project proves to be incompetent or otherwise unsatisfactory, they shall be promptly replaced by the CONTRACTOR if and when directed by the VILLAGE in writing.

Laws and Regulations:

6.7 The CONTRACTOR will give all notices and comply with all laws, ordinances, rules and regulations applicable to the Work. If the CONTRACTOR observes that the Specifications or Drawings are at variance therewith, they will give the VILLAGE prompt written notice thereof, and any necessary changes shall be adjusted by an appropriate modification. If the CONTRACTOR performs any Work knowing it to be contrary to such laws, ordinances, rules and regulations, and without such notice to the VILLAGE, they will bear all costs arising wherefrom; however, it shall not be their primary responsibility to make certain that the Drawings and Specifications are in accordance with such laws, ordinances, rules and regulations.

Taxes:

6.8 Cost of all applicable sales consumers, use, and other taxes for which the CONTRACTOR is liable under the Contract shall be included in the Contract Price stated by the CONTRACTOR.

Safety and Protection:

6.9 The CONTRACTOR will be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the **ROADWAY AND TRAFFIC DESIGN STANDARDS SERIES 600 TRAFFIC CONTROL THROUGH WORK ZONES** latest edition. They will take all necessary precautions for the safety of, and will provide the necessary protection to prevent damage, injury or loss to:

6.9.1 All employees and other persons whom may be affected thereby; and

6.9.2 All the Work and all materials or equipment to be incorporated therein, whether in storage on or off the work area, and

6.9.3 Other property at the work area or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

6.10 The CONTRACTOR will designate a responsible member of their organization at the site

whose duty shall be the prevention of accidents. This person shall be the CONTRACTOR'S Superintendent unless otherwise designated in writing by the CONTRACTOR to the VILLAGE.

Emergencies:

6.11 In emergencies affecting the safety of persons or the Work or property at the site or adjacent thereto, the CONTRACTOR, without special instruction or authorization from the VILLAGE, is obligated to act, at their discretion, to prevent threatened damage, injury or loss. They will give the VILLAGE prompt written notice of any significant changes in the Work or deviations from the Contract Documents caused thereby. If the CONTRACTOR believes that additional Work done by them in an emergency which arose from causes beyond their control entitles them to an increase in the Contract Price or an extension of the Contract Time, they may make a claim therefore as provided in articles 11 and 12.

6.12 The CONTRACTOR will also submit to the VILLAGE for review, with such promptness as to cause no delay in Work, all samples and photographs required by the Contract Documents. All samples and photographs will have been checked by and stamped with the approval of the CONTRACTOR, identified clearly as to material, manufacturer, any pertinent catalog numbers and the use for which intended.

6.13 At the time of each submission, the CONTRACTOR will in writing call the VILLAGE'S attention to any deviations that the Photographs or sample may have from the requirements of the Contract Documents.

6.14 The VILLAGE will review with responsible promptness Photographs and Samples, but their review shall be only for conformance with the design concept of the Project and for compliance with the information given in the Contract Documents. The CONTRACTOR will make any corrections required by the VILLAGE and will return the required number of corrected copies of Photographs and resubmit new samples until the review is satisfactory to the VILLAGE.

6.15 No Work requiring a Photograph or sample submission shall be commenced until the submission has been reviewed by the VILLAGE. A copy of each Photograph and each approved sample shall be kept in good order by the CONTRACTOR at the site and shall be available to the VILLAGE.

6.16 The VILLAGE'S review of Photographs or samples shall not relieve the CONTRACTOR from their responsibility for any deviations from the requirements of the Contract Documents unless the CONTRACTOR has in writing called the VILLAGE's attention to each deviation at the time of submission and the VILLAGE has given written approval to the specific deviation, nor shall any review by the VILLAGE relieve the CONTRACTOR from responsibility for supplying the plant material as specified.

Public Convenience and Safety:

6.17 The CONTRACTOR shall, at all times, conduct the Work in such a manner as to insure the least practicable obstruction to public travel. The convenience of the general public and of the residents along and adjacent to the area of Work shall be provided for in a satisfactory manner,

consistent with the operation and local conditions. Proper Maintenance of Traffic (MOT) devices shall be placed immediately adjacent to the Work, in a conspicuous position, at such locations as traffic demands. The MOT shall be designed as outlined in the latest edition of **ROADWAY AND TRAFFIC DESIGN STANDARDS SERIES 600**. At any time that streets are required to be closed or blocked, the CONTRACTOR shall notify law enforcement agencies before the street is closed and again as soon as it is opened. Access to fire hydrants and other fire extinguishing equipment shall be provided and maintained at all times.

Indemnification:

6.18 In consideration of the separate sum of twenty-five dollars (\$25.00) and other valuable consideration, the CONTRACTOR shall indemnify, defend and save harmless the VILLAGE and the State of Florida Department of Transportation (FDOT), its officers, agents and employees, from or on account of any injuries or damages, received or sustained by any person or persons during or on account of any operations connected with the construction of this Project, or by or in consequence of any negligence by or on account of any act or omission of the said CONTRACTOR or his Subcontractor, agents, servants or employees. The CONTRACTOR will indemnify, defend and hold harmless the VILLAGE and FDOT and their agents or employees from and against all claims, damages, losses and expenses including attorneys' fees arising out of or resulting from the performance of the Work, provided that any such claim damage, loss or expense (a) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including the loss of use resulting wherefrom and (b) is caused in whole or in part by any negligent act or omission of the CONTRACTOR, Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused by a party indemnified hereunder. In the event that a court of competent jurisdiction determines that Sec. 725.06 (2), F.S. is applicable to this Work, then in lieu of the above provisions of this section 6.18 the parties agree that CONTRACTOR shall indemnify, defend and hold harmless VILLAGE and FDOT, their officers and employees, to the fullest extent authorized by Sec. 725.06 (2) F.S., which statutory provisions shall be deemed to be incorporated herein by reference as if fully set forth herein.

6.19 In the event that any action or proceeding is brought against VILLAGE and FDOT by reason of any such claim or demand, CONTRACTOR, upon written notice from VILLAGE and FDOT shall defend such action or proceeding by counsel satisfactory to VILLAGE. The indemnification provided above shall obligate CONTRACTOR to defend at its own expense or to provide for such defense, at VILLAGE'S option, any and all claims of liability and all suits and actions of every name and description that may be brought against VILLAGE and FDOT, excluding only those which allege that the injuries arose out of the sole negligence of VILLAGE, which may result from the operations and activities under this Contract whether the construction operations be performed by CONTRACTOR, its Subcontractors or by anyone directly or indirectly employed by either.

6.20 The obligations of the CONTRACTOR under Article 6 shall not extend to the liability of the VILLAGE and State of Florida Department of Transportation (FDOT), their agents or employees arising out of (a) the preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, designs or specifications or (b) the giving of or the failure to give directions or

instructions by the VILLAGE and FDOT, their agents or employees provided such giving of failure to give is the primary cause of injury or damage. These indemnification provisions shall survive the term of this Contract.

6.21 Recipient agrees to include the following indemnification in all contracts with contractors, subcontractors, consultants, or subconsultants (each referred to as “Entity” for the purposes of the below indemnification) who perform work in connection with this Agreement:

“To the extent provided by law, CONTRACTOR shall indemnify, defend, and hold harmless the VILLAGE and the State of Florida, Department of Transportation (FDOT), including the Department’s officers, agents, and employees, against any actions, claims, or damages arising out of, relating to, or resulting from negligent or wrongful act(s) of CONTRACTOR, or any of its officers, agents, or employees, acting within the scope of their office or employment, in connection with the rights granted to or exercised by CONTRACTOR hereunder, to the extent and within the limitations of Section 768.28, Florida Statutes.

The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28. Nor shall the same be construed to constitute agreement by CONTRACTOR to indemnify VILLAGE and FDOT, for the negligent acts or omissions of VILLAGE and FDOT, its officers, agents, or employees, or third parties. Nor shall the same be construed to constitute agreement by CONTRACTOR to indemnify the Department for the negligent acts or omissions of the Department, its officers, agents, or employees, or third parties. This indemnification shall survive the termination of this Agreement.”

ARTICLE 7 – VILLAGE’S RESPONSIBILITIES

7.1 The VILLAGE will issue all communications to the CONTRACTOR.

7.2 In cases of termination of employment of the CONTRACTOR, the VILLAGE will appoint a CONTRACTOR, whose status under the Contract Documents shall be that of the former CONTRACTOR.

7.3 The VILLAGE will furnish the data required of them under the Contract Documents promptly.

7.4 The VILLAGE’s duties in respect to providing lands and easements are set forth in Article 4.

ARTICLE 8 – VILLAGE’S STATUS DURING CONSTRUCTION

Measurements of Quantities:

8.1 All Work completed under the Contract will be measured by the VILLAGE according to the United States Standard Measures. All linear surface measurements will be made horizontally or vertically as required by the item measured.

Rejecting Defective Work:

8.2 The VILLAGE will have authority to disapprove or reject Work which is “defective” (which term is hereinafter used to describe Work that is unsatisfactory, faulty or defective, or does not conform to the requirements of the Contract Documents or does not meet the requirements of any inspection, test or approval referred to in Special Condition, or has been damaged prior to final acceptance) at CONTRACTOR’s expense.

Shop Drawings, Change Orders and Payments:

8.3 In connection with the VILLAGE’s responsibility as to Shop Drawings and samples, see paragraphs 6.12 through 6.16, inclusive.

8.4 In connection with the VILLAGE’S responsibility for Change Orders, see Articles 9 and 10.

8.5 In connection with the VILLAGE’S responsibilities in respect of Application of Payment, etc., see Article 11.

Decisions on Disagreements:

8.6 The VILLAGE will be the initial interpreter of the Construction Drawings and Technical Specifications.

Limitations on Consultant’s Responsibilities:

8.7 The VILLAGE will not be responsible for the construction means, methods, techniques, sequences or procedures, or the safety precautions and programs incident thereto.

8.8 The VILLAGE will not be responsible for the acts or omissions of the CONTRACTOR, or any Subcontractors, or any of their or their agents or employees, or any other person performing any of the Work.

ARTICLE 9 – CHANGES IN THE WORK

9.1 Without invalidating the Agreement, the VILLAGE may, at any time or from time to time, order additions, deletions or revisions in the Work; these shall be authorized by Change Orders. Upon receipt of a Change Order, the CONTRACTOR will proceed with the Work involved. All such Work shall be executed under the applicable conditions of the Contract Documents. As per Articles 11 and Article 12, all Change Orders that add or delete work, or increase or decrease Time, will most likely result in an adjustment to the Contract Price and Time accordingly. Any such changes will be reflected in the Change Order(s), which when signed by the CONTRACTOR, shall indicate an agreement of the parties therewith.

9.2 The VILLAGE may authorize minor changes or alterations in the Work not involving extra cost and not inconsistent with the overall intent of the Contract Documents. These may be accomplished by a Field Order. If the CONTRACTOR believes that any minor change or alteration authorized by the VILLAGE entitles them to an increase in the Contract Price or extension of Contract Time, they may make a claim therefore as provided in Articles 11 and 12.

9.3 Additional Work performed by the CONTRACTOR without authorization of a Change Order will not entitle CONTRACTOR to an increase in the Contract Price or an extension of the Contract Time, except in the case of an emergency as provided in paragraph 6.11 and except as provided in

paragraph 10.2.

9.4 The VILLAGE will execute appropriate Change Orders prepared by the VILLAGE covering changes in the Work, to be performed and Work performed in an emergency as provided in paragraph 6.11 and any other claim of the CONTRACTOR for a change in the Contract Time or the Contract Price which is approved by the VILLAGE.

9.5 It is the CONTRACTOR'S responsibility to notify his Surety of any changes affecting the general scope of the Work or change in the Contract Price or Contract Time and the amount of the applicable bonds shall be adjusted accordingly. The CONTRACTOR will furnish proof of such an adjustment to the VILLAGE.

ARTICLE 10 – CHANGE OF CONTRACT PRICE

10.1 The Contract Price constitutes the total compensation payable to the CONTRACTOR for performing the Work. All duties, responsibilities and obligations assigned to or undertaken by the CONTRACTOR shall be at their expense without changing the Contract Price.

10.2 (a) The VILLAGE may, at any time, without written notice to the sureties, by written order designated or indicated to be a Change Order, make any change in the Work within the general scope of the Contract, including but not limited to changes:

- 1) in the specifications (including drawings and designs);
- 2) in the method or manner of performance of the Work;
- 3) in the VILLAGE-furnished facilities, equipment, materials, services, or site; or
- 4) in directing acceleration in the performance of the Work.

(b) Except as herein provided, no order, statement, or conduct of the VILLAGE shall be treated as a change under this clause or entitle the CONTRACTOR to an adjustment to the Contract Price or Time.

(c) If any change order under this clause causes an increase or decrease in the CONTRACTOR'S cost of, or the time required for, the performance of any part of the Work, under this Contract, whether or not changed by any order, the Contract Price and Time will be adjusted in writing by the same amount.

(d) If the CONTRACTOR intends to assert a claim for an adjustment in Contract Price or Time under this clause, he must, within ten (10) days after receipt of a written Change Order, submit to the VILLAGE a written notice including a statement setting forth the general nature and monetary extent of such claim, and supporting data.

(e) No claim by the CONTRACTOR for an adjustment in Contract Price or Time hereunder shall be allowed if not submitted in accordance with this section or if asserted after final payment under this Contract.

10.3 The value of any Work covered by a Change Order or of any claim for an increase or decrease in the Contract Price shall be determined in one of the following ways:

10.3.1 By negotiated lump sum.

10.3.2 On the basis of the cost of the Work, determined as provided in Sections 10.4 and 10.5, plus a mutually agreed upon fee to the CONTRACTOR to cover overhead and profit.

10.4 The term cost of the Work means the sum of all direct costs necessarily incurred and paid by the CONTRACTOR in the proper performance of the Work. Except as otherwise may be agreed to in writing by VILLAGE, such costs shall be in amounts no higher than those prevailing in Miami-Dade County, shall include only the following items and shall not include any of the costs itemized in Paragraph 10.5.

10.4.1 Payroll costs for employees in the direct employ of CONTRACTOR in the performance of the Work described in the Change Order under schedules of job classifications agreed upon by VILLAGE and CONTRACTOR. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall be limited to: salaries and wages, plus the costs of fringe benefits which shall include social security contributions, unemployment, excise and payroll taxes, workers' compensation, health and retirement benefits, sick leave, vacation and holiday pay applicable thereto. Such employees shall include superintendents and foremen at the site. The expenses of performing Work after regular working hours, on Sunday or legal holidays shall be included in the above only if authorized by VILLAGE.

10.4.2 Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage, and manufacturers' field services required in connection therewith. All cash discounts shall accrue to CONTRACTOR unless VILLAGE deposits funds with CONTRACTOR with which to make payments in which case the cash discounts, shall accrue to the VILLAGE. All trade discounts, rebates and refunds, and all returns from sale of surplus materials and equipment shall accrue to VILLAGE, and CONTRACTOR shall make provisions so that they may be obtained.

10.4.3 Payments made by CONTRACTOR to the Subcontractors for Work performed by Subcontractors. If required by VILLAGE, CONTRACTOR shall obtain competitive bids from Subcontractors acceptable to him and shall deliver such bids to VILLAGE who will then determine which Bids will be accepted. If a Subcontract provides that the Subcontractor is to be paid on the basis of Cost of Work plus a fee, the cost of the Work shall be determined in accordance with paragraphs 10.4 and 10.5.

10.4.4 Rentals of all construction equipment and machinery and the parts thereof whether rented from CONTRACTOR or others in accordance with rental agreements approved by VILLAGE with the advice of CONTRACTOR, and the costs of transportation, loading, unloading, installation, dismantling and removal thereof - all in accordance with terms of said rental

agreements. The rental of any such equipment, machinery or parts shall cease when the use thereof is no longer necessary for the Work.

10.4.5 Sales, use or similar taxes related to the Work, and for which CONTRACTOR is liable, imposed by any governmental authority.

10.4.6 Payments and fees for permits and licenses. Costs for permits and licenses must be shown as a separate item.

10.4.7 The cost of utilities, fuel and sanitary facilities at the site.

10.4.8 Minor expenses such as telegrams, long distance telephone calls, telephone service at the site, expressage and similar petty cash items in connection with the Work.

10.4.9 Cost of premiums for additional Bonds and Insurance required solely because of changes in the Work, not to exceed two percent (2%) of the increase in the Cost of the Work.

10.5 The term Cost of the Work shall not include any of the following:

10.5.1 Payroll costs and other compensation of CONTRACTOR's officers, executives, principals (of partnership and sole proprietorships), general managers, engineers, architects, estimators, lawyers, agents, expeditors, timekeepers, clerks and other personnel employed by CONTRACTOR whether at the site or in his principal or a branch office for general administration of the Work and not specifically included in the schedule referred to in subparagraph 10.4.1 - all of which are to be considered administrative costs covered by the CONTRACTOR's fee.

10.5.2 Expenses of CONTRACTOR's principal and branch offices other than his office at the site.

10.5.3 Any part of CONTRACTOR's capital expenses, including interest on CONTRACTOR's capital employed for the Work and charges against CONTRACTOR for delinquent payments.

10.5.4 Cost of premiums for all bonds and for all insurance policies whether or not CONTRACTOR is required by the Contract Documents to purchase and maintain the same (except as otherwise provided in subparagraph 10.4.9).

10.5.5 Costs due to the negligence of the CONTRACTOR, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective work, disposal of materials or equipment wrongly supplied and making good any damage to property.

10.5.6 Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in paragraph 10.4.

10.6 The CONTRACTOR's fee which shall be allowed to the CONTRACTOR for their overhead and profit shall be determined as follows:

10.6.1 In the event of an oversight or omission by the CONTRACTOR no compensation for overhead or profit will be provided; otherwise.

10.6.2 A mutually acceptable firm fixed price; or if none can be agreed upon.

10.6.3 A **ten percent (10%)** fixed fee based on the estimate of the various portions of the Cost of the Work.

10.7 The amount of credit to be allowed by the CONTRACTOR to the VILLAGE for any such change which results in a net decrease in cost will be the amount of the actual net decrease. When both additions and credits are involved in any one change, the net shall be computed to include overhead and profit, identified separately, for both additions and credit, provided however, the CONTRACTOR shall not be entitled to claim lost profits for any Work not performed.

10.8 Whenever cost of any Work is to be determined pursuant to paragraphs 10.4 and 10.5, the CONTRACTOR will submit in form prescribed by VILLAGE an itemized cost breakdown together with supporting data.

ARTICLE 11 – PAYMENTS AND COMPLETION

Payments to Contractor:

11.1 At least ten (10) days before each progress payment falls due (but not more often than once a month), the CONTRACTOR will submit to the VILLAGE a partial payment estimate filled out and signed by the CONTRACTOR covering the Work performed during the period covered by the partial payment estimate and supported by such data as the VILLAGE may reasonably require.

The VILLAGE will within ten (10) days after receipt of each partial payment estimate, either indicate in writing their approval of payment and present the partial payment estimate to the VILLAGE, or return the partial payment estimate to the CONTRACTOR, indicating in writing their reasons for refusing to approve payment. In the latter case, the CONTRACTOR may make the necessary corrections and resubmit the partial payment estimate. The VILLAGE, will within thirty (30) days of presentation to them of any approved partial payment estimate, pay the CONTRACTOR a progress payment on the basis of the approved partial payment estimate. The VILLAGE may retain ten percent (10%) of the amount of each payment until final completion and acceptance of all Work covered by the Contract Documents. On completion and acceptance of a part of the Work on which the price is stated separately in the Contract Documents, payment may be made in full, including retained percentages, less authorized deductions. Any interest earned on the retainage shall accrue to the benefit of the VILLAGE.

11.2 The VILLAGE shall have the right to demand and receive from the CONTRACTOR, before he shall receive final payment, final releases of lien executed by all persons, firms or corporations who have performed or furnished labor, services or materials, directly or indirectly, used in the Work. Likewise, as a condition to receiving any progress payment, the VILLAGE may require the

CONTRACTOR to furnish partial releases of lien executed by all persons, firms and corporations who have furnished labor, services or materials incorporated into the Work during the period of time for which the progress payment is due, releasing such lien rights as those persons, firms or corporations may have for that period.

Contractor's Warranty of Title:

11.3 The CONTRACTOR warrants and guarantees that title to all Work, materials and equipment covered by an Application for Payment, whether incorporated in the Project or not, will have passed to the VILLAGE prior to the making of the Application for Payment, free and clear of all liens, claims, security interest and encumbrances (hereafter in these General Conditions referred to as "Liens"); and that no Work, materials or equipment covered by an Application for Payment will have been acquired by the CONTRACTOR or by any other person performing the Work at the site or furnishing materials and equipment for the Project, subject to an agreement under which an interest therein or encumbrance thereon is retained by the seller or otherwise imposed by the CONTRACTOR or such other person.

Acceptance of Final Payment as Release:

11.4 The Acceptance by the CONTRACTOR of final payment shall be and shall operate as a release to the VILLAGE and a waiver of all claims and all liability to the CONTRACTOR other than claims in stated amounts as may be specifically excepted by the CONTRACTOR for all things done or furnished in connection with the Work and for every act and neglect of the VILLAGE and others relating to or arising out of this Work. Any payment, however, final or otherwise, shall not release the CONTRACTOR of their sureties from any obligations under the Contract Documents or the Performance Bond and Payment Bonds.

ARTICLE 12 – SUSPENSION OF WORK AND TERMINATION

12.1 The VILLAGE may, at any time and without cause, suspend the Work or any portion thereof for a period of not more than ninety (90) days by notice in writing to the CONTRACTOR which shall fix the date on which Work shall be resumed. For suspensions longer than ninety (90) days, The CONTRACTOR will be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to any suspension if they make a claim therefore as provided in Articles 11 and 12.

Work During Inclement Weather:

12.2 No Work shall be done under these specifications except by permission of the VILLAGE when the weather is unfit for good and careful Work to be performed. Should the severity of the weather continue, the CONTRACTOR upon the direction of the VILLAGE, shall suspend all Work until instructed to resume operations by the VILLAGE and the Contract Time pursuant to Section 12.7 shall be extended to cover the duration of the order.

Village May Terminate:

12.3 If the CONTRACTOR is adjudged bankrupt or insolvent, or if they make a general assignment for the benefit of their creditors, or if a trustee or receiver is appointed for the CONTRACTOR or for any of their property, or if they file a petition to take advantage of any debtor's act, or to reorganize under bankruptcy or similar laws, or if they repeatedly fails to

supply sufficient skilled workmen or suitable materials or equipment, or if they repeatedly fail to make prompt payments to Subcontractors or for labor, materials or equipment or they disregard laws, ordinances, rules, regulations or orders of any public body having jurisdiction, or if they disregard the authority of the VILLAGE, or if they otherwise violate any provision of the Contract Documents, then the VILLAGE may, without prejudice to any other right or remedy and after giving the CONTRACTOR and their surety seven (7) days written notice, terminate the services of the CONTRACTOR and take possession of the Project and of all materials, equipment, tools, construction equipment and machinery thereon owned by the CONTRACTOR, and finish the Work by whatever method they may deem expedient. In such case the CONTRACTOR shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Price exceeds the direct and indirect costs of completing the Project, including compensation for additional professional services, such excess shall be paid to the CONTRACTOR. If such costs exceed such unpaid balance, the CONTRACTOR will pay the difference to the VILLAGE. Such costs incurred by the VILLAGE will be determined by the VILLAGE and incorporated in a Change Order.

If after termination of the CONTRACTOR under this Section, it is determined by a court of competent jurisdiction for any reason that the CONTRACTOR was not in default, the rights and obligations of the VILLAGE and the CONTRACTOR shall be the same as if the termination had been issued pursuant to Section 12.5.

12.4 Where the CONTRACTOR'S services have been so terminated by the VILLAGE said termination shall not affect any rights of the VILLAGE against the CONTRACTOR then existing or which may thereafter accrue. Any retention or payment of moneys by the VILLAGE due the CONTRACTOR will not release the CONTRACTOR from liability.

12.5 Upon seven (7) days written notice to the CONTRACTOR, the VILLAGE may, without cause and without prejudice to any other right or remedy, elect to terminate the Agreement. In such case, the CONTRACTOR shall be paid for all Work executed and accepted by the VILLAGE as of the date of the termination. No payment shall be made for profit for Work which has not been performed.

Removal of Equipment:

12.6 In the case of termination of this Contract before completion for any cause whatever, The CONTRACTOR, if notified to do so by the VILLAGE, shall promptly remove any part or all of his equipment and supplies from the property of the VILLAGE. Should the CONTRACTOR not remove such equipment and supplies, the VILLAGE shall have the right to remove them at the expense of the CONTRACTOR. Equipment and supplies shall not be construed to include such items for which the CONTRACTOR has been paid in whole or in part.

Contractor May Stop Work or Terminate:

12.7 If, through no act or fault of the CONTRACTOR, the Work is suspended for a period of more than ninety (90) days by the VILLAGE or under an order of court of other public authority, or the CONTRACTOR fails to act on any Application for Payment within thirty (30) days after it is submitted, or the VILLAGE fails to pay the CONTRACTOR any sum approved by the VILLAGE, within thirty (30) calendar days of its approval, and presentation, then the CONTRACTOR may,

upon twenty (20) calendar days written notice to the VILLAGE, terminate the Agreement. The VILLAGE may remedy the delay or neglect within the twenty (20) calendar days' time frame. If timely remedied by the VILLAGE, the Contract shall not be considered terminated. In lieu of terminating the Agreement, if the VILLAGE has failed to act on an Application for Payment or the VILLAGE has failed to make any payment as aforesaid, the CONTRACTOR may upon ten (10) calendar days' notice to the VILLAGE and the CONTRACTOR stop the Work until they have been paid all amounts then due. If the CONTRACTOR stops neither by default nor by non-payment from the VILLAGE, the CONTRACTOR will be responsible for 100% of the difference between the total of his/her Bid and the second lowest Bid.

ARTICLE 13 - CONTRACTOR'S GENERAL WARRANTY AND GUARANTEE

13.1 CONTRACTOR warrants and guarantees to VILLAGE all Work shall be in accordance with the Contract Documents and will not be defective.

13.2 CONTRACTOR'S obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of CONTRACTOR'S obligation to perform the Work in accordance with the Contract Documents:

13.2.1 Observations by VILLAGE or VILLAGE'S REPRESENTATIVE, based on the recommendation of the ARCHITECT or ENGINEER;

13.2.2 Payment by VILLAGE of any progress or final payment;

13.2.3 The issuance of a certificate of Substantial Completion, certificate of Final Completion, or any payment related thereto by VILLAGE;

13.2.4 Use or occupancy of the Work or any part thereof by VILLAGE;

13.2.5 Any acceptance by VILLAGE or any failure to do so;

13.2.6 Any review and approval of a Submittal or the issuance of a notice of acceptability by the VILLAGE'S REPRESENTATIVE;

13.2.7 Any inspection, test, or approval by others; or

13.2.8 Any correction of defective Work by VILLAGE.

13.3 Access to Work:

The VILLAGE'S REPRESENTATIVE, ARCHITECT or ENGINEER and other representatives of VILLAGE, testing agencies and governmental agencies with jurisdictional interests shall have access to the Work at reasonable times for their observation, inspecting and testing. CONTRACTOR shall provide proper and safe conditions for such access.

13.4 Tests and Inspection:

13.4.1 CONTRACTOR shall give VILLAGE timely notice of readiness of the Work for all required inspections, tests, observations or approvals. Inspections, tests or observations by the VILLAGE'S REPRESENTATIVE, the ARCHITECT or ENGINEER, VILLAGE or its agents may be performed at its discretion to provide information to the VILLAGE on the progress of the Construction. However, such information is not intended to fulfill the CONTRACTOR'S obligations in accordance with the Contract Documents.

13.4.2 CONTRACTOR shall assume full responsibility, pay all costs in connection therewith and furnish VILLAGE the required certificates of inspection, testing or approval for all materials, equipment or the Work or any part thereof unless otherwise specified herein.

13.5 Uncovering the Work:

If any Construction that is to be inspected, tested or approved is covered without written concurrence of VILLAGE'S REPRESENTATIVE, it must, if requested by VILLAGE or the VILLAGE'S REPRESENTATIVE, be uncovered for observation. Such uncovering shall be at CONTRACTOR'S expense and will exclude the right to an increase in the Contract Price or Contract Time unless CONTRACTOR has given VILLAGE or the VILLAGE'S REPRESENTATIVE timely written notice of CONTRACTOR'S intention to cover such Construction and VILLAGE or the VILLAGE'S REPRESENTATIVE has not acted with reasonable promptness in response to such notice.

13.5.1 If VILLAGE considers it necessary or advisable that covered Work be observed by VILLAGE'S REPRESENTATIVE or the ARCHITECT or ENGINEER, or inspected or tested by others, CONTRACTOR, at VILLAGE'S request, shall uncover, expose or otherwise make available for observation, inspection or testing as VILLAGE may require, that portion of the Work in question, furnishing all necessary labor, material and equipment. If it is found that such Work is defective, CONTRACTOR shall bear all the expenses of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction, including compensation for additional professional services and any additional expenses experienced by the VILLAGE due to delays to others performing additional work, other contractual obligations, and VILLAGE shall be entitled to issue an appropriate deductive Change Order. CONTRACTOR shall further bear the responsibility for maintaining the schedule and will not be allowed an increase in Contract Price or Contract Time due to the uncovering. If, however, such Construction is not found to be defective, and Section 00700.8.5 is not applicable, CONTRACTOR shall be allowed an increase in the Contract Price or the Contract Time, or both, directly attributable to such uncovering, exposure, observation, inspection, testing and reconstruction if it makes a claim therefore as provided in the Contract Documents.

13.6 VILLAGE May Stop the Work:

If the Work is defective, or CONTRACTOR fails to supply sufficient skilled workers or

suitable materials or equipment, or fails to furnish or perform the Work in such a way that the completed Work will conform to the Contract Documents, VILLAGE may order CONTRACTOR to stop the Work, or any portion thereof, until the cause for such failure has been eliminated; however, this right of VILLAGE to stop the Work shall not give rise to any duty on the part of VILLAGE to exercise this right for the benefit of CONTRACTOR or any other party. CONTRACTOR shall not be allowed an increase in Contract Price or the Contract Time or both as a result of the stopping of Work under this section.

13.7 Correction or Removal of Defective Work:

If required by the VILLAGE'S REPRESENTATIVE, with the recommendation of the ARCHITECT and/or ENGINEER, CONTRACTOR shall promptly, as directed, either correct all defective Work, whether or not fabricated, installed or completed, or, if the Work has been rejected by the VILLAGE'S REPRESENTATIVE, upon the recommendation of the ARCHITECT or ENGINEER, remove it from the site and replace it with non-defective Work. CONTRACTOR shall bear all direct, indirect and consequential costs of such correction or removal (including but not limited to fees and charges of the VILLAGE'S REPRESENTATIVE, the ARCHITECT or ENGINEER, attorneys and other professionals) made necessary thereby.

13.8 One Year Correction Period:

Without prejudice to any other right of the Village, if within one (1) year after the date of final completion or within any designated manufacturer's warranty, whichever is greater, or such longer period of time as may be prescribed by laws or regulations or by the terms of any applicable special guarantee required by the Contract Documents or by any specific provision of the Contract Documents, any Work is found to be defective, CONTRACTOR shall promptly, without cost to VILLAGE and in accordance with VILLAGE'S written instructions, either correct such defective Work, or, if it has been rejected by VILLAGE or the VILLAGE'S REPRESENTATIVE, based on the recommendation of the ARCHITECT or ENGINEER, remove it from the site and replace it with non-defective Work. If CONTRACTOR does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, VILLAGE may have the defective Work corrected or the rejected Work removed and replaced, and all of the VILLAGE'S direct, indirect and consequential costs of such removal and replacement (including but not limited to fees and charges of the ARCHITECT or ENGINEER) will be reimbursed by CONTRACTOR. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications or by written amendment.

13.9 VILLAGE shall reserve and retain all of its rights and remedies at law and equity against CONTRACTOR and its surety for damages and for corrections of any and all latent defects.

13.10 Extended Warranty Period Due to Defective Construction:

Any defective Construction that is either corrected or rejected and replaced will be warranted and guaranteed for a period of one (1) year from the date of acceptance of

such correction or removal and replacement, even if it had previously been corrected or replaced, in accordance with the provisions of this Article 12. If within such extended Warranty Period, the Work is once again found to be defective, VILLAGE shall be entitled to all of VILLAGE'S rights and remedies under this Article.

ARTICLE 14 – MISCELLANEOUS

14.1 Whenever any provision of the Contract Documents requires the giving of written notice it shall be deemed to have been validly given if delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or if delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to them who gives the notice.

14.2 The Contract Documents shall remain the property of the VILLAGE. The CONTRACTOR and the CONTRACTOR shall have the right to keep one record set of the Contract Documents upon completion of the Project.

14.3 The duties and obligations imposed by these General Conditions, Special Conditions and Supplemental Conditions and the rights and remedies available hereunder, and, in particular but without limitation, the warranties, guarantees and obligations imposed upon CONTRACTOR and those in the Special Conditions and the rights and remedies available to the VILLAGE and there under, shall be in addition to, and shall not be construed in any way as a limitation of, any rights and remedies available by law, by special guarantee or by other provisions of the Contract Documents.

14.4 Should the VILLAGE or the CONTRACTOR suffer injury or damage to its person or property because of any error, omission, or act of the other or of any of their employees or agents or others for whose acts they are legally liable, claim shall be made in writing to the other party within a reasonable time of the first observance of such in- jury or damage.

ARTICLE 15 – WAIVER OF JURY TRIAL

15.1 The VILLAGE and the CONTRACTOR knowingly, irrevocably voluntarily and intentionally waive any right either may have to a trial by jury in State or Federal Court proceedings in respect to any action, proceeding, lawsuit or counterclaim based upon the Contract Documents or the performance of the Work thereunder.

ARTICLE 16 – ATTORNEYS FEES/JURISDICITON/VENUE/GOVERNING LAW

16.1 The Contract shall be construed in accordance with and governed by the law of the State of Florida.

16.2 The parties submit to the jurisdiction of any Florida State or federal court in any action or proceeding arising out of or relating to the Contract. Venue of any action to enforce the Contract shall be in Dade County, Florida.

16.3 If either the VILLAGE or the CONTRACTOR is required to enforce the terms of the Contract

by court proceedings, the prevailing party shall be entitled to recover from the other party all such costs and expenses, including, but not limited to, court costs, and reasonable attorney's fees.

ARTICLE 17 – PROJECT RECORDS

17.1 The VILLAGE shall have right to inspect and copy during regular business hours at VILLAGE'S expense, the books and records and accounts of CONTRACTOR which relate in any way to the Project, and to any claim for additional compensation made by CONTRACTOR, and to conduct an audit of the financial and accounting records of CONTRACTOR which relate to the Project. CONTRACTOR shall retain and make available to VILLAGE all such books and records and accounts, financial or otherwise, which relate to the Project and to any claim for a period of three (3) years following final completion of the Project. During the Project and the three (3) year period following final completion of the Project, the CONTRACTOR shall provide the VILLAGE access to its books and records upon five (5) days written notice.

ARTICLE 18 – SEVERABILITY

18.1 If any provision of the Contract or the application thereof to any person or situation shall to any extent, be held invalid or unenforceable, the remainder of the Contract, and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable shall not be affected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law.

ARTICLE 19 – INDEPENDENT CONTRACTOR

19.1 The CONTRACTOR is an independent CONTRACTOR under the Contract. Services provided by the CONTRACTOR shall be by employees of the CONTRACTOR and subject to supervision by the CONTRACTOR, and not as officers, employees, or agents of the VILLAGE. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures, applicable to services rendered under the Contract shall be those of the CONTRACTOR.

ARTICLE 20 – TRENCH SAFETY ACT

20.1 The purpose and intention of the State of Florida "Trench Safety Act" is to provide for increased worker safety by requiring compliance with sufficient standards for trench safety when the excavation is in excess of five (5) feet deep.

END OF SECTION

SECTION 00810 – SPECIAL CONDITIONS

8.1 Permit/Utilities:

The CONTRACTOR shall obtain all permits necessary to conduct this project. The cost of all permits should be included on the bid proposal. If more than 1 Acre of land is disturbed during construction the CONTRACTOR is responsible to obtain NPDES Stormwater permit coverage through the Florida Department of Environmental Protection (FDEP) Construction Generic Permit (CGP). Instructions to request and obtain a CGP can be found at: <http://www.dep.state.fl.us/water/stormwater/npdes/docs/cgp.pdf>.

CONTRACTOR should submit the Notice of Intent (NOI) with the appropriate processing fees to the NPDES Stormwater Notices Center. CONTRACTOR must apply for permit coverage at least two days before construction begins. In addition, the CONTRACTOR shall clear utilities prior to conducting any work at each project site. CONTRACTOR shall adhere to any restrictions imposed by FPL for conducting work under power lines. A CGP is required for this project.

8.2 Hours of Work:

Contractor will perform work Monday through Friday, excluding Village holidays, from 8:00 a.m. to 5:00 p.m. unless prior written approval is received from The Village. The CONTRACTOR must comply with the VILLAGE's Noise Ordinance, Ordinance No. 96-15.

8.3 Disputes:

If any dispute concerning a question of fact arises under the Contract, other than termination for default or convenience, the CONTRACTOR and the VILLAGE's responsible department for the administration of the Contract shall make good faith effort to resolve the dispute. If the dispute cannot be resolved by agreement, then the department with the advice of the Village Attorney shall resolve the dispute and send a written copy of its decision to the CONTRACTOR, which shall be binding on both parties.

8.4 Default Provisions:

In case of default by the BIDDER or CONTRACTOR, the VILLAGE procure the articles or services from other sources and hold the BIDDER or CONTRACTOR responsible for any excess costs occasioned or incurred thereby.

8.5 Assignment:

The CONTRACTOR shall not transfer or assign the performance required by this Bid without prior written consent of the Village Manager. Any award issued pursuant to the Invitation to Bid and monies which may be due hereunder are not assignable except with prior written approval of the Village Manager. Further, in the event that the majority ownership or control of the CONTRACTOR changes hands subsequent to the award of this Contract, the CONTRACTOR shall

promptly notify the VILLAGE in writing of such change in ownership or control at least thirty (30) days prior to such change and the VILLAGE shall have the right to terminate the Contract upon sixty (60) days written notice, at the VILLAGE's sole discretion.

8.6 Secondary/Other Vendors:

The VILLAGE reserves the right in the event the primary vendor cannot provide an item(s) or service(s) in a timely manner as requested, to seek other sources without violating the intent of the Contract.

8.7 Employees:

The CONTRACTOR shall be responsible for the appearance of all working personnel assigned to the project (clean and appropriately dressed at all times). Personnel must be able to supply proper identification at all times.

All employees of the CONTRACTOR shall be considered to be at all times the sole employees of the CONTRACTOR, under the CONTRACTOR's sole direction, and not an employee or agent of the North Bay Village. The CONTRACTOR shall supply competent, suitably qualified and capable employees and the VILLAGE may require the CONTRACTOR to remove any employee it deems careless, incompetent, insubordinate or otherwise objectionable and whose presence on VILLAGE property is not in the best interest of the VILLAGE. The VILLAGE shall not have any duty to implement or enforce such requirements.

Each employee of the CONTRACTOR shall be a citizen of the United States or an alien who has been lawfully admitted for permanent residence as evidenced by an Alien Registration Receipt Card. The CONTRACTOR agrees not to employ any person undergoing sentence of imprisonment except as provided by Public Law 89-176, September 10, 1965, (18 USC4082)(c)(2).

The "On Duty" supervisor must be able to adequately communicate with the Village's representatives.

8.8 Subcontractors, Suppliers and Others:

Prior to the commencement of any work, the CONTRACTOR shall furnish, in writing to the VILLAGE, the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The VILLAGE shall notify the CONTRACTOR, in writing, of any proposed person or entity to which VILLAGE has an objection. The CONTRACTOR shall not contract with a proposed person or entity to which the VILLAGE has made an objection. The CONTRACTOR shall not change a Subcontractor, person or entity previously selected if the VILLAGE makes objection to the change.

The CONTRACTOR shall be fully responsible to VILLAGE for all acts and omissions of the CONTRACTOR, its employees, Sub-Contractors, suppliers, other persons directly or indirectly employed by its Sub-Contractors or suppliers, persons for whose acts any of them may be liable and any other persons or organizations performing or furnishing supplies under a direct or indirect Contract with the CONTRACTOR. Nothing in the Contract Documents shall create any contractual relationship between VILLAGE and any such Sub- Contractor, supplier or other person or organization, nor shall it create any obligation on the part of VILLAGE to pay or to cause the payment of any money due any Sub-Contractor, supplier, employee or agent except as may otherwise be required by law.

All Work performed for the CONTRACTOR by a Sub-Contractor will be pursuant to an appropriate agreement between the CONTRACTOR and the Sub-Contractor which specifically binds the Sub-Contractor to all applicable terms and conditions of the Contract Documents for the benefit of the VILLAGE.

8.9 Protection:

All work in fulfillment of this project shall be performed on VILLAGE property or public right-of-way. No permission will be given to trespass on adjoining property.

If property (public or private) is damaged during construction or is removed for the convenience of the work, it shall be repaired or replaced at the expense of the CONTRACTOR in a manner acceptable to North Bay Village prior to the final acceptance of the work. Such property shall include but not be limited to: pavement, sidewalks, curbs, driveways, walls, fences, footings, building façade, underground utilities, sod, shrubs, water sprinklers, signs, and trees.

The CONTRACTOR shall notify the Public Works Department in writing of the site having pre- existing damage to sidewalks, curbs, facade, adjacent improvements, etc., before beginning work. Failure to do so shall obligate the CONTRACTOR to make repairs per above paragraph.

The CONTRACTOR shall be solely responsible for pedestrian and vehicular safety and control within the work site and shall provide the necessary warning devices, signage, barricades and ground personnel needed to give safety, protection, and warning to persons and vehicular traffic within the area. All safety devices must have suitable and sufficient lighting for the prevention of accidents.

The CONTRACTOR shall protect existing catch basins from sediment and debris with filter fabric while work is in progress. Filter fabric shall be removed after completion of work. Filter fabric must be cleaned periodically to avoid excessive accumulation of sediment and debris. Extreme care shall be taken when removing filter fabric to avoid sediments and debris from entering catch basin.

8.10 Security:

The CONTRACTOR is responsible for project security. The CONTRACTOR shall protect and secure the site, materials, and equipment from theft and damage, by whatever means deems effective, at the CONTRACTOR's cost.

Work site(s) must be protected properly in accordance with all Federal, State, County and Municipal laws and ordinances, at the end of each work day and weekends.

8.11 Temporary Interruption:

The CONTRACTOR shall notify the Public Works Director whenever it is necessary to temporarily interrupt any business activities, the CONTRACTOR shall notify the Owner or tenant or their designee prior to the interruption and again immediately before the service is resumed. Before disconnecting any underground or overhead utilities, the CONTRACTOR shall make similar arrangements for their disconnection with the Owner, tenant or their designee. The CONTRACTOR shall be responsible for any damage caused by the CONTRACTOR to such utilities, and shall restore them to service promptly as soon as the Work interruption has ended.

8.12 Pricing:

Prices should be stated in units of quantity specified in the Bid form. In case of a discrepancy, the VILLAGE reserves the right to make the final determination at the lowest net cost to the VILLAGE.

8.13 Delivery:

All items shall be delivered "Freight On Board" (F.O.B.) destination (i.e. at a specific Village address), and delivery costs and charges (if any) shall be included in the Bid Price. Exceptions shall be noted.

8.14 Payments:

Payment will be made after commodities/services have been received, accepted, and properly invoiced as indicated in the contract and/or purchase order. Invoices must bear the purchase order number.

8.15 Non-Conformance to Contract:

The VILLAGE may withhold acceptance of, or reject items which are found upon examination, not to meet the specification requirements. Upon written notification of rejections, items shall be removed within five (5) calendar days by the vendor at their own expense and redelivered at their expense. Rejected goods left longer than thirty (3) calendar days will be regarded as abandoned and the VILLAGE shall have the right to dispose of them as its own property. Rejection for non-conformance or failure to meet delivery schedules may result in the CONTRACTOR being found in default.

8.16 Materials:

The CONTRACTOR warrants that all materials and equipment shall be of good quality and new, unless otherwise provided in the specifications and that the work will be free from defects whether patent or latent in nature. All materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable supplier except as otherwise provided in the specifications.

8.17 Storage of Materials:

The CONTRACTOR shall store materials, at his expense, in areas approved by the VILLAGE. The CONTRACTOR, at their own expense, shall maintain these areas in a clean, orderly condition so as not to cause a nuisance in the area. The CONTRACTOR shall restore the storage area to its original or better condition, with all its appurtenances, in kind, to the satisfaction of the VILLAGE, at the CONTRACTOR's discretion, if the CONTRACTOR chooses to stage material outside of the designated area, with prior approval from the VILLAGE.

8.18 Quality Control:

Field Observations - Provide twenty-four (24) hour notification to the Architect/Engineer for all specified field observations, unless otherwise noted.

Inspection – Periodically the Village may inspect the project for the purpose of assuring compliance with the specifications.

Dust Control – Contractor shall control dust by watering and sweeping at end of each work day or as directed by Village Engineer. Dust control must meet Village's satisfaction or Village will control dust by whatever means deem necessary and Contractor shall pay all expenses incurred by the Village associated with dust control.

8.19 On-Site Survey/As-Built:

The CONTRACTOR shall be responsible for survey work required for establishing proper layout, elevations and grades as noted on the plans. The CONTRACTOR shall provide the VILLAGE with three (3) sets of certified as-built plans and a CD containing PDF copy of the As-Built drawings as well as the CAD files, at no additional cost to the VILLAGE.

8.20 Water Usage:

All Village potable water used during the project shall be metered through a hydrant meter or meters obtained from the Miami-Dade County Water and Sewer Department at the CONTRACTOR's expense.

8.21 Salvageable Material:

All salvageable material and/or equipment removed from the existing construction for which specific use, relocation or other disposal is not specifically

noted on the Drawings or otherwise specified, will remain the property of the VILLAGE and be turned over to the VILLAGE. All material and/or equipment not in salvageable condition as determined by the VILLAGE Representative must be disposed of by the CONTRACTOR. The actual storage site for salvageable material will be designated by the VILLAGE.

8.22 Disposal of Excavated Material and Debris:

All excess excavated material and debris not required for backfill (unless otherwise noted), including broken pipe, sidewalks, curbs and other concrete items, together with all roots, boards and other debris are to be disposed of by the CONTRACTOR at an appropriate legal site, at no additional cost to the VILLAGE.

The CONTRACTOR must at all times during the performance of the project keep the work site free and clear of all waste and debris to the VILLAGE's satisfaction. All sand, grit, solids and other material, accumulated waste or surplus materials shall be removed at the end of each work day.

The CONTRACTOR will have not more than 48-hour notice to clear work site of rubbish, debris and other work site materials and to restore or replace displaced or damaged property, if the CONTRACTOR fails to comply, the VILLAGE may employ labor or equipment as it deems necessary to clear the site at the CONTRACTORS's expense.

8.23 Equipment:

All construction equipment necessary and required for construction of this project shall be on the construction site, in excellent working condition, before construction is permitted to start. The CONTRACTOR shall provide such tamping tools and equipment as are necessary for the proper compaction of the backfill material.

8.24 Density Testing:

Density tests shall be taken by an independent testing laboratory certified by the State of Florida and approved by the designated Village representative and shall be paid for by Contractor, at no additional cost to the Village. A compaction test, for both the base and subgrade, shall be performed for every section of new pavement and at least one (1) test for every 250 square yards of new pavement. In addition, density testing shall be performed for installation in swale areas at a frequency of one test per 50 feet of trench, or adjacent to newly installed inlets at the discretion of the Village representative.

Compaction test reports of sub-grade and base rock shall be submitted for approval to the designated Village representative prior to installation of final asphaltic wearing surface.

8.25 Laboratory Tests:

Except as otherwise provided, sampling and testing of all materials, and the laboratory methods and testing equipment required under these specifications shall be in accordance with the latest standards of the American Society for Testing Materials.

The CONTRACTOR shall furnish the required samples for testing without charge. The CONTRACTOR shall provide at least 24 hour notice when requesting testing to be performed. In locations where corings are taken by the approved testing lab, the CONTRACTOR shall be responsible for plugging these core holes.

All material tests will be made by an independent testing laboratory that may be selected by the VILLAGE. Excluding Density Testing, where tests indicate that materials are in accordance with specified requirements, the VILLAGE shall bear the testing cost. When tests reveal that conditions or materials do not comply with the specifications, the cost of such tests shall be assessed against the CONTRACTOR.

8.26 Notification to Residents:

Contractor shall notify residents and/or business owners directly impacted by the project (including MOT), in writing, 72 hours prior to performing any work. Notification must include type of work to be performed; date work will begin and estimated completion date. In the event Contractor changes schedule or duration of work, Contractor must notify resident, in writing, of such changes. The Village shall provide notification to the contractor in order to provide impacted properties.

END OF SECTION

SECTION 00900 – SUPPLEMENTAL TERMS AND CONDITIONS

1. LEED Certification (Not Applicable)

There are no LEED Certification or requirements associated with this project.

2. Progress Payments

LAP FDOT Section 9.5 Measurement and Payment as per 23 CFR 635.122 shall apply to this Article. Where provisions of codes or standards are in conflict, the more restrictive or higher quality shall govern. Contractor may make application for payment for Work completed during the Project(s) at intervals of not more than once a month or upon completion and Final Acceptance of the Work. All applications shall be submitted in triplicate and the Contractor shall only use the Village's most current Contractor Payment Requisition Form. This form is available on the CIP webpage. Where the time frame for completion of the Work is less than or equal to one month or a Schedule of Values is not required, the Contractor shall submit the appropriate documentation as defined below. Supporting evidence to be included with any application for payment shall include, but is not limited to, an updated progress schedule as required by Section 3 - Supplemental Terms and Conditions, Article 5, Schedule of Values, and a partial or final release of liens or consent of Surety relative to the Work, which is the subject of the application for payment and any other information required by the Project Manager. Each application for payment shall be submitted in triplicate for approval. Village shall make payment to Contractor within thirty (30) days' after approval of Contractor's application for payment.

3. Liquidated Damages

The Contractor is obligated and guarantees to complete the Project in the time set forth in the Contract Documents or any approved extension of time. Where the Contractor fails to do so, the Contractor shall pay to the Village liquidated damages as follows. In the event of a delay in completion beyond the timeframe set forth in the Contract Documents for Substantial Completion or Final Completion, the Contractor shall pay to the Village for each and every calendar day of unexcused delay, the daily charge per calendar day corresponding to the Original Contract Amount as specified in LAP FDOT Section 8-10.2 "Amount of Liquidated Damages", which is hereby incorporated into this contract, not as a penalty, but as liquidated damages. The Contractor will be notified of any approved exceptions or extensions. The total amount of liquidated damages shall not exceed the value of the applicable Contract Documents.

The Village shall have the right to deduct liquidated damages assessments from any payment due or which may thereafter become due to the Contractor under any contract the Contractor has with the Village. In case the amount, which may become due hereunder, shall be less than the amount of liquidated damages due the Village, the Contractor shall pay the difference upon demand by the Village. Should the Contractor fail to compensate the Village for any liquidated damages, the Village shall consider this as a

form of indebtedness and may deny any future Work under the Contract or any other Village contract until such indebtedness is paid in full to the Village.

The Village shall notify the Contractor that it is incurring liquidated damages.

4. Schedule of Values

The Contractor must submit three copies of a Schedule of Values, which must be submitted within ten (10) calendar days of the issuance of the Notice to Proceed. The Schedule of Values shall indicate a complete breakdown of labor and material of all categories of Work on the Project. Contractor's overhead and profit should be as separate line items. Each line item shall be identified with the number and title of the major specification section or major components of the items. The Village may require further breakdown after review of the Contractor's submittal. The Village reserves the right to require such information from the Contractor as may be necessary to determine the accuracy of the Schedule of Values. The combined total value for mobilization under the Schedules of Values shall not exceed five percent (5%) of the value of the Contract.

The approved schedule of values shall be updated through the submittal of the Village's Contractor Payment Application Form.

5. Project Schedules

Contractor shall submit a proposed Project schedule as follows:

- Schedule identifying all tasks within the critical path. The proposed Project schedule shall be submitted within ten (10) calendar days of the Notice of Award and such submittal shall be subject to the Village's review. Subsequent to such review of said schedule, the Contractor shall establish said schedule as the baseline schedule.
- All updates of schedules shall be tracked against the baseline schedule and shall be at a minimum submitted with each pay application. An updated schedule against the baseline shall also be submitted upon execution of each change order that impacts the Contract Documents Time for completion. Failure to submit such schedules shall result in the rejection of any submitted payment application.
- All Project Schedules shall be prepared in Microsoft Project 2003 or later unless otherwise approved by the Project Manager. At the time of submission of schedules, Contractor shall submit a hard copy as well as an electronic version. Such electronic version shall not be submitted in a .pdf format and shall be capable of being incorporated in to the Village's baseline schedules.
- Subsequent to review of the initial schedule submission, the Contractor shall establish the reviewed schedule as the "baseline schedule." Contractor shall then prepare and submit all updates to

the schedules utilizing the tracking mode within Microsoft Project.

6. Release of Liens/Subcontractor's Statement of Satisfaction

The Contractor warrants and guarantees that title to all Work, materials and equipment covered by an application for payment, whether incorporated in the Project or not, will pass to the Village upon the receipt of such payment by the Contractor, free and clear of all liens, claims, security interests or encumbrances and that no Work, materials or equipment will have been acquired by the Contractor or by any other person performing Work at the site or furnishing materials and equipment for the Project, subject to an agreement under which an interest therein or an encumbrance thereon is retained by the seller or otherwise imposed by the Contractor or such other person.

The Contractor shall, beginning with the second request for payment, attach a Partial Release of Lien/Subcontractor's Statement of Satisfaction for each application for payment. Failure to submit such documentation may delay payments. The Village may, in its sole discretion withhold payments for Work performed by Subcontractor where no release of lien has been submitted. The Contractor shall submit with the final payment request, for any Project where Subcontractors have performed Work, a Final Release of Lien/Subcontractor's Statement of Satisfaction for each Subcontractor marked as a final. Failure to submit such documentation will result in delay in payment or the Village withholding from the final payment such funds as necessary to satisfy any Subcontractor claims.

Where the Contractor has submitted a Performance/Payment Bond the Contractor may, in lieu of the Release of Lien/Subcontractor's Statement of Satisfaction, submit Consent of Surety to Requisition Payment. Contractor must use Village Release of Lien, Affidavit and Consent of Surety forms or the Application for Payment will be rejected.

7. Progress Meetings

The Village shall conduct a pre-construction conference prior to the commencement of the Work. Contractor shall hold progress and coordination meetings as required by the Village, to provide for the timely completion of the Work.

Contractor shall arrange and conduct regular bi-weekly job site Project status meetings with the Village. Contractor shall use the job site meetings as a tool for the pre-planning of Work and enforcing schedules, and for establishing procedures, responsibilities, and identification of authority for all parties to clearly understand. During these meetings, Contractor shall identify the party or parties responsible for following up on any problems, delay items, or questions, and Contractor shall note the action to be taken by such party or parties. Contractor shall revisit each pending item at each subsequent meeting until resolution is achieved. Contractor shall attempt to obtain from all present any potential problem or delaying event known to them for appropriate attention and resolution. Contractor shall be responsible for keeping minutes of the meeting and distribution of the minutes to all parties in attendance.

The Contractor shall arrange for the participation of its Subcontractors and/or vendors

when the Project Manager requires their presence. The Contractor shall maintain minutes of the meeting and distribute copies of the minutes to all parties in attendance. The Contractor shall prepare and distribute to the Village an updated two-week look-ahead schedule of construction activities and submittals.

8. Request for Information

The Contractor shall submit a Request for Information (RFI) where the Contractor believes that the Contract Document's specifications or drawings are unclear or conflict. All requests must be submitted in a manner that clearly identifies the drawing and/or specification section where clarification or interpretation is being requested. As part of the RFI, Contractor shall include its recommendation for resolution. The Village shall respond in writing.

9. Project Site Facilities

The Contractor shall arrange for all Project site facilities as maybe necessary to enable the Project Manager or Consultant to perform their respective duties and to accommodate any representatives of the Village which the Village may choose to have present at the Project.

Contractor's, Subcontractor's, supplier's, material persons personnel shall not use the Village restrooms that may be available at the Project site without the prior consent of the manager of the facility or the Project Manager, where there is no manager of a facility. The Contractor shall provide and maintain at his own expense, in a sanitary condition, such accommodations for the use of his employees as is necessary to comply with the requirements including Chapter 46 of the Building Code and regulations of the State of Florida Department of Health and Rehabilitative Services or Dade County Health Department. The Contractor, his employees or his Subcontractors shall commit no public nuisance or use any facilities that have not been specifically provided for use by the Contractor.

The Contractor shall furnish an adequate supply of drinking water for its and its Subcontractors' employees.

There shall be adequate provisions made by the Contractor to ensure all disposable materials are properly disposed of and do not create a nuisance to the Village or the public. The location of the temporary facilities shall be subject to the approval of the Village.

Contractor is required to provide any necessary temporary utilities to the site, such as electric, water, and sanitary services to the site for new construction or additions to a facility. The Village may authorize the use of existing utilities. Such decision will be made at the sole discretion of the Village.

The Contractor shall be required to obtain all necessary permits required for any Project site facilities. Contractor shall also be responsible to maintain such facilities in a safe and working condition.

All such facilities remain the property of the Contractor and the Contractor shall be responsible for removal and disposal of such facilities prior to Final Acceptance.

10. Inspection of Work

The Village will have inspectors reviewing the Work for compliance.

11. Security

The site where the Work is to be performed may not be a secure site and the public may have access to the site. The Contractor shall have sole responsibility for the security of all Work materials, tools, equipment, and Work at the Project site. The Village shall not be liable for any damage or loss to such materials, tools, equipment and Work and the Contractor shall be responsible for the repair or replacement of all Work such materials, tools, and equipment.

12. Construction Signage

Where required by the Contract Documents the Contractor shall provide construction signage. The Village shall provide the Contractor the wording and layout for the signs at the pre-construction conference. The Contractor shall furnish the two Village signs at the Project site(s) as follows:

- The first sign shall be 4 feet wide and 8 feet high and constructed of pressure sensitive 2-mil cast vinyl over mounted with 3-mil Mylar and mounted to 1 MDO with painted back. The sign shall be mounted on 4-inch square wood or perforated “U” channel metal posts painted white, and be readable at eye level. The colors to be used on the sign are as follows: the background shall be white with blue lettering; the seal shall be white and gold with blue lettering form.
- The second sign shall reflect other funding sources for the Project and shall reflect the Project information. The sign shall be 4 feet wide by 8 feet high by 3/4-inch (thick) exterior plywood, suitably mounted and readable at eye level. The colors shall be blue and white. The background shall be white, and all lettering shall be blue Helvetica. All paint shall be rated outdoor enamel. The Village will provide the Village Seal in decal form.
- The Contractor shall also post appropriate construction site warning signs at the Work site. Such signs shall be posted to warn pedestrian and vehicle traffic. Signage shall also be placed waterside to alert boater to the construction zone, requiring idle speed and a minimum clearance distance. Contractor shall provide drawings for the signage, which shall be subject to approval by the Consultant.
- The Project Manager and the Village shall approve the locations for all signage.

13. Construction Photographs

Contractor shall submit with each application for payment photographs that accurately reflect the progress of the Work. Contractor shall submit once copy of each photograph in print and digitally. The photographs shall be printed on 8" X 10" high-resolution glossy single weight color print paper. Each photograph will also reflect the date and time the picture was taken. Aerial photographs will be taken on a bi-monthly basis.

14. Village Furnished Property

Contractor shall preserve all street signs, parking meters, benches, traffic control signs, etc., when directed to by the Village and shall reinstall or provide to the Village as directed.

15. Field Layout of the Work and Record Drawings for Drainage Projects

The Contractor, through the services of a State of Florida Registered Professional Surveyor and Mapper (P.S.M.), shall establish the line and benchmarks and other reference points for the installation of the pipeline or structure.

For pipelines, this will consist of establishing all points of bend (but not necessarily bevel pipe unless in close proximity to other facilities), valves, tees, crosses and other stations not more than one hundred feet (100') apart along the proposed centerline of the pipe, or along a stationed offset line as shown on the Plans, marked by a nail in a metal cap if in pavement, with the station painted nearby or by a nail in the top of a wooden stake driven flush with the ground with the station marked on a flag stake nearby, if not in pavement.

For structures, this will consist of base lines, stakes at corners, centers and centerlines, auxiliary lines and a benchmark from which to establish the elevations.

The Contractor shall make his equipment and men available to the Inspector for spot-checking the accuracy of the Work. The Village shall require the Work to be brought within the tolerances specified elsewhere before backfilling is placed, or the construction is otherwise hidden.

The entire responsibility for establishing and maintaining line and grade in the field lies with Contractor. Contractor shall maintain an accurate and precise record of the location and elevation of all pipe lines, conduits, structures, maintenance access structures, hand holes, fittings and other Work and shall prepare record or "as-built" drawings of the same which are signed and sealed by a State of Florida Registered Professional Surveyor and Mapper (P.S.M.). Contractor shall deliver these records in good order to the Village as the Work is completed. The Contractor shall supply the Consultant with a copy of the Registered Land Surveyor's layout of the Work immediately upon its availability to his own forces. The cost of all such field layout and recording Work is included in the prices bid for the appropriate items. All record drawings shall be made on reproducible paper and shall be delivered to the Village prior to, and as a condition of, final payment.

During the entire construction operation, the Contractor shall retain the services of a State of Florida Registered Professional Surveyor and Mapper (P.S.M.) who shall maintain records of the installation, including all deviations from the plans and specifications by obtaining "As-built" dimensions and elevations. The surveyor shall prepare record as-built drawings showing correctly and accurately all changes and deviations made during construction, including approved construction variances to reflect the Work as it was actually constructed. "As-Built" drawings shall be submitted to the Village on a monthly basis.

Recording of Project Record

- Record all information for pipeline Projects and on-site Projects concurrently with construction progress.
- Do not conceal any Work until the Contractor and the Village record as-built information.
- All locations for future connections or tie-ins shall be left unburied and uncovered until the Village's surveying forces obtain and record the as-built information. This is in addition to the Contractor's recorded information.
- Restrained pipe, end line valves, thrust blocks need to be left uncovered for the last complete length. Inline valves and tees shall be left exposed for one (1) length on both sides plus the face end. Record the elevation, deviation from horizontal and vertical alignment and the inclination for these items.
- Maintain records of all pipeline Project and on-site Project deviations from Drawings and Specifications by a Florida Registered Professional Surveyor and Mapper (P.S.M.).
- For Pipe Installation in All Pipeline Projects and On-site Projects: During entire construction operation retain the services of a State of Florida Registered Land Surveyor (FRLS) who shall maintain records of the installation, including all deviations from Drawings and Specifications.
- FRLS shall record as-built dimensions and elevations every twenty-five feet (25') or portion thereof along pipeline and at every abrupt change in direction of the new line.
- FRLS shall record locations and elevations for each valve, fitting, service line, fire hydrant, water sampling point, and also for above ground piping and other appurtenances along the pipeline. Specific locations and elevation of equipment, buildings, and miscellaneous items installed inside them shall be recorded as applicable.
- Contractor's FRLS shall prepare as-built record drawings showing correctly and accurately the installation, embracing all changes and deviations made during construction, including all approved construction variances, to reflect the Work as it was constructed.
- Record Drawings shall be prepared on 4-mil Mylar as specified hereinafter. Record Drawings and three (3) blue line copies shall be signed and sealed by the Surveyor and shall be submitted to the Village for review within ten (10) calendar days following the completion

date of successful pressure testing of all mains and appurtenances under the Contract Documents.

- If the Consultant determines that the Drawings are not acceptable, they will be returned to the Contractor with a cover letter noting the deficiencies and/or reasons for the disapproval.

Contractor shall have ten (10) calendar days to correct all exceptions taken by the Village and resubmit as-built record drawings to the Consultant for final acceptance.

Prior to, and as a condition precedent to Final Payment, Contractor shall submit to Village, Contractor's record drawings or as-built drawings acceptable to Project Manager.

16. Survey Work for Drainage Projects

The Contractor shall retain or employ a FRLS to lay out all storm sewer construction and provide final measurements.

At the Project pre-construction meeting, to be attended by the Contractor's FRLS, the Contractor will be provided a packet of information, from the Village, showing the format to be utilized. The Contractor is advised that the survey Work, including required final measurements, shall be according to Village Standards and are an integral part of the Project. The Project shall not be considered complete until the final measurements are approved by the Village.

17. Buy America Requirements

Contractor agrees to comply with all applicable provisions of LAP FDOT's Section 6-5.2 herein and 23 CFR 635.410, as amended.

18. Contractor Purchased Equipment for State or Local Ownership

When a Contractor purchases equipment to adequately meet the construction engineering (CE) requirements of a Federal-aid project, the equipment which is purchased by the construction Contractor is not permitted to be transferred to the State or Village for ownership. Contractor shall also not purchase equipment utilizing Project funds for use and ownership by the Village or State.

19. Equipment Rental Rates

LAP FDOT Section 9-5.6 "Certification of Payment to Subcontractors" and other applicable sections shall apply to this Article. Whenever a code of standard is in conflict, the more conservative descriptive applies. When equipment is to be rented, the following guidelines apply and Contractor agrees to comply with these guidelines as laid out below as per LAP Division 1 Specification 4.3.2.1:

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.

20. Prohibition Against Convict Produced Materials

In accordance with Title 23 CFR Part 635.417 and also FDOT Division 1 Spec 6-5.1, convict produced materials are **not allowed for this contract**.

21. FHWA-1273 / Required Contract Provisions for Federal-Aid Construction Contracts and FDOT LAP Division 1 Specifications

The provisions of FHWA-1273, attached to this contract as EXHIBIT 1273 and hereby made a part of the Contract Documents, are MANDATORY and MUST BE ADHERED TO FOR WORK UNDER THIS CONTRACT. LAP Divisions 1 Specifications (Off-System) are provided for use in LAP Specifications as needed are attached in this document and must be adhered to for work under this contract.

22. Wage Rates for Federal-Aid Projects

For this Contract, payment of predetermined minimum wages applies. The U.S. Department of Labor Wage Rates applicable to this Contract are listed in Wage Rate Decision Number(s) **FL20220125 02/25/2022**, as modified up through ten days prior to the opening of bids. Davis-Bacon wage table(s) in the contract and FDOT’s Division 1 specification package for Local Agencies in the bid document located on the FDOT Specs on the Web page. Current wage tables may be obtained at: <http://www.dot.state.fl.us/construction/wage.shtm> or <http://www.beta.sam.gov>.

23. Publicly-Owned Equipment

In accordance with 23 CFR 635.106, publicly owned equipment is **not allowed for this contract**. It should not normally compete with privately owned equipment on a project to be let to contract.

24. Public Agencies in Competition with the Private Sector

In accordance with 23 CFR 635.112(e), **no public agency shall be permitted to bid in competition or to enter into subcontracts with private contractors.**

25. FDOT Specifications

All work done must be completed using the LAP FDOT Specifications and the FDOT Big 4 Specifications for earthwork, concrete, asphalt and landscaping as attached in the Supplemental Information section of this document and is made part of this contract.

26. On The Job Training Requirements

Provisions for LAP Division 1 Specification Section 7-25 as per 23 CFR 230 are attached with this contract and made part of this contract.

27. Owner Force Account Contracting

Owner Force Account contracting is not allowed for this contract as per 23 CFR 635B under 635.205. The Village does not allow the direct performance of highway construction work by its own resources of labor, equipment, materials and supplies furnished by the Village and used under Village's direct control.

28. E-Verify - Mandatory Use

Provision of the LAP FDOT Section 7-29 applies to this Article and is made part of this contract. 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.

29. Local/State Hiring Preferences

In accordance with 23 CFR 635.117, and also LAP Agreement Section 17.p, local or state hiring preferences are **not allowed for this contract. Local/State Hiring Preferences**

30. State(Florida or other) Produced Materials

In accordance with 23 CFR 635.409, State (Florida or other) produced materials are **not allowed for this contract. Local/State Hiring Preferences.**

31. Inspector General

Pursuant to FL § 20.55(5), Contractor shall cooperate and comply with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to FL § 20.55.

32. Patented/Proprietary Materials

Patented/Proprietary Materials are not applicable to this project. In the event Proprietary Products are to be used it must be in accordance with FDOT Design Manual (FDM) 110.4.1.

33. Pre-qualification

Florida Law (Chapter 337.14 F.S.) And Rules of the State of Florida, Department of Transportation, (Chapter 14-22, F.A.C.) require contractors to be prequalified with the Florida Department of Transportation in order to bid for the performance of road, bridge, or public transportation construction contracts greater than \$250,000.00. Contractors shall be prequalified as required by FDOT and as stated herein.

34. Incentive/Disincentive Clauses

Incentive and/or Disincentive clauses are not applicable to this project and subsequent contract.

35. Indian Preference on Federal-Aid Projects (Labor & Employment)

Indian preference on federal-aid projects is not applicable to this project and subsequent contract.

36. Foreign Contractor and Supplier Restriction

49 CFR 30 Denial of Public Works Contracts to Suppliers of Goods and Services of Countries That Deny Procurement Market Access to U.S. Contractors (10/01/2012) provides the Secretary of Transportation with the authority to restrict foreign contractors from participating in US DOT program when their countries have been found to deny procurement market access to U.S. contractors. Currently there are no restrictions against the use of foreign contractors in the Federal-aid highway program.

END OF SECTION

SECTION 01000 - LAP DIVISION 1 SPECIFICATIONS.

(REV 3-11-21) (1-22)

Construction Checklist Specifications
from
Department of Transportation
Standard Specifications for Road and Bridge Construction

The following excerpts from the Standard Specifications and Special Provisions are provided for use in LAP Specifications as needed in accordance with the Local Agency Program Checklist for Construction Contracts (Phase 58) – Federal and State Requirements (525-070-44)

FROM SECTION 1 – DEFINITIONS AND TERMS:

Department Name

Engineer

Contractor’s Engineer of Record.

A Professional Engineer registered in the State of Florida, other than the Engineer of Record or his subcontracted consultant, who undertakes the design and drawing of components of the permanent structure as part of a redesign or Cost Savings Initiative Proposal, or for repair designs and details of the permanent work. 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 pre-qualified Specialty Engineer. For items of the permanent work declared by the State Construction Office to be “major” or “structural”, the work performed by a pre-qualified Specialty Engineer must be checked by another pre-qualified Specialty Engineer. An individual Engineer may become pre-qualified in the work groups listed in the Rules of the Department of Transportation, Chapter 14-75, if the requirements for the Professional Engineer are met for the individual work groups. Pre-qualified Specialty Engineers are listed on the State Construction Website. Pre-qualified Specialty Engineers will not be authorized to perform redesigns or Cost Savings Initiative Proposal designs of items fully detailed in the plans.

Specialty Engineer.

A Professional Engineer registered in the State of Florida, other than the Engineer of Record or his subcontracted consultant, 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 Analyses 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.

~~FROM SECTION 4 (ALTERATION OF WORK).~~

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, such increases or decreases in quantities, 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 increases, decreases or alterations 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, the same as if it had been a part of the original Contract.

~~The term "significant change" applies only when:~~

~~1. 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, or~~

~~2. A major item of work, as defined in 1-3, is increased in excess of 125% or decreased below 75% of the original Contract quantity. The Department will apply any price adjustment for an increase in quantity only to that portion in excess of 125% of the original Contract item quantity in accordance with 4-3.2 below. In the case of a decrease below 75% the Department will only apply a price adjustment for the additional costs that are a direct result of the reduction in quantity.~~

~~In (1) above, 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 4-1	
Item	Rate
FICA	Rate established by Law
FUTA/SUTA	Rate established by Law
Medical Insurance	Actual
Holidays, Sick & Vacation benefits	Actual
Retirement benefits	Actual

Table 4-1	
Item	Rate
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 4-1,
- _____ 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" as published by EquipmentWatch, a division of Informa Business Media, Inc., 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 "Rental Rate 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%.~~

~~_____ b. Allowable Hourly Operating Cost = Hourly Operating Cost x 100%.~~

~~_____ c. Allowable Rate Per Hour = Allowable Hourly Equipment Rate + Allowable Hourly Operating Cost.~~

~~_____ d. Standby Rate = Allowable Hourly Equipment Rate x 50%.~~

~~_____ 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.~~

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

~~_____ 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.~~

~~_____ Further, for (a) and (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:~~

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

~~_____ 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 or Unilateral Payment:** A Supplemental Agreement or Unilateral Payment will be used to clarify the Plans and Specifications of the Contract; to provide for unforeseen work, grade changes, or alterations in the Plans which could not reasonably have been contemplated or foreseen in the original Plans and Specifications; to change the limits of construction to meet field conditions; to provide a safe and functional connection to an existing pavement; to settle documented Contract claims; to make the project functionally operational in accordance with the intent of the original Contract and subsequent amendments thereto.

~~_____~~ A Supplemental Agreement or Unilateral Payment may be used to expand the physical limits of the project only to the extent necessary to make the project functionally operational in accordance with the intent of the original Contract. The cost of any such agreement extending the physical limits of the project shall not exceed \$100,000 or 10% of the original Contract price, whichever is greater.

~~_____~~ Perform no work to be covered by a Supplemental Agreement or Unilateral Payment before written authorization is received from the Engineer. The Engineer's written authorization will set forth sufficient work information to allow the work to begin. The work activities, terms and conditions will be reduced to written Supplemental Agreement or Unilateral Payment form promptly thereafter. 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 in 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, joint project agreements or utility relocation schedules.

~~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 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 will be held prior to Contract Time beginning for the Contractor and Department to discuss potential Proposals. This mandatory workshop can only be eliminated if agreed to in writing by both the Contractor and Department. This Subarticle does not, however, apply to any such proposal unless the Contractor identifies it at the time of its submission to the Department as a proposal submitted pursuant to this Subarticle.~~

~~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. The Department will not recognize the Contractor's correction of plan errors that result in a cost reduction, as a Proposal. Deletions of work, approved by the Engineer which are not directly associated with or integral to a Proposal will be handled as full credit 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. For potential Proposals not discussed at the Cost Savings Initiative Workshop, a mandatory concept meeting will be held for the Contractor and Department to discuss the potential Proposal prior to development of the 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 and deleted pay items. Identify additional proposed work not covered by pay items within the Contract, by using pay item numbers in the Basis of Estimates Manual. In preparing the estimates, include overhead, profit, and bond within pay items in the Contract. Separate pay item(s) for the cost of overhead, profit, and bond will not be allowed.

_____ 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 analyses 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 Contractor's Engineer of Record. Written documentation or drawings will be submitted clearly delineating the responsibility of the Contractor's 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 Proposals 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. In determining the estimated net savings, the Department reserves the right to disregard the Contract bid prices if, in the judgment of the Engineer, such prices do not represent a fair measure of the value of work to be performed or to be deleted.

_____ 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 and upon the final quantities. The Department will compute the net savings by subtracting the revised total cost of all bid items affected by the Proposal from the total cost of the same bid items as 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 who is not the originator of the Proposal design, and is pre-qualified by the Department in accordance with Rule 14-75, 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 Contractor's Engineer of Record for the Proposal design. The Department reserves the right to require the Contractor's Engineer of Record to assume responsibility for design of the entire structure.~~

~~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, 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. The reasonable documented engineering costs will be paid by the Department. 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.

~~_____~~ **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.

FROM SECTION 5 – CONTROL OF THE WORK (CLAIMS).

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 and on projects with an original Contract amount greater than \$3,000,000 within 180 calendar days after final acceptance of the project 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 and on projects with an original Contract amount greater than \$3,000,000 within 180 calendar days after final acceptance of the project 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.

If the Contractor provides the written notice of intent, the preliminary request for time extension, and the request for Contract Time extension in compliance with the aforementioned time and content requirements, the Contractor's claim for delay to a controlling work item will be evaluated as of the date of the elimination of the delay even if the Contractor's performance subsequently overcomes the delay. If the claim for delay has not been settled, the Contractor must also comply with 5-12.3 and 5-12.9 to preserve the claim.

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 to a claim in writing 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 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 pre-judgment 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 nations 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 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 (including supervisory

personnel) 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 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.

FROM SECTION 6 – CONTROL OF MATERIALS (CONVICT LABOR AND BUY AMERICA).

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 manufacturing process, it becomes foreign source material. When using steel or iron materials 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.

FROM SECTION 7 – LEGAL REQUIREMENTS AND RESPONSIBILITIES TO THE PUBLIC (FHWA 1273, WAGE RATES, E-VERIFY, TITLE VI, DBE, AND ON-THE-JOB TRAINING)

7-1.1 Compliance with FHWA 1273: The FHWA-1273 Electronic version, dated May 1, 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/deo112468a91904c88e94148b94569982fdff3d2.pdf?sfvrsn=6b78d1d6_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.

7-1.4 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 in the Contract Documents or permits.

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_2.

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.

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.

7-16 Wage Rates for Federal-Aid Projects.

For this Contract, 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
FL20220125	Heavy Construction

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. The current wage table is as follows:

General Decision Number: FL20220125 02/25/2022

Superseded General Decision Number: FL20210125

State: Florida

Construction Type: Heavy

County: Miami-Dade County in Florida.

HEAVY CONSTRUCTION PROJECTS (Including Sewer and Water Lines)

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658.

Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60).

If the contract is entered	. Executive Order 14026
into on or after January 30,	generally applies to
the	
2022, or the contract is	contract.
renewed or extended (e.g., an	. The contractor must
pay	
option is exercised) on or	all covered workers at
after January 30, 2022:	least \$15.00 per hour
(or	
	the applicable wage
rate	
	listed on this wage

is	determination, if it
	higher) for all hours
the	spent performing on
	contract in 2022.

If the contract was awarded on	. Executive Order 13658
or between January 1, 2015 and	generally applies to
the	contract.
January 29, 2022, and the	
contract is not renewed or	. The contractor must
pay all	covered workers at
extended on or after January	least
least	\$11.25 per hour (or
30, 2022:	applicable wage rate
the	on this wage
listed	if it is higher) for
determination,	hours spent performing
all	that contract in 2022.
on	

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Modification Number	Publication Date
0	01/07/2022
1	02/25/2022

ELEC0349-007 09/01/2021

	Rates	Fringes
ELECTRICIAN.....	\$ 37.61	
11.72		

ENGI0487-017 07/01/2013

	Rates	Fringes
OPERATOR: Backhoe (Except Loader Combo).....	\$ 28.32	
8.80		

OPERATOR: Crane
 All Tower Cranes (Must have 2 operators) Mobile, Rail, Climbers, Static-Mount; All Cranes with Boom Length 150 Feet & Over (With or without jib) Friction, Hydro, Electric or Otherwise; Cranes 150 Tons & Over (Must have 2 operators); Cranes with 3 Drums (When 3rd drum is rigged for work); Gantry & Overhead Cranes; Hydro Cranes Over 25 Tons but not more than 50 Tons (Without Oiler/Apprentice); Hydro/Friction Cranes without Oiler/Apprentices

when Approved by Union; &
 All Type of Flying Cranes;
 Boom Truck.....\$ 29.05
 8.80
 Cranes with Boom Length
 Less than 150 Feet (With
 or without jib); Hydro
 Cranes 25 Tons & Under, &
 Over 50 Tons (With
 Oiler/Apprentice); Boom
 Truck.....\$ 28.32
 8.80
 OPERATOR: Drill.....\$ 25.80
 8.80
 OPERATOR: Loader.....\$ 25.64
 8.80
 OPERATOR: Oiler.....\$ 22.99
 8.80

 IRON0272-005 10/01/2021

	Rates	Fringes
IRONWORKER, STRUCTURAL.....	\$ 26.00	
14.16		

 LABO1652-004 05/01/2018

	Rates	Fringes
LABORER: Grade Checker.....	\$ 22.05	
7.27		

 PAIN0365-007 06/01/2021

	Rates	Fringes
PAINTER: Brush, Roller and Spray.....	\$ 20.21	
12.38		

* SUFL2009-164 06/24/2009

	Rates	Fringes
CARPENTER, Includes Form Work....	\$ 17.00	
2.51		
CEMENT MASON/CONCRETE FINISHER...	\$ 16.61	
5.52		
LABORER: Common or General.....	\$ 13.09 **	
1.26		
LABORER: Landscape.....	\$ 7.25 **	
0.00		
LABORER: Power Tool Operator (Hand Held Drills/Saws, Jackhammer and Power Saws Only).....	\$ 10.63 **	
2.20		
OPERATOR: Asphalt Paver.....	\$ 11.59 **	
0.00		
OPERATOR: Backhoe Loader Combo.....	\$ 16.10	
2.44		
OPERATOR: Bulldozer.....	\$ 14.95 **	
0.81		
OPERATOR: Excavator.....	\$ 21.16	
1.67		
OPERATOR: Grader/Blade.....	\$ 16.00	
2.84		
OPERATOR: Mechanic.....	\$ 14.32 **	
0.00		
OPERATOR: Roller.....	\$ 10.95 **	
0.00		
OPERATOR: Scraper.....	\$ 11.00 **	

1.74

OPERATOR: Trackhoe.....\$ 20.92
5.50

OPERATOR: Tractor.....\$ 10.54 **
0.00

TRUCK DRIVER, Includes Dump
Truck.....\$ 9.60 **
0.00

TRUCK DRIVER: Lowboy Truck.....\$ 12.73 **
0.00

TRUCK DRIVER: Off the Road
Truck.....\$ 12.21 **
1.97

WELDERS - Receive rate prescribed for craft performing
operation to which welding is incidental.

=====
===

** Workers in this classification may be entitled to a
higher
minimum wage under Executive Order 14026 (\$15.00) or
13658
(\$11.25). Please see the Note at the top of the wage
determination for more information.

Note: Executive Order (EO) 13706, Establishing Paid Sick
Leave
for Federal Contractors applies to all contracts subject
to the
Davis-Bacon Act for which the contract is awarded (and
any
solicitation was issued) on or after January 1, 2017.
If this
contract is covered by the EO, the contractor must
provide
employees with 1 hour of paid sick leave for every 30

hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular

rate is a union rate (current union negotiated rate for local),
a survey rate (weighted average rate) or a union average rate
(weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed
in dotted lines beginning with characters other than
"SU" or
"UAVG" denotes that the union classification and rate
were
prevailing for that classification in the survey.

Example:

PLUM0198-005 07/01/2014. PLUM is an abbreviation
identifier of
the union which prevailed in the survey for this
classification, which in this example would be Plumbers.
0198
indicates the local union number or district council
number
where applicable, i.e., Plumbers Local 0198. The next
number,
005 in the example, is an internal number used in
processing
the wage determination. 07/01/2014 is the effective date
of the
most current negotiated rate, which in this example is
July 1,
2014.

Union prevailing wage rates are updated to reflect all
rate
changes in the collective bargaining agreement (CBA)
governing
this classification and rate.

Survey Rate Identifiers

Classifications listed under the "SU" identifier
indicate that
no one rate prevailed for this classification in the
survey and

the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter?
This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

=====
=====

END OF GENERAL DECISION"

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 Compliance 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% 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 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
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

Estimated Contract Amount	Trainees Required
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 Section, 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;
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 Section 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 made 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 Section. 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 Section. 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 project(s) 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 when 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,
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 they 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 voluntarily 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.

7-29 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.

7-31 Title VI Assurance – DOT 1050.2A, Appendix A and Appendix E.

7-31.1 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.

7-31.2 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.).

FROM SECTION 8 (SUBLETTING, CONTRACT TIME EXTENSION, AND LIQUIDATED DAMAGES).

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 provide 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, furnish the Department with 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.

8-7.3.2 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 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 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.

When the Department grants a time extension due to rains or other inclement weather, the Contractor shall submit any objection to the additional time in writing within ten calendar days from receipt of written notice from the Engineer. Failure to submit a written appeal within ten calendar days from receipt of the written notice shall constitute a waiver of any and all rights to appeal the Department's decision at a later time.

No additional compensation will be made for delays caused by the effects of inclement weather.

The Department will 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 furnish 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 furnishes 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 made 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. 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), 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.

8-10 Liquidated Damages for Failure to Complete the Work.

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
\$50,000 and under	\$868
Over \$50,000 but less than \$250,000	\$882
\$250,000 but less than \$500,000	\$1,197
\$500,000 but less than \$2,500,000	\$1,694
\$2,500,000 but less than \$5,000,000	\$2,592
\$5,000,000 but less than \$10,000,000	\$3,786
\$10,000,000 but less than \$15,000,000	\$4,769
\$15,000,000 but less than \$20,000,000	\$5,855
\$20,000,000 and over	\$9,214 plus 0.00005 of any amount over \$20 million (Round to nearest whole dollar)

The Engineer may approve adjustments to the liquidated damages amounts in accordance with the Construction Project Administration Manual (CPAM)

provided all contract work is complete.

FROM SECTION 9 (PARTIAL PAYMENTS).

9-5 Partial Payments.

9-5.1 General: The Engineer will make partial payments on 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 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 paperwork relating to prevailing wage rate provisions, Equal Employment Opportunity, On-The-Job Training, and Affirmative Action;
2. comply with the requirement to 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 employment opportunity for minorities and females in accordance with the required contract

provisions for Federal Aid Construction Contracts, 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 furnish the Engineer with copies of certified invoices to document the value of the materials received. The amount of the partial payment will be determined from invoices for the material up to the unit price in the Contract.
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 payments for structural steel and precast prestressed

items will not exceed 85% of the bid price for the item. Partial payments for all other items will not exceed 75% of the bid price of the item in which the material is to be used.

3. 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. Provide 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 furnishes 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.

END OF SECTION

APPENDIX A: FDOT FORMS AND FHWA-1273 CONTRACT PROVISIONS

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 U.S. 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 Agreement.
2. **Nondiscrimination:** The Contractor, with regard to the work performed during the contract, shall not discriminate on the basis of race, color, national origin, sex, age, disability, religion or family status in the selection and retention of subcontractors, 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 made by the Contractor, either by competitive bidding or negotiation for work to be performed under a 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, sex, age, disability, religion or family status.
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, the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the Federal Motor Carrier Safety Administration to be pertinent to ascertain compliance with such Regulations, orders 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, the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the 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, and/or the 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, and/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 paragraphs (1) through (7) 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, the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the Federal Motor Carrier Safety Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. 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. **Compliance with Nondiscrimination Statutes and Authorities:** 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; 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 because of Federal or Federal-aid programs and projects); Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex); 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; The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age); Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex); 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); Titles II and III of the Americans with Disabilities Act, which prohibit 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; 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); 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; 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); Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.

LAP CERTIFICATION OF CURRENT CAPACITY

CONFIDENTIAL per Ch 337.14(1) F.S.

For bids to be received on _____
(Letting Date)

Fill in your FDOT Vendor Number

VF _____

(Only applicable to FDOT pre-qualified contractors)

CERTIFICATE

I hereby certify that the amount of any proposal submitted by this bidder for the above letting does not exceed the amount of the Firm's CURRENT CAPACITY (maximum capacity rating less total uncompleted work).

The total uncompleted work as shown on
the "Status of Contracts on Hand" report (page 2) \$ _____

I further certify that the "Status of Contracts on Hand" report (page 2) was prepared as follows:

1. If the letting is before the 25th day of the month, the certificate and report reflect the uncompleted work as of the 15th day of the month, last preceding the month of the letting.
2. If the letting is after the 25th day of the month, the certificate and report reflects the uncompleted work in progress as of the 15th day of the month of the letting.
3. All new contracts (and subcontracts) awarded earlier than five days before the letting date are included in the report and charged against our total rating.

I certify that the information above is correct.

NAME OF FIRM

Sworn to and subscribed this _____ day
of _____, 20 _____

By: _____

Title

STATUS OF CONTRACTS ON HAND

(Furnish complete information about all your contracts, whether prime or subcontracts; whether in progress or awarded, but not yet begun; and regardless of whom contracted with.)

1	2	3	4	5		6
PROJECTS OWNER, LOCATION AND DESCRIPTION	CONTRACT (OR SUBCONTRACT) AMOUNT	AMOUNT SUBLET TO OTHERS	BALANCE OF CONTRACT AMOUNT	UNCOMPLETED AMOUNT TO BE DONE BY YOU		
				AS PRIME CONTRACTOR	AS SUBCONTRACTOR	
NOTE: Columns 2 and 3 to show total contract (or subcontract) amounts. Column 4 to be difference between columns 2 and 3. Amount in columns 5 or 6 to be uncompleted portion of amount in column 4. All amounts to be shown to nearest \$100. The Contractor may consolidate and list as a single item all contracts which, individually, do not exceed 3% of total, and which, in the aggregate, amount to less than 20% of the total.			TOTALS	\$0.00	\$0.00	
			TOTAL UNCOMPLETED WORK ON HAND TO BE DONE BY YOU (TOTAL COLUMNS 5 AND 6)	\$0.00		

**CERTIFICATION FOR DISCLOSURE OF LOBBYING ACTIVITIES
ON FEDERAL-AID CONTRACTS
(Compliance with 49CFR, Section 20.100 (b))**

The prospective participant certifies, by signing this certification, that to the best of his or her knowledge and belief:

(1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities", in accordance with its instructions. (Standard Form-LLL can be obtained from the Florida Department of Transportation's Professional Services Administrator or Procurement Office.)

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The prospective participant also agrees by submitting his or her proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

Name of Consultant:

By: _____ Date: _____ Authorized Signature

Title: _____

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
DISCLOSURE OF LOBBYING ACTIVITIES

375-030-34
 PROCUREMENT
 02/16

Is this form applicable to your firm?
 YES NO
 If *no*, then please complete section 4
 below for "Prime"

1. Type of Federal Action: a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	2. Status of Federal Action: a. bid/offer/application b. initial award c. post-award	3. Report Type: a. initial filing b. material change For Material Change Only: Year: _____ Quarter: _____ Date of last report: _____ (mm/dd/yyyy)
4. Name and Address of Reporting Entity: <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, <i>if known</i> : _____ _____ _____ Congressional District, <i>if known</i> : 4c _____	5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime: _____ _____ _____ Congressional District, <i>if known</i> : _____	
6. Federal Department/Agency: _____ _____	7. Federal Program Name/Description: _____ _____ CFDA Number, <i>if applicable</i> : _____	
8. Federal Action Number, if known: _____	9. Award Amount, if known: \$ _____	
10. a. Name and Address of Lobbying Registrant <i>(if individual, last name, first name, MI):</i> _____ _____ _____	b. Individuals Performing Services <i>(including address if different from No. 10a)</i> <i>(last name, first name, MI):</i> _____ _____ _____	
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date (mm/dd/yyyy): _____	
Federal Use Only:		Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the fullname, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

DBE Utilization

The Department began its DBE race neutral program January 1, 2000. **Contract specific goals are not placed on Federal/State contracts;** however, the Department has an overall 10.65% DBE goal it must achieve. In order to assist contractors in determining their DBE commitment level, the Department has reviewed the estimates for this letting.

As you prepare your bid, please monitor potential or anticipated DBE utilization for contracts. When the low bidder executes the contract with the Department, information will be requested of the contractor's DBE participation for the project. While the utilization is not mandatory in order to be awarded the project, continuing utilization of DBE firms on contracts supports the success of Florida's DBE Program, and supports contractors' Equal Employment Opportunity and DBE Affirmative Action Programs.

Any project listed as 0% DBE availability does not mean that a DBE may not be used on that project. A 0% DBE availability may have been established due to any of the following reasons: limited identified subcontracting opportunities, minimal contract days, and/or small contract dollar amount. Contractors are encouraged to identify any opportunities to subcontract to DBE's.

Please contact the Equal Opportunity Office at (850) 414-4747 if you have any questions regarding this information.

DBE Reporting

If you are the prime contractor on a project, enter your DBE participation in the Equal Opportunity Compliance system prior to the pre-construction or pre-work conference for all federal and state funded projects. This **will not** become a mandatory part of the contract. It will assist the Department in tracking and reporting planned or estimated DBE utilization. During the contract, the prime contractor is required to report actual payments to DBE and MBE subcontractors through the web-based Equal Opportunity Compliance (EOC) system.

All DBE payments must be reported whether or not you initially planned to utilize the company. In order for our race neutral DBE Program to be successful, your cooperation is imperative. If you have any questions, please contact EOOHelp@dot.state.fl.us.

Bid Opportunity List

The Federal DBE Program requires States to maintain a database of all firms that are participating or attempting to participate on FDOT-assisted contracts. The list must include all firms that bid on prime contracts or bid or quote subcontracts on FDOT-assisted projects, including both **DBE's and non-DBEs**.

Please complete the Bidders Opportunity List through the Equal Opportunity Compliance system within 3 business days of submission of the bid or proposal for ALL subcontractors or sub-consultants who quoted to you for specific project for this letting. The web address to the Equal Opportunity Compliance system is: <https://www.fdot.gov/equalopportunity/eoc.shtm>.

DBE/AA Plans

Contractors bidding on FDOT contracts are to have an approved DBE Affirmative Action Plan (FDOT Form 275-030-11B) on file with the FDOT Equal Opportunity Office before execution of a contract. DBE/AA Plans must be received with the contractors bid or received by the Equal Opportunity Office prior to the award of the contract.

Plans are approved by the Equal Opportunity Office in accordance with Ch. 14-78, Florida Administrative Code. Plans that do not meet these mandatory requirements may not be approved. Approvals are for a (3) three year period and should be updated at anytime there is a change in the company's DBE Liaison Officer and/or President. Contractors may evidence adoption of the DBE/AA Policy and Plan and/or a change in the designated DBE Liaison officer as follows:

- Print the first page of the document on company stationery ("letterhead") that indicates the company's name, mailing address, phone number, etc.
- Print the company's name in the "____" space; next to "Date" print the month/day/year the policy is being signed; record the signature of the company's Chief Executive Officer, President or Chairperson in the space next to "by" and print the full first and last name and position title of the official signing the policy.
- Print the DBE Liaison's full name, email address, business mailing address and phone number the bottom of email.

E-mail the completed and signed DBE AA Plan to: **eeoforms@dot.state.fl.us**.

The Department will review the policy, update department records and issue a notification of approval or disapproval; a copy of the submitted plan will not be returned to the contractor.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
**NON-COLLUSION DECLARATION AND
COMPLIANCE WITH 49 CFR § 29**

575-060-13
RIGHT OF WAY
05/01
Page 1 of 3

ITEM/SEGMENT NO.: _____
F.A.P. NO.: _____
MANAGING DISTRICT: _____
PARCEL NO.: _____
COUNTY OF: _____
BID LETTING OF: _____

I, _____, hereby declare that I am
(NAME)
_____ of _____
(TITLE) (FIRM)
of _____
(CITY AND STATE)

and that I am the person responsible within my firm for the final decision as to the price(s) and amount of this Bid on this State Project.

I further declare that:

1. The prices(s) and amount of this bid have been arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition with any other contractor, bidder or potential bidder.
2. Neither the price(s) nor the amount of this bid have been disclosed to any other firm or person who is a bidder or potential bidder on this project, and will not be so disclosed prior to the bid opening.
3. No attempt has been made or will be made to solicit, cause or induce any other firm or person to refrain from bidding on this project, or to submit a bid higher than the bid of this firm, or any intentionally high or non-competitive bid or other form of complementary bid.
4. The bid of my firm is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary bid.
5. My firm has not offered or entered into a subcontract or agreement regarding the purchase of materials or services from any firm or person, or offered, promised or paid cash or anything of value to any firm or person, whether in connection with this or any other project, in consideration for an agreement or promise by any firm or person to refrain from bidding or to submit a complementary bid on this project.
6. My firm has not accepted or been promised any subcontract or agreement regarding the sale of materials or services to any firm or person, and has not been promised or paid cash or anything of value by any firm or person, whether in connection with this or any other project, in consideration for my firm's submitting a complementary bid, or agreeing to do so, on this project.
7. I have made a diligent inquiry of all members, officers, employees, and agents of my firm with responsibilities relating to the preparation, approval or submission of my firm's bid on this project and have been advised by each of them that he or she has not participated in any communication, consultation, discussion, agreement, collusion, act or other conduct inconsistent with any of the statements and representations made in this Declaration.
8. As required by Section 337.165, Florida Statutes, the firm has fully informed the Department of Transportation in writing of all convictions of the firm, its affiliates (as defined in Section 337.165(1)(a), Florida Statutes), and all directors, officers, and employees of the firm and its affiliates for violation of state or federal antitrust laws with respect to a public contract or for violation of any state or federal law involving fraud, bribery, collusion, conspiracy or material misrepresentation with respect to a public contract. This includes disclosure of the names of current employees of the firm or affiliates who were convicted of contract crimes while in the employ of another company.

9. I certify that, except as noted below, neither my firm nor any person associated therewith in the capacity of owner, partner, director, officer, principal, investigator, project director, manager, auditor, and/or position involving the administration of Federal funds:

(a) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions, as defined in 49 CFR §29.110(a), by any Federal department or agency;

(b) has within a three-year period preceding this certification been convicted of or had a civil judgment rendered against him or her for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Federal, State or local government transaction or public contract; violation of Federal or State antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;

(c) is presently indicted for or otherwise criminally or civilly charged by a Federal, State or local governmental entity with commission of any of the offenses enumerated in paragraph 9(b) of this certification; and

(d) has within a three-year period preceding this certification had one or more Federal, State or local government public transactions terminated for cause or default.

10. I(We), certify that I(We), shall not knowingly enter into any transaction with any subcontractor, material supplier, or vendor who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this contract by any Federal Agency unless authorized by the Department.

Where I am unable to declare or certify as to any of the statements contained in the above stated paragraphs numbered (1) through (10), I have provided an explanation in the "Exceptions" portion below or by attached separate sheet.

EXCEPTIONS:

(Any exception listed above will not necessarily result in denial of award, but will be considered in determining bidder responsibility. For any exception noted, indicate to whom it applies, initiating agency and dates of agency action. Providing false information may result in criminal prosecution and/or administrative sanctions.)

I declare under penalty of perjury that the foregoing is true and correct.

CONTRACTOR: _____ (Seal)

BY: _____
NAME AND TITLE PRINTED

WITNESS: _____

BY: _____
SIGNATURE

WITNESS: _____

Executed on this _____ day of _____, _____

**FAILURE TO FULLY COMPLETE AND EXECUTE THIS DOCUMENT
MAY RESULT IN THE BID BEING DECLARED NONRESPONSIVE**

REQUIRED CONTRACT PROVISIONS

This certification applies to subcontractors, material suppliers, vendors and other lower tier participants.

- Appendix B of 49 CFR Part 29 –

Appendix B—Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntary excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
INELIGIBILITY AND VOLUNTARY EXCLUSION-
LOWER TIER COVERED TRANSACTIONS FOR FEDERAL AID CONTRACTS**
(Compliance with 2 CFR Parts 180 and 1200)

It is certified that neither the below identified firm nor its principals are presently suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

Name of Consultant/Contractor: _____

By: _____

Date: _____

Title: _____

Instructions for Certification

Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

- a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.
- b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.
- d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).
- e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
- f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.
- g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.
- h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS**

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Governmentwide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under

this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are

applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar

with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor 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 contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor

will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions

of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or

will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program. Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-

Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b.(1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly

rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;

(2) the prime contractor remains responsible for the quality of the work of the leased employees;

(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and

(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is

evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.

2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this

covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which

this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the

department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS
PREFERENCE FOR APPALACHIAN DEVELOPMENT
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS
ROAD CONTRACTS**

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

APPENDIX B

GENERAL FORMS (NORTH BAY VILLAGE)

SOLICITATION RESPONSE FORM

BIDDERS MUST ATTACH THIS FORM TO THE EXTERIOR OF THE SEALED PACKET

Name: ITB No. 2022-001, *North Bay Village Baywalk Plaza Area North - Phase 1*

Due Date: Monday, June 6, 2022 at 02:00 PM

Delivery Location: NORTH BAY VILLAGE
VILLAGE MANAGER/CFO/PURCHASING OFFICE
VILLAGE HALL, THIRD FLOOR
1666 Kennedy Causeway, Suite 300
North Bay Village, FL 33141

Submitted By:
(Name of company and address)

PLEASE DO NOT TAPE BELOW THIS LINE

For Office Use Only:

Date and Time Received:

Received by: _____

GENERAL INFORMATION WORKSHEET

ITB No. 2022-001

North Bay Village Baywalk Plaza Area North - Phase 1

ORGANIZATION/AGANCY/FIRM/NAME: _____

DATE ORGANIZATION WAS FORMED/INCORPORATED: _____

FEDERAL TAX ID NUMBER: _____

MAILING ADDRESS: _____

PHONE NUMBER: _____

ORGANIZATION EMAIL ADDRESS: _____

ORGANIZATION WEBISTE ADDRESS: _____

CONTACT PERSON & TITLE: _____

CONTACT EMAIL ADDRESS: _____ PHONE No: _____

INDIVIDUAL(S) AUTHORIZED TO MAKE REPRESENTATION FOR THE CONTRACTOR:

_____ (First, Last Name)	_____ (Title)	_____ (Contact Phone Num.)
-----------------------------	------------------	-------------------------------

_____ (First, Last Name)	_____ (Title)	_____ (Contact Phone Num.)
-----------------------------	------------------	-------------------------------

_____ (First, Last Name)	_____ (Title)	_____ (Contact Phone Num.)
-----------------------------	------------------	-------------------------------

ADDITIONAL INFORMATION

CONTACT'S SIGNATURE: _____ DATE: _____

subcontractors, material men, suppliers, laborers, or lenders) who have, or will have, any interest (legal, equitable, beneficial or otherwise) in the contract or business transaction with the Village are as follows (Post Office addresses are not acceptable):

Signature of Affiant

Date

Printed Name of Affiant

Sworn to and subscribed before me this _____ day of _____, 20_____.

- Personally known to me, or
- Personally identification:

(Type of Identification Produced)

- Did take an oath, or
- Did NOT take an oath,

Notary Public – State of _____

My Commission Expires _____

(Notary Signature)

(Printed, typed, or stamped commission name of notary public)

AMERICANS WITH DISABILITIES ACT (ADA) DISABILITY
NONDISCRIMINATION STATEMENT

ITB No. 2022-001

North Bay Village Baywalk Plaza Area North - Phase 1

THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER
OFFICIAL AUTHORIZED TO ADMINISTER OATHS.

This sworn statement is submitted to North Bay Village, Florida

By: _____
(Print individual's name and title)

For: _____
(Print name of entity submitting sworn statement)

Whose business address is: _____

And (if applicable) its Federal Employer Number (FEIN) is: _____
(If the entity has no FEIN, include Social Security Number of the individual signing this sworn statement:
_____-_____-_____.)

I, being duly first sworn state:

That the above named firm, corporation or organization is in compliance with and agreed to continue to comply with, and assure that any subcontractor, or third party proposer under this project complies with all applicable requirements of the laws listed below including, but not limited to, those provisions pertaining to employment, provision of programs and services, transportation, communications, access to facilities, renovations, and new construction.

The American with Disabilities Act of 1990 (ADA), Pub. L. 101-336, 104 Stat 327, 42 USC 12101-12213 and 47 USC Sections 225 and 661 including Title I, Employment; Title II, Public Services; Title III, Public Accommodations and Services Operated by Private entities; Title IV, Telecommunications; and Title V, Miscellaneous Provisions.

The Florida Americans with Disabilities Accessibility Implementation Act of 1993, Section 553.501 553.513, Florida Statutes:

The Rehabilitation Act of 1973, 29 USC Section 794;
The Federal Transit Act, as amended 49 USC Section 1612;
The Fair Housing Act as amended 42 USC Section 3601-3631.

SIGNATURE

Sworn to and subscribed before me this _____ day of _____, 20_____.

- Personally known to me, or
- Personally identification:

(Type of Identification Produced)

- Did take an oath, or
- Did NOT take an oath,

Notary Public – State of _____

My Commission Expires _____

(Notary Signature)

(Printed, typed, or stamped commission name of notary public)

CONE OF SILENCE CERTIFICATION

ITB NO. 2022-001

North Bay Village Baywalk Plaza Area North - Phase 1

I, _____, _____
(Individual's Name) (Title)

of the _____, do hereby certify that
(Name of Company)

I have read and understand the terms set forth under this document titled Cone of Silence.

Attachment of this executed form, as such, is required to complete a valid response to this solicitation for services.

Individual's Signature

Date

PROPOSER'S CERTIFICATION

ITB No. 2022-001

North Bay Village Baywalk Plaza Area North - Phase 1

I have carefully examined the Invitation to Bid, Instructions to Bidders, General and/or Special Conditions, Vendor's Notes, Specifications, proposed agreement and any other documents accompanying or made a part of this Invitation to Bid.

I hereby propose to furnish the goods or services specified in the Invitation to Bid. I agree that my proposal will remain firm for a period of 365 days in order to allow the Village adequate time to evaluate the proposals.

I certify that all information contained in this proposal is truthful to the best of my knowledge and belief. I further certify that I am duly authorized to submit this proposal on behalf of the firm as its act and deed and that the firm is ready, willing and able to perform if awarded the contract.

I further certify, under oath, that this proposal is made without prior understanding, agreement, connection, discussion, or collusion with any other person, firm or corporation submitting a proposal for the same product or service; no officer, employee or agent of North Bay Village or any other proposer is interested in said proposal; and that the undersigned executed this Proposer's Certification with full knowledge and understanding of the matters therein contained and was duly authorized to do so.

A person or affiliate who has been placed on the convicted vendor list following a conviction for public entity crimes may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to public entity, may not be awarded or perform work as a proposer, supplier, sub-proposer, or consultant under a contract with a public entity, and may not transact business with any public entity in excess of the threshold amount provided in Sec. 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

Name of Business

By:

Sworn to and subscribed before me this
_____ day of _____, 20____

Signature

Name and Title, Typed or Printed

Notary Public

Mailing Address

State of _____

Village, State and Zip Code

Telephone Number

My Commission Expires

(Acknowledgement of Addendums: Issued Addendums must be signed and submitted with proposal)

ITB SIGNATURE PAGE FOR SOLE PROPRIETOR OR PARTNERSHIP

ITB No. 2022-001

North Bay Village Baywalk Plaza Area North - Phase 1

The full names and residences of person, partners or firms interested in the foregoing ITB, as principals are as follows:

Witness:
(Seal)

Bidder:

Witness Signature

Firm Name

Witness Name

Signature

Print Name

Title (Sole Proprietor or Partner)

Post Office Address:

County in which fictitious name is registered.

Telephone Num.

ITB SIGNATURE PAGE FOR CORPORATION

ITB No. 2022-001

North Bay Village Baywalk Plaza Area North - Phase 1

The officers of the corporation are as follows:

	<u>Name</u>	<u>Address</u>
President	_____	_____
Vice-President	_____	_____
Secretary	_____	_____
Treasurer	_____	_____
Registered Agent	_____	_____

The full names and residences of stockholders, persons, or firms interested in the foregoing ITB, as principals, are as follows:

Post Office Address

Bidder

Corporate Name

President's Signature

Is this corporation in the State of Florida?

_____ Yes _____ No

Attest:

Secretary

If no, give address of principle place of business:

APPENDIX C

ITB 2022-001 TECHNICAL SPECIFICATIONS (separate volume)

APPENDIX D

ITB 2022-001 PLAN SET (separate volume)

APPENDIX E

ITB 2022-001 DERM Approved Drainage Well Plans
for FDEP Well Construction Application
(separate volume)