Contract Bidding Documents

COURT STREET ROADWAY IMPROVEMENTS

City of Wauchula
126 South 7th Avenue
Wauchula, Florida 33873

FPID 447959-1-54-01

Mandatory Pre-Bid Meeting:
Date: December 2, 2026
Time: 10:30 AM
Location: City of Wauchula Commission Chamber
225 East Main Street, Suite 105
Wauchula, Florida 33873

Sealed Bids Due:
Date: December 17, 2026
Time: 2:15 PM
Location: City of Wauchula Administration Building
126 South 7th Avenue
Wauchula, Florida 33873

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DIVISION 1:
INSTRUCTIONS TO BIDDERS

INVITATION FOR BID

Sealed Bids will be received by the City of Wauchula located at 126 South 7th Avenue, Wauchula, Florida 33873, until 2:15 PM local time on December 17, 2026. Bids received after said time will be returned unopened. The Bidder shall be solely responsible for delivery of their Bid. Reliance upon mail or public carriers is at the Bidder's risk.

The principal features of the Work are:
1. Demolition of Approximately 350 LF of existing roadway on Court Street
2. Select demolition and reconstruction of concrete curb and gutter, sidewalk, driveways, and ramps.
3. Approximately 350 LF of full depth road reconstruction on Court Street
4. Striping and signage

The Contract(s) awarded under this Solicitation will be funded by the Florida Department of Transportation and are subject to requirements listed in the FDOT agreements attached.

Plans and specifications are on file for inspection at the City of Wauchula Administration Building located at 126 South 7th Avenue, Wauchula, Florida 33873.

The Bidder is solely responsible for obtaining the Bid Documents. An electronic version of the Bid Documents may be downloaded from the City of Wauchula website at the following https://www.cityofwauchula.gov/home/news/itb-25-02-alabama-street-roadway-improvements

Sealed Bids shall reference the following on the outer envelope:

SEALED BID: BIDDER'S NAME AND ADDRESS
CITY OF WAUCHULA – COURT STREET ROADWAY AND DRAINAGE IMPROVEMENTS –
FPID 447959-1-54-01

All Bids shall be publicly opened, read aloud and recorded at 2:15 PM local time on December 17, 2026 in the City of Wauchula Administration Building, 126 South 7th Avenue, Wauchula, Florida 33873.

Mandatory Pre-Bid Meeting: All interested Bidders must attend the entire meeting. Bidders not attending the Pre-Bid Meeting will have their Bids returned unopened. The Pre-Bid meeting will be held at 10:30 AM local time on December 2, 2026 in the City of Wauchula Commission Chamber, 225 East Main Street, Suite 105, Wauchula, Florida 33873.

Questions: All questions regarding this Invitation for Bid shall be submitted in writing and delivered to Stephanie Camacho, City Clerk, City of Wauchula, 126 South 7th Avenue, Wauchula, FL 33873, or via email: scamacho@cityofwauchula.com.

The Owner's Procurement Representative is Stephanie Camacho, and may be contacted via email at scamacho@cityofwauchula.com

SECTION 1.1: GENERAL INSTRUCTIONS TO BIDDERS

1.1.1 Defined Terms in the Instructions to Bidders

A. The words and terms defined in DIVISION 3: TERMS AND CONDITIONS are hereby incorporated by reference into this part.

1.1.2 Minimum Qualifications for Eligibility to Bid

A. Receipt of this Solicitation and other Bid and Contract related documents from the Owner or its designated representatives does not constitute the Owner's approval of the Bidder's qualifications.

B. Bidders shall have the following minimum qualifications to be considered eligible to bid in response to this Solicitation. It is the responsibility of the Bidder to ensure and certify that it meets the minimum qualifications. Bidders not meeting all of the following criteria will not have their Bids considered for Award.

1. Bidder shall be a licensed contractor in the State of Florida, in accordance with Chapter 489, *Florida Statutes*.

2. Bidder shall have been in the business of performing projects of the same scope for at least the past five (5) years.

3. Bidder shall demonstrate that it has successfully completed at least three (3) projects of similar scope and scale to the Work described herein, for at least two (2) different Florida government agencies within the past five (5) years. Bidder shall submit names and contact information for each referenced project. Factors the Owner may consider to make a determination of the Bidder's eligibility under this criterion include but are not limited to:

   a. The Bidder's ability to perform work in a satisfactory manner as evidenced by the Bidder's past performance on other projects performed for the Owner, and

   b. The Bidder's past performance of satisfactory work as evidenced by project descriptions submitted for three stated projects as part of the Bid and the Owner's verification of associated references; and

   c. The Bidder's past performance as evidenced by any other information the Owner gathers or obtains during the Bid review process, including but not limited to information included on the Bidder's Qualifications questionnaire.

5. Bidder shall submit names and contact information for each and every project it has performed for Florida city or county governments within three (3) years of submittal of its bid.

6. The Owner reserves the right to seek additional information on a Bidder's qualifications and performance from all, some, or none of the references disclosed in a bid submission.

C. The Bidder certifies, under penalty of perjury, that it holds all licenses, permits, certifications, insurances, bonds and other credentials required by law, Contract or practice to perform the Work. The Bidder also certifies that, upon the prospect of any change in the status of applicable licenses, permits, certifications, insurances, bonds or other credentials, the Bidder shall immediately notify the Owner of the change.

1.1.3 Bid Security

A. Each Bid is to be accompanied by a Bid Security made payable to the Owner in an amount at least equal to five (5) percent of the Bidder's maximum Bid Price and in the form of a Certified Check or Bid Bond. Failure to furnish the required Bid Security will disqualify the Bid.

1.1.4 Minority and Women's Business Enterprise Goals

A. DIVISION 4: SUPPLEMENTAL CONDITIONS states the goals of Minority Business Enterprise (MBE) participation and Women's Business Enterprise (WBE) participation in the Work. The Bidder is expected to fully comply with the requirements for MBE and WBE participation as stated in DIVISION 4: SUPPLEMENTAL CONDITIONS of this document. Failure to comply with these requirements will disqualify the Bid.

1.1.5 Notice of Liquidated Damages

A. In the event a Contract is awarded as a result of this Solicitation, the Contract will be subject to liquidated damages as set forth in DIVISION 3: TERMS AND CONDITIONS.

1.1.6 Florida Trench Safety Act

A. The Bidder shall complete and submit with its Bid the Florida Trench Safety Act Acknowledgment form, in accordance with Section 553.60, *Florida Statutes, et. seq.*, when the Work includes trench excavations that exceed five (5) feet in depth and as written assurance that the Bidder shall comply with all applicable trench safety standards, laws, rules and regulations during performance of any Work awarded from this Solicitation.

1.1.7 Subcontractors

A. The Bidder shall supply with their Bid a list of all Subcontractors and Suppliers that it intends to use for the Work. The Successful Bidder shall not be permitted to use Subcontractors and Suppliers other than those shown in the Bid unless good cause is shown and prior written consent is obtained from the Owner.

B. If the Bidder plans to use a single Subcontractor or Supplier to perform over 50% of the Work, the Bidder shall obtain the Owner's approval prior to the opening of Bids. Failure to obtain the Owner's approval will disqualify the Bid.

C. Bidder's choice of subcontractors or subconsultants must be approved by the Owner. While the Owner shall have the right to approve or reject each subcontractor or subconsultant, such approval shall not be unreasonably withheld.

D. The Bidder may not use as a Subcontractor or Supplier, any Bidders that were rejected in the Bid process due to incomplete status or unqualified Bids.

1.1.8 Payment and Performance Bonds

A. As stated in DIVISION 3: TERMS AND CONDITIONS of the Contract Documents, the successful Bidder shall be required to furnish a Payment Bond and a Performance Bond in accordance with Section 255.05, *Florida Statutes* prior to the start of any Field Work.

1.1.9 Estimated Quantities Provided for Bidding Reference

A. The Bidder understands and agrees that the Owner's estimated Contract amounts shall not obligate the Owner in any way to issue Purchase Orders under the Contract of this amount, or any amount of Work under the Contract. The Owner may, at its sole discretion, issue Purchase Orders under the Contract totaling more or less than the estimated amounts, or may award the Contract, and is under no obligation to issue any Purchase Orders under the Contract. In the event that quantities change after Award, the changes to price and/or scope shall be made in accordance with the terms and conditions stated in the Contract Documents.

B. Any item not shown on the Bid Form, but that is shown in the Drawings or Technical Specifications section, that is required to perform the Work, or that is required as part of a complete and operable system, shall be included in the Bid Price.

1.1.10 Existing Site Conditions & Technical Data

A. Where the Bidder visits sites, no Work or other disturbance is to be performed while at the site without written permission by the Owner in advance of the site visit. The Bidder shall comply with all safety requirements described in the Bid Documents and the Owner may require the Bidder to show proof of a minimum of $1 million of general liability insurance.

B. No reports of Hazardous Materials at the Site are known to the Owner or the Engineer, unless disclosed in the specifications.

C. In the preparation of Drawings and Technical Specifications, the Engineer relied upon the following drawings of physical conditions in or relating to existing surface and subsurface structures (except Underground Facilities) which are at or contiguous to the Site:

1. Topographical Survey provided by D.C. Johnson Associates, Dated 11/23/2022 and revised 10/02/2023.

D. Copies of the reports (and drawings) itemized above that are not included with the Bid Documents may be examined at Kimley-Horn and Associates, Inc. located at 109 North Kentucky Avenue, Lakeland, FL 33801 during regular business hours. These reports (and drawings) are not part of the Contract Documents but comprise additional "technical data" upon which the Bidder may rely as identified and established.

E. The Bidder is solely responsible for obtaining and verifying all technical data necessary to submit its Bid.

1.1.11 Pre-Bid Clarifications & Addenda

A. All questions regarding the Bid Documents must be submitted to the Procurement Representative identified in the Solicitation no later than ten (10) business days prior to the Bid Opening date. The Bidder shall promptly give the Owner written notice of any errors, conflicts or ambiguities it discovers in the Bid Documents.

B. If the Bidder objects in any manner to the Terms and Conditions or Technical Specifications, the objection must be addressed in writing no later than ten (10) business days prior to the Bid Opening Date. The Owner will address the objection in an Addendum if the Owner believes that a clarification or change is necessary.

C. The Owner may issue Addenda prior to the opening of Bids to change or clarify the intent of the Bid Documents. The Owner will issue written responses to questions and requests for clarifications received by the stated deadline in the form of Addenda and will distribute Addenda to all Bidders who have attended the Pre-Bid Meeting and provided acceptable contact information.

D. The Bidder shall be responsible for ensuring it has received all Addenda prior to submitting its Bid and shall acknowledge receipt of all Addenda by completing the Bidder's Representation section on the Bid Form in DIVISION 5: FORMS. All Addenda will become part of the Bid Documents and any resulting Contract Documents. Failure to acknowledge receipt of Addenda may be grounds for rejection of a Bid at the Owner's sole discretion.

1.1.12 Completing the Bid Form

A. Bidders shall complete and submit the enclosed Bid Form with responses typewritten or written in ink. When a blank is marked "optional", the Bidder shall insert the words "No Bid" in the space provided if the Bidder does not choose to submit a price for that item.

B. Failure to complete each blank with either a price or the words "No Bid" may disqualify the Bid. Failure to submit a Bid that addresses all parts of the Work may disqualify the Bid.

C. The Bidder, or its authorized agent or officer of the firm, shall sign the Bid Form. Failure to sign the Bid Form may disqualify the Bid.

D. Owner-approved erasures, interlineations or other corrections shall be authenticated by affixing in the margin, immediately opposite the correction, the handwritten signature of each person executing the Bid. Failure to authenticate changes may disqualify the Bid.

E. The Owner will review the Bids to determine that they meet the specifications set for the Work in the Bid Documents. The Owner may disqualify any Bids that deviate from the requirements of this Solicitation, and those that include unapproved exceptions, amendments, or erasures.

F. Failure to complete and submit all additional forms and documentation required in the Bid Documents to accompany the Bid Form may disqualify the Bid.

1.1.13 Modification or Withdrawal of Bids

A. The Bidder may modify or withdraw its Bid at any time prior to the advertised Bid Opening by giving written notice to the City of Wauchula, 126 South 7th Avenue, Wauchula, Florida 33873. The Owner shall not accept any modifications to Bids after the advertised Bid Opening. The Bidder shall not withdraw its Bid for a period of 120 calendar days following the advertised Bid Opening.

1.1.14 Submitting the Bid Documents

A. The Bidder shall submit its Sealed Bid in response to this Solicitation no later than the Bid Due Date and Time stated in the Invitation for Bid, or as may be subsequently amended via Addenda. The Bid shall be sealed and the envelope clearly marked with the title stated in the Invitation for Bid and the Bidder's name and address. The Sealed Bid may be enclosed in another mail or courier service package.

B. The Bidder shall submit one (1) original Bid and two (2) duplicates of the original Bid.

C. All Bids must be received at the location and by the date and time stated in the Invitation for Bid, or as may be subsequently amended via Addenda. The Bids from all Bidders will be publicly read at the date and time advertised for the Bid Opening. Bids arriving after the advertised Bid Opening date and time and/or at an incorrect location will be returned to the Bidder unopened. Reliance upon third-party courier or delivery service is at the Bidder's risk.

D. All information marked by the Owner or the Bidder as "Confidential Information" that is included in the Solicitation or that is submitted by the Bidder as part of its Bid shall be handled in accordance with the terms and conditions stated in DIVISION 3: TERMS AND CONDITIONS.

1.1.15 Opening of Bids

A. The Owner will open Bids at the date, time and location stated in the Invitation for Bid, or as may be subsequently amended via Addenda. At the Bid Opening, the Owner will publicly open and read each Bid that was received prior to the advertised deadline for bid submissions, except those that have been properly withdrawn.

B. The Owner has the right to waive any irregularities or informalities in the Bids.

C. Copies of all Bids will be available for public inspection ten (10) business days after the Bid Opening date. Bidders may review opened Bids by contacting the designated Owner Representative to arrange a mutually convenient time for such review at the Owner's offices.

1.1.16 Basis of Award

A. The Owner will use the Bidder's base bid when making price comparisons for Award purposes.

B. The Owner will consider alternate Bids only if the Bidder submits a base Bid in accordance with the Bid Documents. The Owner will review alternates on the Bid Form, and will reject or accept at the Owner's sole discretion.

1.1.17 Award

A. The Owner will Award the Contract to the lowest, qualified, responsive, and responsible Bidder whose Bid meets or exceeds specifications, in accordance with the Contract Documents. The Owner reserves the right to reject any/all Bids, in whole or in part, as deemed to be in the Owner's best interest, including for negative performance evaluations, reviews, or references received by the Owner, its Engineer, or Representatives during the course of its review process.

1.1.18 Notice of Award

A. The Owner intends to Award one Contract for as many items as possible to achieve maximum benefit from this Contract. The Owner may Award more than one Contract, based on certain groupings of items, which the Owner may revise or reorganize, or the Owner may exclude line items if in its best interest. In the event the Owner makes an award as a result of this Solicitation, the Owner will issue a Notice of Award, in writing and signed by an authorized Owner's Representative as notice to the Bidder that the Owner has deemed it the successful Bidder.

B. The Notice of Award will be accompanied by relevant Contract Documents for execution. Unless expressly waived by the Owner, the Successful Bidder shall execute a Contract for the Work in a form acceptable to the Owner within the timeframe stated on the Notice of Award. If the Bidder fails to execute the Contract Agreement form or associated

documents, or to obtain the necessary bonds, licenses or insurances as required, or if it fails to act on an Owner-issued Purchase Order ("PO"), the Owner may cancel the Award with no further liability to the Bidder, retain the Bid Security, and Award to the next lowest qualified, responsive, and responsible Bidder.

C. Upon receipt of the completed documents, the Owner will execute the Contract Documents and issue the Contractor one fully executed original copy. No other Owner action shall constitute acceptance of the Bid.

1.1.19 Notice to Proceed

A. Upon receipt of the executed Contract, the required Payment Bond, Performance Bond, and compliant Certificate of Insurance, the Owner will issue a Notice to Proceed in writing and signed by an authorized Owner's Representative as authorization for the Contractor to proceed with the Work, unless otherwise stated in the Contract.

B. In the event that the Owner intends to authorize the Successful Bidder to proceed with Administrative Work only, or with only a portion of the Work, then the Owner shall state the specific limitations of such authorization in a written notice, and the Owner will issue a separate Notice to Proceed to authorize the Contractor to begin Field Work, when applicable, or to perform the remainder of the Work, or any portion thereof. The Contractor shall ensure that it is prepared to begin Field Work upon receipt of the Notice to Proceed. Any Work performed outside of this partial authorization shall be at the Contractor's risk and the Owner shall have no obligation to pay for such Work.

1.1.20 Certification and Representations of the Bidder

A. By signing and submitting a Bid, the Bidder certifies and represents as follows:

1. That it has carefully examined all available records and conditions, including sites if applicable, and the requirements and specifications of these Bid Documents, including but not limited to all sample Contract Documents, Technical Specifications, Drawings, exhibits and attachments thereto, prior to submitting its Bid.

2. That every aspect of its submitted Bid, including the Bid Price and the detailed schedule for the execution of the Work, are based on its own knowledge and judgment of the conditions and hazards involved, and not upon any representation of the Owner. The Owner assumes no responsibility for any understanding or representation made by any of the Bidder's representatives during or prior to execution of the Contract unless such understandings or representations are expressly stated in the Contract and the Contract expressly provides that the Owner assumes the responsibility.

3. That the individual signing the bid is a duly authorized agent or officer of the submitting firm. Bids submitted by a corporation must be executed in the corporate name by the President or a Vice President. If an individual other than the President

or a Vice President signs the bid, satisfactory evidence of authority to sign must be submitted with the bid. If the bid is submitted by a partnership, the bid must be signed by a partner whose title must appear under the signature. If an individual other than a partner signs the bid, satisfactory evidence of authority to sign must be submitted with the bid. The corporation or partnership must be in active status at the Florida Division of Corporations at the time of submission of the Bid.

4. That the submitting Bidder maintains in active status any and all licenses, permits, certifications, insurance, bonds and other credentials including not limited to contractor's license and business registration tax necessary to perform the Work. The Bidder also certifies that, upon the prospect of any change in the status of applicable licenses, permits, certifications, insurances, bonds or other credentials, the Bidder shall immediately notify the Owner of any change.

5. That it has read, understands and will comply with the Article 1.1.22 of this section entitled "Ethics."

1.1.21 Conflict of Interest

A. Any Bidder bidding the construction phase of a project cannot at the time of Bid submittal, be affiliated with or have any direct or indirect ownership interest in the architect/engineer ("Designer') of record. The Bidder will also be prohibited from bidding if the Designer has any direct or indirect ownership interest in the Bidder. Should the Owner erroneously award a contract in violation of this policy, the Owner may terminate the contract at any time with no liability to Contractor, and Contractor shall be liable to the Owner for all damages, including but not limited to the costs to rebid the Project. The purpose of this policy is to encourage open, fair and competitive bidding and to eliminate any actual or perceived advantage that one bidder may have over another. In addition to this policy, Design Build projects are governed by the provisions of Section 287.055(9)(b), *Florida Statutes*.

1.1.22 Ethics

A. By signing the Bid Form, the Bidder certifies this Bid is made without any previous understanding, agreement or connection with any other person, firm, or corporation submitting a Bid for the same Work other than as a Subcontractor or supplier, and that this Bid is made without outside control, collusion, fraud, or other illegal or unethical actions. The Bidder shall comply with all Owner ordinances, policies and procedures regarding business ethics.

B. The Bidder shall submit only one Bid in response to this Solicitation. If the Owner has reasonable cause to believe the Bidder has submitted more than one Bid for the same Work, other than as a Subcontractor or Supplier, the Owner may disqualify the Bid and may pursue debarment actions.

C. The Bidder shall disclose the name(s) of any public officials who have any financial position, directly or indirectly, with this Bid by submitting such information with its Bid. Failure to do so will disqualify the Bid. If the Owner has reason to believe that collusion exists among the Bidders, the Owner will reject any and all Bids from the suspected Bidders and may proceed to debar the Bidder(s) from future Work.

D. In accordance with Section 287.133, *Florida Statutes* the Owner will reject Bids from any persons or affiliates convicted of a public entity crime as listed on the Convicted Vendors list maintained by the Florida Department of Management Services. The Owner shall not make an Award to any officer, director, executive, partner, shareholder, employee, member, or agent active in management of the Bidder listed on the Convicted Vendor list for any transaction exceeding $10,000 for a period of thirty-six (36) months from the date of being placed on the Convicted Vendor list.

E. If the Bidder violates any requirement of this Section, the Bid may be rejected and the Owner may debar the offending companies and persons from future Work with the Owner.

1.1.23 Ex Parte Communication

A. Ex Parte Communication is strictly prohibited. Failure to adhere to this policy will disqualify the noncompliant Bidder's Bid. The Owner's policy on Ex Parte Communication will not prohibit the following:

1. Meetings called or requested by the Owner and attended by the Bidders for the purpose of discussing this Solicitation, evaluation, or selection process including, but not limited to, substantive aspects of the Solicitation. Such meetings may include, but are not limited to, Pre-Bid meetings, site visits to the Owner's or the Bidders' facilities, interviews/negotiation sessions as part of the selection process, and other presentations by the Bidders, all of which are requested by the Owner and will be limited to topics specified by the Owner.

2. The addressing of the Owner at public meetings advertised and conducted pursuant to Section 286.011, *Florida Statutes*.

3. The filing of a written protest to any proposed Award to be made pursuant to this Solicitation, evaluation and selection process, which filing and prosecution shall give notice to all Bidders. Protest proceedings shall be limited to open public meetings advertised and conducted pursuant to Section 286.011, *Florida Statutes* with no Ex Parte Communication outside those meetings.

4. Communications between the Owner representatives and the Bidder for routine matters arising from procurements other than this Solicitation.

5. Written communication between potential Bidders and the Engineer provided copies of written communications are provided to all Bidders.

1.1.24 Prohibition Against Contingent Fees

A. The Bidder warrants that it has not employed or retained any company or person, other than a bona fide employee working for the Bidder, to solicit or secure a contract with the Owner, and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Bidder, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the Award or making of the Contract. For the breach or violation of these provisions, the Owner shall have the right to disqualify the Bid and pursue debarment or terminate the Contract without liability and at its discretion, to deduct from the Contract Price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

1.1.25 Protest of Bid and Award Process

A. Bidders shall file any protests regarding this Solicitation in writing, and shall submit such to the Owner's Procurement Representative noted on the Solicitation no later than three (3) business days following the event giving rise to the protest. Failure to submit a written protest within the timeframe herein will constitute a waiver of the right to pursue a protest.

B. The written protest shall include at minimum the following information:

1. Project or bid number of the solicitation protested;

2. Title of solicitation protested;

3. Specific identification of issue(s) protested; and

4. Requested action for correction.

C. The Owner's Procurement Representative will review the submitted information to ensure completeness and submit the issue to a committee comprised of the Owner's designated Project Manager for the Work, the City Manager and Public Works Director ("Protest Committee").

D. The Protest Committee will review the protest and may request a presentation by the Bidder of the protested issue. The Protest Committee will issue a written decision within fourteen (14) calendar days of receipt of the written protest.

1.1.26 Owner's Reservations

A. The Bid Documents provide potential Bidders with information to enable the submission of written offers. The receipt of Bid Documents is not a contractual offer or commitment by the Owner to purchase products or services.

B. Bids and Bid Prices shall be warranted for a period of one-hundred twenty (120) days following the opening of Bids, and no Bid may be withdrawn during such time period.

C. The Owner reserves the right to reject any or all Bids, or any part thereof, and/or to waive irregularities or informalities if such action is in its best interest. The Owner may reject any Bids that it deems incomplete, obscure or irregular including, but not limited to, Bids that omit a price on any one or more items for which prices are required, Bids that omit Unit Prices if Unit Prices are required, Bids for which the Owner determines that the Bid is unbalanced, Bids that offer Equal Items when the option to do so has not been stated, Bids that fail to include a bid bond, where one is required, and Bids from Bidders who have previously failed to satisfactorily complete Contracts of any nature for the Owner, or who have been the subject of negative performance evaluations, reviews, ratings, or references.

D. The Owner reserves the right to cancel, postpone, modify, reissue and amend this Solicitation at its discretion. The Owner reserves the right to cancel or change the date and time of the bid opening at any time prior to the advertised time.

E. The Owner may Award the Contract in whole or in part. In such cases whenever the Owner exercises any of these reservations, the Owner will make a reasonable effort to notify, in writing, all parties to whom Bid Documents were issued. The Owner may award multiple or split Contracts if it is deemed to be in the Owner's best interest.

1.1.27 Documents and Forms Included in the Bid Documents

A. The reference to and/or inclusion of the Contract Documents and other Contract related forms in the Bid Documents shall in no way be construed as an Award of the Work, or any portion thereof, or as an intention to award the Work. The Owner reserves the right to alter, amend or delete any portion of these forms, to exclude any form, or to require additional forms not listed herein prior to execution of the Contract Documents.

SECTION 1.2: REQUIRED FORMS TO SUBMIT WITH BID

1.2.1 Bid Forms

A. To submit a Bid in response to this Solicitation, all of the following forms must be completed and submitted as part of the Bid. Copies of the forms are contained in the Bid Documents. Additional copies may be requested by contacting the Owner.

1. Bid Form (form included in DIVISION 5: FORMS)
2. Bid Security (form included in DIVISION 5: FORMS)

3. Bidder’s Qualifications and supporting information (form included in DIVISION 5: FORMS)

4. Bidder's Statement of Disputes, Litigation, Arbitration, and Surety Completion, Last Three (3) Years (form included in DIVISION 5: FORMS)

5. Drug-Free Workplace Certificate (form included in DIVISION 5: FORMS)

6. Florida Trench Safety Act Acknowledgement (form included in DIVISION 5: FORMS)

7. Non-Collusion Affidavit (form included in DIVISION 5: FORMS)

8. Public Entity Crimes Statement (form included in DIVISION 5: FORMS)

9. Tabulation of Subcontractors and Suppliers (form included in DIVISION 5: FORMS)

10. Evidence of authority to do business in the State of the Project; or a written covenant to obtain such license within the time for acceptance of Bids;

    Contractor's License No.: _____.

11. Project descriptions submitted for three stated projects as part of the Bid and the Owner's verification of associated references; and

12. Names and contact information for each and every project Bidder has performed for Florida city or county governments within three (3) years of submittal of its bid.

[END OF SECTION]

DIVISION 2:
AGREEMENT

This Agreement is made and entered into on _____ ("Effective Date"), by and between THE CITY OF WAUCHULA, a Florida municipality located at 126 South 7th Avenue, Wauchula, Florida 33873 ("Owner") and _____, a [STATE OF INCORPORATION] corporation with principal offices at _____ [ADDRESS OF CONTRACTOR] ("Contractor").

Whereas, the Owner owns and maintains Court Street ("Court"); and

Whereas, the Owner has been awarded state funding through FDOT's Small County Outreach Program to resurface Court Street; and

Whereas, the Owner issued an Invitation for Bid and all associated Bid Documents for the Work titled "City of Wauchula – Court Street Roadway Improvements," and;

Whereas, pursuant to section 287.05701, Florida Statutes, the Owner is prohibited from, and has not requested documentation of or considered, any vendor's social, political, or ideological interests when determining whether the vendor is a responsible vendor. Moreover, the Owner has not given preference to any vendor based on the vendor's social, political, or ideological interests; and

Whereas, the Contractor submitted a Bid in response to such Work, which was opened and accepted by Owner on _____, 2026, and;

Whereas, the Contractor represents it is capable and prepared to perform such Work as set forth in Invitation to Bid; and

Whereas, the Owner has determined that the Contractor's Bid is the lowest responsive and responsible Bid for the Work and has issued the Contractor a Notice of Award to such effect;

Therefore, the Owner and the Contractor, in consideration of the mutual covenants hereinafter set forth, agree as follows:

SECTION 2.1: WORK

2.1.1 Completion of Work

A. Contractor shall complete all Work as specified or indicated in the Contract Documents. Contractor's scope of services on the Work shall not substantially differ from Contractor's Bid unless agreed to in writing by the Parties or as otherwise The principal features of the Work are described as:

1. Demolition of Approximately 350 LF of existing roadway on Court Street
2. Select demolition and reconstruction of concrete curb and gutter, sidewalk, driveways, and ramps.
3. Approximately 350 LF of full depth road reconstruction on Court Street
4. Striping and signage

SECTION 2.2: CONTRACT PRICE

2.2.1 Contract Price

A. The Contractor shall perform the work for a not-to-exceed Contract Price of _____ [CONTRACT PRICE], or as may be amended in accordance with the Contract Documents, subject to the availability of lawfully appropriated funds.

2.2.2 Quantities

A. The Contract Price includes the Contractor's Bid Price. For items of the Work that are Unit Price, the prices shown on the Bid Form shall be used in determining the final Contract Price. As stated in the Bid Documents, estimated quantities provided on the Bid Form by the Owner are not guaranteed quantities. Actual quantities used in the Work may vary.

B. Regularly during the Work, and upon the Owner's review of the Final Application for Payment, the Owner, or its designated representative, will determine actual quantities used in the Work, and the Owner may issue a Change Order if required to alter the Contract Price.

SECTION 2.3: CONTRACT TIME

2.3.1 Time of the Essence

A. All time limits for Milestones, if any, Substantial Completion, and Final Completion and readiness for final payment as stated in the Contract Documents are of the essence.

B. As further stated in Section 3.19.20 below, the Owner's agreement to an extension of any applicable deadline for Milestones, if any, Substantial Completion, or Final Completion, among any other deadlines provided herein, shall not constitute a waiver of the Owner's right to enforce the Contractor's compliance with other deadlines as provided herein, nor shall the Owner's failure to enforce compliance with any particular deadline or event operate as acquiescence or waiver of the Owner's right to enforce the Contractor's compliance with other such deadlines.

2.3.2 Days to Achieve Substantial Completion and Final Payment

A. The Work will be required to have reached Substantial Completion within **180** calendar days after the issuance of the Notice to Proceed, and completed and ready for final payment in accordance with the Contract Documents within **210** calendar days after the date when the Contract Time commences to run.

SECTION 2.4: CONTRACT ROLES AND RESPONSIBILITIES

The Owner and the Contractor may alter or amend the individuals named herein, or name additional representatives, by promptly providing written notice to the other party of any changes.

The following individuals shall have the responsibilities set forth in the Contract Documents for their respective roles:

2.4.1 Contract Administrator:

Name: Olivia Minshew, City Manager
Agency/Company: City of Wauchula
126 South 7th Avenue
Wauchula, FL 33873
(863) 773-3131

2.4.2 Project Engineer:

Name: Justin Ham, PE
Agency/Company: Kimley-Horn and Associates, Inc.
109 North Kentucky Avenue
Lakeland, FL 33801
(863) 701-8702

2.4.3 Grant Administrator:

Name: [IF APPLICABLE]
Agency/Company: [IF APPLICABLE]

2.4.4 Contractor's Representative:

Name: [TO BE COMPLETED BY OWNER PRIOR TO EXECUTION]
Agency/Company: [TO BE COMPLETED BY OWNER PRIOR TO EXECUTION]

2.4.5 Contractor's Supervisor:

Name: [TO BE COMPLETED BY OWNER PRIOR TO EXECUTION]
Agency/Company: [TO BE COMPLETED BY OWNER PRIOR TO EXECUTION]

SECTION 2.5: CONTRACT DOCUMENTS

2.5.1 Contents

A. The following shall comprise the Contract Documents. The Owner shall generally consider this order of precedence in resolving any conflicts, errors or discrepancies:

1. Executed Amendments, Change Orders and Work Change Directives
2. This executed Agreement
3. Addenda to the Bid Documents
4. Florida Department of Environmental Protection Supplementary Conditions
5. Terms and Conditions and Supplemental Conditions, including the following Exhibits and Attachments thereto

6. Notice of Award

7. Notice to Proceed

8. Payment Bond and Performance Bond

9. Owner issued Purchase Orders

10. Owner's Technical Specifications, Drawings, Plans, Exhibits and Attachments

11. Contractor's Bid in response to the Invitation for Bid, including the Bid Form

B. The figure dimensions on drawings shall govern over scale dimensions. Contract and detailed drawings shall govern over general drawings. The Contractor shall perform any Work that may reasonably be inferred from the Contract as being required, whether or not it is specifically called for, at no additional cost to the Owner. Work, materials or equipment described in words that, so applied, have a well-known technical or trade meaning shall be taken as referring to such recognized standards.

C. By signing the Agreement, the Contractor represents that it has carefully examined the Contract Documents and agrees to perform the Work in accordance with the Contract Documents, as may be amended from time to time.

SECTION 2.6: NOTICES AND CORRESPONDENCE

2.6.1 Transmission Method

A. All notices required or permitted under this Contract shall be in writing and shall be deemed received if sent by one of the following means: upon receipt if delivered by hand; one day after being sent by an express courier with a reliable system for tracking delivery; three days after being sent by certified or registered first class mail, postage prepaid and return receipt requested; or upon confirmed facsimile transmission provided that a copy shall be sent by another of the foregoing means.

B. All notices shall be addressed by a party to the other party as indicated below. Either party may change its address from time to time upon prior written notice to the other specifying the effective date of the new address.

Owner
Attention: Olivia Minshew, City Manager
Address: City of Wauchula
126 South 7th Avenue
Wauchula, FL 33873

Contractor

Attention: [TO BE COMPLETED BY OWNER PRIOR TO EXECUTION]
Address: [TO BE COMPLETED BY OWNER PRIOR TO EXECUTION]

IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed this Agreement in triplicate on the Effective Date first stated above.

OWNER	**CONTRACTOR**
By _____	By _____
Date _____	Date _____
(Corporate Seal)	(Corporate Seal)
_____	_____
Attest	Attest

[END OF SECTION]

DIVISION 3:
TERMS AND CONDITIONS

SECTION 3.1: DEFINED TERMS

3.1.1 Definitions

A. Words and terms defined in this section shall have the same meaning throughout all parts of the Contract Documents and this Solicitation. Where intended to convey the meaning consistent with that set forth in its definition, a defined word or term is marked by initial capitalization. DIVISION 6: TECHNICAL SPECIFICATIONS may define additional words and terms where necessary to clarify the Work. Unless otherwise stated in the Contract Documents, definitions set forth in DIVISION 6: TECHNICAL SPECIFICATIONS shall apply only within DIVISION 6: TECHNICAL SPECIFICATIONS.

1. Addendum/Addenda: A change or changes to the Solicitation issued in writing by the Owner and incorporated into the Solicitation and Contract Documents.

2. Administrative Work: Actions primarily performed in an office environment and associated with preparing to perform or administer the Work including, but not limited to, preparing Work schedules, obtaining bonds, executing Contracts, securing resources and other actions specified in the Bid Documents, or otherwise prudent to ensure a timely, safe and otherwise compliant start and performance of Field Work. Administrative Work is not performed at the Work Location.

3. Application for Payment: A document seeking payment to Contractor from Owner for all or a portion of the Work, in accordance with the Contract Documents, and including at a minimum the following items: the Contractor name and address, a description of the product(s) or service(s) rendered, a valid Owner PO number, the amount payable, the payee name and address, any associated forms and any other supporting documentation required by the Contract Documents.

4. Approved Schedule: The approved progress schedule for performance of the Work approved by the Owner or the Owner's Representative, as most recently amended.

5. Bid Documents/Bidding Documents: The documents titled Instructions to Bidders, the Invitation for Bid, the Bid Form, all sample forms to be included in the Bidder's Bid, the sample Contract Documents, including Technical Specifications and forms included to provide the Bidder with a complete understanding of the Work requirements, excluding any technical data or test results that are provided as additional information regarding Work Location conditions.

6. Bid or Proposal: The document, including all forms and information, describing the Bidder's offer and submitted in response to this Invitation for Bids. Bid and Proposal shall be considered synonymous for the purpose of this Contract.

7. Bid Price: The total dollar amount of the Bidder's offer including, but not limited to, all labor, materials, overheads, profits, other expense, and any and all other cost

items incurred by the Bidder in successfully performing the Work in accordance with the Contract Documents.

8. Bidder: The respondent to this Solicitation.

9. Bond: A financial mechanism to guarantee a contractual obligation.

10. Change Order: A written order issued by the Owner after execution of the Contract to the Contractor, as may be recommended by the Engineer, signed by the Owner and authorizing an addition, deletion, or revision of the Work, or an adjustment in the Contract Price or the Contract Time. An executed Change Order resolves all issues related to price and time for the work included in the Change Order.

11. Contract: The Agreement for the Work executed by the Owner and Contractor as included in these Contract Documents.

12. Contract Administrator: The individual assigned by Owner, who is an employee of the Owner, to have authority over the Contract, including the authority to negotiate all elements of the Contract with the Contractor, authorize Change Orders within the maximum amount awarded, terminate the Contract, seek remedies for nonperformance including termination, and otherwise act on behalf of the Owner in all matters regarding the Contract. The Contract Administrator may authorize an Engineer and/or other Owner's Representative in writing to make minor changes to Field Work with the intent of preventing Work disruption.

13. Contract Documents: Contract Documents means the documents set forth in the executed Agreement form.

14. Contract Price: The total amount payable to the Contractor under the Contract, as set forth in the Agreement form, as most recently amended.

15. Contract Time: The number of calendar days or the period of time from when the written Notice to Proceed is issued to the Contractor to the date Contractor has agreed to complete the Work, as stated in the Agreement form, as most recently amended.

16. Contractor: The legal person, firm, corporation or any other entity or business relationship with whom the Owner has executed the Contract. Where the word "Contractor" is used it shall also include permitted successors and assigns.

17. Contractor Representative: The individual responsible for representing the Contractor in all activities concerning the fulfillment and administration of the Contract.

18. Contractor Supervisor: The individual employed or contracted by the Contractor to manage the Work on a day-to-day basis and ensure the Work is performed according

to the Contract. The Contractor Supervisor may be authorized by the Contractor Representative to act on Contract matters. Such authorization shall be in writing and delivered to the Engineer and shall clearly state the limitations of any such authorization. In the event that the Contractor Supervisor and the Contractor Representative is the same person, the Contractor shall notify the Engineer of such situation.

19. Defect or Defective: When used to modify the "Work," whether in lowercase or uppercase, Work that fails to meet the requirements of any required test, inspection or approval, and any Work that meets the requirements of any test or approval, but nevertheless does not meet the requirements of the Contract Documents.

20. Engineer: The individual assigned by the Owner (either an employee or a third party), who is a licensed professional engineer in the State of Florida, to provide engineering, design review, and/or construction management including, but not limited to, overseeing and resolving engineering/design issues with the Engineer for the Work, and conveying the Owner's instructions to the Contractor.

    The Engineer's authority includes interpreting the technical portion of the Contract Documents, deciding on matters relating to the execution and progress of the Work and evaluating the Contractor's performance. The Engineer may stop the Work when deemed necessary by the Owner. The Engineer will receive and adjudicate any claim of ambiguity or error in the technical portion of the Contract Documents and shall reduce any determination to writing, and shall make a recommendation to the Owner. The Engineer is not a party to the Contract. The Engineer has no authority to approve changes to the Contract Price or Contract Time, or to commit the Owner to any expenditure of money except as expressly designated in writing by the Contract Administrator.

    The Engineer is also the Project Manager or Project Engineer.

21. Environmental Requirements: All laws, ordinances, statutes, codes, rules, regulations, agreements, judgments, orders, and decrees, now or hereafter enacted, promulgated, or amended, of the United States, the states, the counties, the cities, or any other political subdivisions in which the Work Location is located, and any other political subdivision, agency or instrumentality exercising jurisdiction over the Owner, the Work Location, or the use of the Work Location, relating to pollution, the protection or regulation of human health, natural resources, or the environment, or the emission, discharge, release or threatened release of pollutants, contaminants, chemicals, or industrial, toxic or hazardous substances or waste or Hazardous Materials (as defined in this Contract) into the environment (including, without limitation, ambient air, surface water, ground water or land or soil).

22. Equal Item: Item a Bidder chooses to offer in place of offering the brand name or manufacturer's item specified on the Bid Document when the Bid Document clearly states that the Bidder may offer such an item.

23. Ex Parte Communication: Any communication pertaining to this Solicitation between a Bidder or protester (or their respective employees, agents, or representatives, or someone otherwise acting on behalf of Bidder) and the Owner (its members, employees, agents, and representatives other than the designated Owner representatives in the Solicitation), during the Solicitation period through the Contract Award, and/or from the initiation of a protest through Contract Award or through protest resolution.

24. Field Order: An order given by the Owner's Representative, in writing or orally, to direct progress of the Work. A Field Order may authorize only minor variations to the Work as needed to ensure progress, and does not authorize the Contractor to incur additional costs, change the Contract Price or Contract Time.

25. Field Work: Actions associated with meeting the requirements of the Contract other than Administrative Work. Field Work is primarily performed at the Work Location.

26. Final Acceptance: The Owner's written notice to the Contractor that all Work as specified in the Contract has been completed to the Owner's satisfaction. Approval or recognition of the Contractor meeting a milestone or interim step does not constitute Final Acceptance of the Work. Final Acceptance is only applicable to the entirety of Work as specified in the Contract. Final Acceptance does not in any way limit the Owner's rights under the Contract or applicable laws, rules and regulations.

27. Final Completion: The point in time after which the Owner has accepted the Work, in accordance with DIVISION 3: TERMS AND CONDITIONS and the Contractor has fulfilled all requirements of the Contract Documents.

28. Hazardous Materials: Any substance which is or contains (i) any "hazardous substance" as now or hereafter defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. '9601 et seq.) ("CERCLA") or any regulations promulgated under or pursuant to CERCLA; (ii) any "hazardous waste" as now or hereafter defined in the Resource Conservation and Recovery Act (42 U.S.C. '6901 et. seq.) ("RCRA") or regulations promulgated under or pursuant to RCRA; (iii) any substance regulated by the Toxic Substances Control Act (15 U.S.C. '2601 et seq.); (iv) gasoline, diesel fuel, or other petroleum hydrocarbons; (v) asbestos and asbestos containing materials, in any form, whether friable or non-friable; (vi) polychlorinated biphenyls; (vii) radon gas; and (viii) any additional substances or materials which are now or hereafter classified or considered to be hazardous or toxic under Environmental Requirements (as hereinafter defined) or the common law, or any other applicable laws relating to the Site. Hazardous Materials shall include, without limitation, any substance, the presence of which on the Site, (A) requires reporting, investigation or remediation under Environmental Requirements; (B) causes or threatens to cause a nuisance on the Site or adjacent property or poses or threatens to pose a hazard to the health or safety of persons on the Site or adjacent

property; or (C) which, if it emanated or migrated from the Site, could constitute a trespass.

29. Holidays: The following days: New Year's Day, Good Friday, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Day after Thanksgiving, Christmas Eve, and Christmas Day.

30. Instructions to Bidders: The division of the Bid Documents labeled Instructions to Bidders.

31. Inspector: The individual(s) or company(ies) designated by the Contract Administrator to inspect and test the Contractor's performance and Contract compliance including materials, workmanship, safety, environmental compliance, project controls, administration and accounting, and other aspects of Contract compliance. The Inspector has no authority to approve changes to the Work, the Contract Price or Contract Time, or to commit the Owner to any expenditure of money except as expressly designated in writing by the Contract Administrator. The Inspector may or may not be the same individual as the Engineer. The Contract Administrator may give the Engineer authority to appoint an Inspector.

32. Notice of Award: The issuance of a Notice of Award by the Owner to the successful Bidder notifying the Contractor that they have been authorized by the Owner to perform the work. A Notice of Award shall not be considered a Notice to Proceed.

33. Notice to Proceed: The written notice duly authorized and delivered by the Owner that authorizes the Contractor to begin Field Work. When indicated by the Owner, a PO may also serve as a Notice to Proceed.

34. Owner: The City of Wauchula.

35. Owner's Representative: The Engineer, Inspector, and other persons designated by the Contract Administrator as the Owner's Representative acting in a capacity related to the Work or Contract under the authority of the Contract Administrator.

36. Overtime: Work approved in writing by the Contract Administrator that is required to be performed beyond an employee's scheduled workday or work week, including Work performed on Holidays.

37. Payment Bond: The statutory Payment Bond contemplated by Section 255.05, *Florida Statutes*.

38. Performance Bond: The statutory Performance Bond contemplated by Section 255.05, *Florida Statutes*.

39. Preconstruction Meeting: A meeting conducted after Award and prior to the start of any Field Work between the Owner and the Contractor. The purpose of the meeting

may include, but is not limited to orientation, schedule, certification and permitting, and other preparatory or Work execution details.

40. Purchase Order (PO): A Work authorization document issued by the Owner with the words "Purchase Order" clearly marked across the top, a PO number used for reference shown on the front, a description of the Work or a listing of the applicable Contract Documents, an authorized Owner signature and stating the amount of lawfully authorized funds.

41. Quality Assurance: Actions that the Owner takes to assess the Contractor's performance under the Contract.

42. Quality Control: Actions that the Contractor takes to ensure it successfully completes the Work in full accordance with the Contract Documents.

43. Resident Project Representative (RPR): An employee or agent of the Engineer at the Work Location, acting as directed by and under the Engineer. The RPR's authority for this Contract is set forth in DIVISION 3: TERMS AND CONDITIONS.

44. Responsible and Responsive Bidder: a Bidder that has the capability in all respects to fully perform the Contract requirements and the integrity and reliability that will assure good-faith performance, as demonstrated by the Bidder's experience, financial capacity, equipment and facilities, past performance and conduct under other contracts, quality of prior work, and safety record.

45. Shop Drawings: Drawings, electronic and hard copy, that detail the fabrication, erection, layout and setting drawings; manufacturer's standard drawings; schedules; descriptive literature, catalogs and brochures; performance and test data; wiring and control diagrams; all other drawings and descriptive data pertaining to materials, equipment, piping, duct and conduit systems, and method of construction as may be required to show the Engineer that the proposed materials, equipment or systems and the position thereof are in compliance with the requirements of the Contract Documents.

46. Site: The Work Location.

47. Solicitation: The Invitation for Bids (which may be electronic) issued by the Owner, or by a third-party on behalf of the Owner, to solicit Bids or Proposals from Bidders that includes the Bid Documents.

48. Specifications: The provisions contained in the Technical Specifications.

49. Standard of Care: The standards of skill and care ordinarily followed by contractors performing similar services for a project of similar scope and complexity in the same geographical area of the Work during the time in which the Work is performed.

50. Subcontractor: A provider of services or materials performing Work under contract for the Contractor.

51. Substantial Completion: The time when the Owner determines that the Work (or a specified part thereof) is sufficiently complete to be utilized for the purposes for which it is intended or ready for the Owner or other contractors to perform subsequent portions of the Work as stated in the Contract Documents. Recognition of the Work as Substantially Complete, as evidenced by issuance of a Certificate of Substantial Completion, does not represent the Owner's Final Acceptance of the Work.

52. Term: The period of time during which the Contract is in force, from formal Notice of Award to Final Completion, or termination. In some cases, and as expressly stated, some of the Contract requirements may extend beyond the Term of the Contract.

53. Technical Specifications: The division of the Contract Documents collectively labeled as the Technical Specifications, including any exhibits and attachments thereto. Technical Specifications have been prepared by the Owner or a third-party.

54. Unit Prices: The Bidder's charges, rounded to the nearest cent, to the Owner for the performance of each respective unit of Work as defined on the Bid Form for all items required for successfully performing the Work through Final Acceptance.

55. Work: Work includes the scope set forth in the Contract Documents together with all other additional necessities that are not specifically recited in the Contract, but can be reasonably inferred as necessary to complete all obligations and fully satisfy the intent of the Contract.

56. Work Change Directive: Written authorization recommended by the Engineer and signed by the Owner and issued to the Contractor after the Contract Effective Date recommending an addition, deletion or revision in the Work. A Work Change Directive shall not change the Contract Price or Contract Time, but shall be evidence that the parties expect the change ordered or documented to be incorporated into a subsequent Change Order.

57. Work Location: The place or places where the Work is performed, excluding the properties of the Contractor and/or the Subcontractor(s).

SECTION 3.2: PRELIMINARY MATTERS

3.2.1 Payment Bond and Performance Bond

A. Within five (5) business days of receipt of Contract Documents, the Contractor shall furnish a Payment Bond and a Performance Bond in an amount equal to one-hundred percent (100%) of the amount of the Contract Price, made out to the Owner in forms and formats approved by the Owner, as security for the faithful performance of the Work of

Contract, in accordance with Section 255.05, *Florida Statutes*. In no case shall the date on the bonds form be prior to that of the executed Contract. The surety must be authorized and licensed to transact business in Florida.

B. A fully executed Payment Bond and Performance Bond must be recorded with the Clerk of Hardee County Court and delivered to the Owner before Work may commence. If the Contractor fails or refuses to furnish or record the required bonds, the Owner will retain the Contractor's Bid Security as liquidated damages.

3.2.2 Liquidated Damages

A. If the Contractor fails to Substantially Complete the Work on or before the substantial completion date set forth in the Contract Documents, the Contractor shall pay the Owner the sum of $500.00 per day for each and every calendar day, including Sundays and Holidays, starting on the contracted substantial completion date and continuing until the date that the Work is Substantially Completed.

B. Following Substantial Completion, if the Contractor fails to complete any remaining Work within the Contract Time, the Contractor shall pay the Owner $500.00 per day for each and every calendar day, including Sundays and Holidays, starting on the contracted final completion date and continuing until the date that the Work is completed.

C. The Contractor understands and agrees that said daily sum is to be paid not as a penalty, but as compensation to the Owner as fixed and reasonable liquidated damages for losses that the Owner will suffer because of such default, whether through increased administrative and engineering costs, interference with the Owner's normal operations, other tangible and intangible costs, or otherwise, which costs are otherwise impossible or impractical to measure or ascertain with any reasonable specificity.

D. Liquidated damages may, at the Owner's sole discretion, be deducted from any monies held by the Owner that are otherwise payable to Contractor.

E. The Contractor's responsibility for liquidated damages shall in no way relieve the Contractor of any other obligations under the Contract.

3.2.3 Preconstruction and Progress Meetings

A. Before starting field work, a preconstruction meeting will be held to: review the work; to review the work schedule; to establish procedures for submitting items including but not limited to applications for payment, the schedule of submittals, approving the applications for payment, and making payments; and, to establish a working relationship between the Owner and the Contractor.

B. The Preconstruction Meeting shall be attended by, but not limited to, the Owner, the Engineer, the Contractor Representative and the Contractor Supervisor. The Contract

Administrator will notify the Contractor in writing of the meeting time and location at least two (2) days prior to the meeting date.

C. Construction progress meetings will be held at a frequency determined by the Owner, but shall not be more often than once per week. Such meeting(s) shall be attended by, but not limited to, the Owner, the Engineer, and the Contractor's Supervisor.

3.2.4 Contractor Review of Project Requirements

A. The Contractor shall review the Work requirements and specifications prior to commencing Work. The Contractor shall immediately notify the Engineer in writing of any conflict with applicable law, or any error, inconsistency or omission it may discover. The Owner will promptly review the alleged conflicts, errors, inconsistencies or omissions, and issue a Change Order or Purchase Order, as appropriate if the Owner is in agreement with the alleged conflict, and issue revised specifications. Any Work the Contractor performs prior to receipt of approved Change Order or Purchase Order will be at the Contractor's sole risk and will not be reimbursed.

B. The Contractor agrees that it will provide sufficient personnel to perform the Work and that it will perform the Work in a manner consistent with the Standard of Care set forth above and with the Approved Schedule. The Owner shall not be responsible for any delays caused by the Contractor’s failure to adequately staff the Work.

3.2.5 Contractor's Documents at the Work Location

A. The Contractor shall maintain at the Work Location for the Owner one record copy of all Contract Documents in good order and marked currently to record all Addenda and changes made during the Contract Term. The Contractor shall include copies of all Change Orders, Work Change Directives, Field Orders, and other written clarifications or interpretations with these record documents. These shall be available to the Owner’s Representatives and shall be delivered to the Engineer upon completion of the Work or at the request of the Engineer. The Owner and the Owner’s Representatives may use such documents in reviewing the Contractor’s final Application for Payment.

B. The Contractor shall also maintain detailed records of the Work for its own files. The Contractor shall make these records available to the Owner for inspection upon request. The Contractor shall maintain such records for three years after the final completion date.

3.2.6 Contractor's Field Office

A. The Contractor shall provide its own office facilities at the Work Location, as required. Unless specifically listed herein, the Owner provides no Work Location facilities or Work Location area for the Contractor facilities of any kind such as field office and material storage. If the Contractor establishes a Work Location-based office, the Contractor shall provide and maintain adequate telephone facilities at this office during the full Term of the Contract. If the Contractor has a local business office, this office may serve as a Work

Location office for this Contract, but the Contractor must maintain an operational cellular phone at the Work Location while performing Work.

3.2.7 Commercial Activities on the Work Location

A. The Contractor shall not establish any commercial activities, or issue concessions or permits of any kind to third parties to establish commercial activities on lands owned or controlled by the Owner, or within the boundaries of the Work Location. The Contractor shall not allow its employees to engage in any commercial activities on the Work Location.

3.2.8 Compliance with Referenced Specifications

A. All Work, materials, systems or operations specified by reference to standard trade specifications or to manufacturer's published specifications shall comply with the requirements of the referenced specifications, except as modified by the requirements of this Contract. The referenced specification used shall be the latest published edition that is in effect on the effective date of this Contract unless a particular edition is specified. In case of a conflict, the specifications that contain the more stringent requirements will govern.

3.2.9 Licenses

A. The Contractor shall comply with all licensing and/or certification requirements pursuant to applicable laws, rules and regulations. The Contractor shall secure all licenses as required for the performance of the Work and shall pay all fees associated with securing them. The Contractor shall produce written evidence of licenses and other certifications immediately upon request from the Owner.

B. The Contractor shall ensure that any subcontractors or subconsultants retained to provide labor, services, or material for the Work are fully licensed and certified, as applicable.

3.2.10 Limitation of Accuracy of Informational Materials

A. For all drawings, test results, inspections, and other informational materials included as part of the Contract Documents, the Contractor understands and agrees that any existing facilities shown, including underground, overhead, and surface structures, and other delineations, and any other informational items provided as part of the Contract Documents are for reference only and are not to be used by the Contractor as the only indication of Work conditions.

B. Unless otherwise stated, the data furnished by the Owner or the Engineer to the Contractor, or by the Contractor to the Owner or the Engineer, that may be relied upon are limited to the printed copies (also known as hard copies). Files in electronic media format of text, data, graphics, or other types are furnished only for the convenience of the receiving party. Any conclusion or information obtained or derived from such

electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

3.2.11 Permits

A. The Contractor shall secure, maintain, post as required, and pay for all building, plumbing, electrical, right-of-way, parking, roadway, railroad, shipping, freight, hazardous materials, and all other permits required for performance of the Work in full compliance with all applicable laws, rules and regulations. The Contractor shall perform all actions necessary to identify where permits are to be obtained and properly file for the permits.

B. The Contractor shall comply with all conditions of permits issued for the Work, either directly or indirectly, issued by federal, state, or local governmental agencies, which are hereby incorporated as part of these Contract Documents. The Contractor shall be solely responsible for resolving any issues and bearing all expenses including any damages suffered by the Owner that result from a finding of noncompliance during performance of the Work by any of the respective regulatory agencies including, but not limited to, all costs for delays, litigation, fines, fees of any kind, and other costs.

3.2.12 Work Information

A. In the event the Contractor requires additional information regarding the scope, technical specifications, Work Locations, personnel requirements, or other information pertinent to the Work or Contract, the Contractor shall request such information or clarifications from the Engineer in writing. Within the bounds of the Engineer's authority, the Engineer may provide the requested information to the Contractor.

3.2.13 Engineer's RPR Status During Construction

A. The RPR shall have the responsibilities set forth herein for this Contract.

B. Review the progress schedule, schedule of Shop Drawings, and Sample Submittals and Schedule of Values prepared by the Contractor and consult with the Engineer concerning acceptability.

C. Attend conferences and meetings with the Contractor, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.

D. Serve as the Engineer's liaison with the Contractor, working principally through the Contractor's authorized representative, assist in providing information regarding the intent of the Contract Documents. Assist the Engineer in serving as the Owner's liaison with the Contractor when the Contractor's operations affect the Owner's on-site operations. Assist in obtaining additional details or information from the Owner, when required for proper execution of the Work.

E. Report to the Engineer when clarifications and interpretations of the Contract Documents are needed and transmit to the Contractor clarifications and interpretations issued by the Engineer.

F. Record the date of receipt of Samples and approved Shop Drawings. Receive Samples which are furnished at the Site by the Contractor. Notify the Engineer of availability of Samples for examination. Notify the Engineer and the Owner if work is begun without reviewed shop drawings.

G. Consider and evaluate the Contractor's suggestions for modifications in the Drawings or Specifications and report such suggestions together with RPR's recommendations to the Engineer. Transmit in writing to the Contractor decisions as issued by Engineer.

H. Review of Work and Defective Work:

1. Conduct on–site observations of the Contractor's work in progress to assist the Engineer in determining if the Work is, in general, proceeding in accordance with the Contract Documents.

2. Report to the Engineer whenever RPR believes that any part of the Contractor's work does not conform to the Contract Documents or will imperil the integrity of the Work as indicated in the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; advise the Engineer of that part of work in progress that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.

I. Inspections, Tests and System Startups:

1. Verify that tests, equipment and system start-ups and operating and maintenance training are conducted in the presence of appropriate the Owner's personnel and that the Contractor maintains adequate records thereof.

2. Observe, record, and report to the Engineer appropriate details relative to the test procedures and system start-ups.

J. Record names, addresses, fax numbers, e-mail addresses, web site locations, and telephone numbers of all of the Contractors, Subcontractors and materials and equipment Suppliers. Maintain records for use in preparing Work documentation.

K. Reports:

1. Furnish to the Engineer periodic reports as required of progress of the Work and of the Contractor's compliance with the Progress Schedule and Schedule of Shop Drawings and Sample Submittals.

2. Draft and recommend to the Engineer proposed Change Orders, Work Change Directives, and Field Orders. Obtain backup material from the Contractor.

3. Immediately notify the Engineer of the occurrence of any Site accidents, emergency, acts of God endangering the Work, damage to property, or discovery of Hazardous Materials.

L. Review Applications for Payment with the Contractor for compliance with the established procedure for their submission and forward with recommendations to the Engineer, noting particularity the relationship of the payment requested to the Schedule of Values, Work completed and materials and equipment delivered at the Site but not incorporated in the Work.

M. During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Specifications to be assembled and furnished by the Contactor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to the Engineer for review and forwarding to the Owner prior to payment for that part of Work.

N. Completion:

1. Participate in a Substantial Completion inspection, assist in the determination of Substantial Completion and the preparation of list of items to be completed or corrected.

2. Participate in a final inspection in the company of the Engineer, the Owner and the Contractor and prepare a final list of items to be completed and deficiencies remedied.

3. Observe whether all items on final list have been completed or corrected and make recommendations to the Engineer concerning acceptance and issuance of the Notice of Acceptability of the Work.

O. Limitations of the RPR's Authority: The RPR shall not:

1. Authorize any deviation from the Contract Documents or substitute of material or equipment (including "or-equal" items).

2. Exceed limitations of the Engineer's authority as set forth in the Contract Documents.

3. Undertake any of the responsibilities of the Contractor, the Subcontractors, the Suppliers or the Contractor's Superintendent.

4. Advise on, issue directions regarding, or assume control over safety practices precautions, and programs in connection with the activities or operations of the Owner or the Contractor.

5. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by the Engineer.

6. Accept Shop Drawings or Sample submittals from anyone other than the Contractor.

7. Authorize the Owner to occupy the Project in whole or in part.

8. Advise on issue directions, or assume control over means, methods, techniques, sequences, or procedures for the Contractor's Work.

3.2.14 Conflict of Interest

A. No member, officer or employee of the City during his/her tenure or for one (1) year after shall have any interest, direct or indirect, in this contract or proceeds thereof. The Contractor shall also include this statement in all subcontracts for this work.

SECTION 3.3: SUBSTANTIAL COMPLETION AND FINAL ACCEPTANCE

3.3.1 Acceptance of Work - After Receipt, Inspection, Usage and Testing

A. The Contract Administrator will make the determination when Work is completed and there is Final Acceptance by the Owner, with consideration to the Engineer's and the Inspector's recommendations.

B. Final Acceptance will be made by the Owner only in writing, and after adequate time to ensure the Work is performed in accordance with Contract Documents in accordance with Section 255.077, *Florida Statutes*. The Owner will reject any items delivered by the Contractor that are not in accordance with the Contract, and shall not be deemed to have accepted any items until the Owner has had reasonable time to inspect them following delivery or, if later, within a reasonable time after any latent defects in the work have become apparent.

C. The Owner may partially accept the Work. If the Owner elects to accept nonconforming items, it may, in addition to other remedies, be entitled to deduct a reasonable amount from the price as compensation for the nonconformity. Any Final Acceptance by the Owner, even if nonconditional, shall not be deemed a waiver, or settlement or acceptance of any Defect.

3.3.2 Substantial Completion

A. The Contractor shall notify the Owner in writing when a portion of the Work is ready for Substantial Completion and can be utilized for the purposes for which it was intended. The Contractor shall identify any deficiencies in the Work. Owner will inspect the Work and will give the Contractor written notice of either acceptance of that portion of the

Work or additional deficiencies. The Contractor shall correct all deficiencies prior to Substantial Completion of the Work.

B. Whenever any portion of the Work is substantially complete and can be utilized for the purpose for which it was intended, the Owner may use it. Such use shall not be held in any way as a Final Acceptance of the Work or as a waiver of any provisions of the Contract.

C. Upon determination that the Work meets the requirements for Substantial Completion, the Owner will issue a Certificate of Substantial Completion.

SECTION 3.4: PRICE & PAYMENTS

3.4.1 Application for Payment and Payment Terms

A. The Contractor shall submit to the Engineer or the Engineer's RPR all Applications for Payment using the prescribed forms included in the Contract Documents and in accordance with the payment method agreed upon in these Contract Documents. The Owner will pay the Contractor the amount requested less any authorized deductions or retainage set forth in the Contract Documents within thirty (30) days after receipt of an acceptable Application for Payment from the Contractor subject to the provisions stated below.

B. The Owner may reject any Application for Payment within twenty (20) calendar days after receipt. The Owner will return the Application for Payment to the Contractor stating the reasons for rejection. Upon receipt of an acceptable revised Application for Payment, the Owner will pay the Contractor the revised amount within ten (10) calendar days.

C. The Owner may withhold payment if the Owner reasonably believes the Contractor is in violation of any conditions or terms of the Contract Documents. Reasons for withholding payment to the Contractor include, but are not limited to, a reasonable belief by the Owner that it may suffer damages as a result of potential or actual claims attributable to the Contractor; inability of the Contractor to complete the Work in a timely manner; or any failure of the Contractor to perform its obligations hereunder. If the Owner reasonably believes Contractor is in violation of any conditions or terms of the Contract Documents and the Owner wishes to withhold payment from the Contractor, the Owner shall (i) provide the Contractor at least ten (10) days written notice of the Owner's intent to withhold such amount which states the basis for such withholding; and (ii) afford the Contractor an opportunity to cure or otherwise address the Commission's concerns.

D. The Application for Payment may be subject to the review of the Owner's Representative for purposes of determining compliance with the DIVISION 4: SUPPLEMENTAL CONDITIONS.

3.4.2 Retainage

A. Pursuant to Section 255.078, *Florida Statutes*, as additional security for the proper performance of the Work, the Owner may deduct up to five percent (5%) retainage from the amount stipulated in the Invoice or Application for Payment and accepted by the Owner as eligible for payment.

B. In the case of early termination of the Contract, all payments made by the Owner against the Contract Price prior to notice of termination shall be credited to the amount, if any, due the Contractor. If the parties determine that the sum of all previous payments and credits exceeds the sum due the Contractor, the Contractor shall refund the excess amount to the Owner within ten (10) calendar days of determination or written notice.

3.4.3 Payment Method - Progress Payments and Schedule of Values

A. For the purposes of this Contract, the Contractor shall refer to the DIVISION 6: TECHNICAL SPECIFICATIONS.

3.4.4 Final Application for Payment

A. After the Contractor has, in the opinion of the Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, marked-up as-built record documents and other documents, the Contractor shall complete and submit to the Owner the final Application for Payment with consent of surety for final payment as notice that the Work, including the correction of all deficiencies, is complete. By submitting the final Application for Payment, the Contractor certifies the following:

1. That the Work has been satisfactorily completed;

2. That no liens have attached against the property and improvements of the Owner;

3. That no notice of intention to claim liens are outstanding;

4. That no suits are pending by reason of the Work;

5. That all workers' compensation claims known to the Contractor have been reported to the Owner;

6. That the surety provides a release; and

7. That no public liability claims are pending.

B. Within ten (10) calendar days of receipt of the Contractor's final Application for Payment, the Engineer shall review the final Application for Payment and make a recommendation to the Owner. The Owner shall make final payment to the Contractor in accordance with the Application for Payment provisions of the Contract.

3.4.5 Prompt Payment to Subcontractors and Suppliers

A. When the Contractor receives payment from the Owner for labor, services or materials furnished by Subcontractors and Suppliers that are hired by the Contractor, the Contractor shall remit payment due (less proper retainage) to those Subcontractors and Suppliers within fifteen (15) calendar days after the Contractor's receipt of payment from the Owner and obtain a Release of Lien for each payment made. Nothing herein shall prohibit the Contractor from disputing, pursuant to the terms hereof, all or any portion of a payment alleged to be due to its Subcontractors and Suppliers. In the event of such dispute, the Contractor may withhold the disputed portion of any such payment only after the Contractor has provided written notice to the Owner and to the Subcontractor and Supplier whose payment is in dispute, stating the amount in dispute and specifically describing the actions required to cure the dispute. The Contractor shall deliver such notice to the Owner and to the said Subcontractor or Supplier within ten (10) calendar days following the Contractor's receipt of payment from the Owner. The Contractor shall pay all undisputed amounts due within the time frames specified herein.

B. The Contractor shall submit a Release of Lien for the prior month's payment included in any Application for Payment.

C. The prompt payment requirements herein shall, in no way, create any contractual relationship or obligation between the Owner and any Subcontractor, Supplier, or any third-party, nor create any Owner liability for the Contractor's failure to make timely payments as required. The Contractor's failure to comply with the prompt payment requirements, however, shall constitute a material breach of its contractual obligations to the Owner.

3.4.6 Taxes

A. The Contractor shall include the cost of all applicable State and Local Sales Taxes in the submitted Bid Price. The Owner reserves the right to directly purchase any materials or equipment to reduce project costs due to State and Local Sales Taxes. A deductive Change Order will be drafted to remove any Owner Direct Purchases from the Contract.

B. The Contractor shall be responsible for the payment of any applicable State and Local taxes relating to the purchase of equipment and materials required for the completion of this project.

3.4.7 Allowances

A. When the Contract Documents indicate that the Owner has provided the Contractor with an allowance for specified portions of the Work, the Contractor shall provide such Work in a manner acceptable to the Owner.

B. Allowance items shall include all costs to the Contractor (less any applicable trade discounts), including all applicable taxes, costs for unloading and handling materials and equipment at the Site, labor, installation, overload, profit, and other expenses set forth in the Contract Documents as part of the allowances.

SECTION 3.5: INSURANCE & INDEMNITIES

3.5.1 Environmental Indemnity

A. The Contractor shall hold harmless, indemnify, and defend the Owner and the Engineer, including without limitation, its officers, directors, members, representatives, affiliates, agents and employees, successors and assigns (the "Indemnified Parties") and will reimburse the Indemnified Parties from and against any and all claims, suits, demands, judgments, losses, costs, fines, penalties, damages, liabilities and expenses (including all costs of cleanup, containment or other remediation, and all costs for investigation and defense thereof including, but not limited to, court costs, reasonable expert witness fees and attorney fees) arising from or in connection with (a) the Contractor's, including, but not limited to, its agents, affiliates or assigns ("Parties"), actions or activities that result in a violation of any environmental law, ordinance, rule, or regulation or that leads to an environmental claim or citation or to damages due to the Contractor's or other Parties' activities, (b) any environmental, health and safety liabilities arising out of or relating to the operation or other activities performed in connection with this contract by the Contractor or any Party at any time on or after the effective date of the contract, or (c) any bodily injury (including illness, disability and death, regardless of when any such bodily injury occurred, was incurred or manifested itself), personal injury, property damage (including trespass, nuisance, wrongful eviction and deprivation of the use of real property) or other damage of or to any person in any way arising from or allegedly arising from any hazardous activity conducted by the Contractor or any Party. The Owner will be entitled to control any remedial action or any proceeding relating to an environmental claim. This indemnification agreement is separate and apart from, and is in no way limited by, any insurance provided pursuant to this Contract or otherwise. This section relating to indemnification shall survive the Term of this Contract, and any holdover and/or Contract extensions thereto, whether such Term expires naturally by the passage of time or is terminated earlier pursuant to the provisions of this Contract.

3.5.2 Indemnification

A. Contractor shall, to the fullest extent permitted by law, indemnify, defend, and hold harmless the Owner from claims, suits, liability, loss, expense, or damages, including all attorneys' fees and costs, arising from the negligent acts or omissions by, the willful

misconduct of, or the failure to comply with applicable laws by Contractor or those for whom the Contractor is responsible in the performance of this Agreement. The indemnification required under this Agreement will not be limited in any way by the limits, terms, or conditions of any insurance policy.

B. Contractor, for itself and on behalf of its agents, employees, subcontractors, and subconsultants, shall to the fullest extent permitted by law indemnify, and hold the Owner harmless from and against any and all losses, expenses, claims, demands, and causes of action, including attorneys' fees and costs, asserted against the Owner by any person (including without limitation, Contractor's employees, Contractor's subcontractors and subconsultants, and employees of such subcontractors and subconsultants, for injury to persons, including death, or for loss of or damage to property or failure of the completed work to perform as required by this Agreement, to the extent arising out of the negligent acts or omissions of Contractor or any entity for which it is responsible in performing the Work, or the violation by Contractor or any entity for which it is responsible of any law, regulation, ordinance, code or standard applicable to the Work. The indemnification required under this Agreement shall not be limited in any way by the limits, terms, or conditions of any insurance policy.

C. For purposes of the Indemnification provisions of this Article 3.5.2, the term "Owner" shall mean the Owner as a body politic and corporate and shall include its governing commission, officers, employees, agents, successors and assigns. The provisions of Article 3.5.2 shall survive the completion or termination of this Agreement

D. To the extent provided by law, Subrecipient shall indemnify, defend, and hold harmless the Department against any actions, claims, or damages arising out of, relating to, or resulting from negligent or wrongful act(s) of Subrecipient, 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 Subrecipient hereunder, to the extent and within the limitations of Section 768.28, Florida Statutes. The foregoing indemnification shall not constitute a waiver of the Department's or Subrecipient's sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28, nor shall the same be construed to constitute agreement by Subrecipient to indemnify the Department for the negligent acts or omissions of the Department, its officers, agents, or employees, or for the acts of third parties. Nothing herein shall be construed as consent by Subrecipient to be sued by third parties in any manner arising out of this Agreement. This indemnification shall survive the termination of this Agreement.

a. Subrecipient 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:
    a. "To the extent provided by law, [ENTITY] shall indemnify, defend, and hold harmless the [SUBRECIPIENT] and the State of Florida, Department of Transportation, 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 [ENTITY], or any of its officers, agents, or employees, acting within the scope of their office of employment, in connection with the rights granted to or exercised by [ENTITY].

b. The foreign indemnification shall not constitute a waiver of the Department's or [SUBRECIPIENT]'s sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28. Nor shall the same be construed to constitute agreement by [ENTITY] 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.

3.5.3 Insurance Requirements

A. For purposes of this Article 3.5.3, the term "Owner" shall mean the Owner as a body politic and corporate and shall include its governing commission, officers, employees, agents, successors and assigns. Before any work commences, and for four years beyond Final Acceptance of the Work, and without limiting its liability under the Contract, the Contractor, without in any way altering their liability, obtain, pay for, and maintain insurance for the coverages and amounts of coverage not less than those set forth below, and shall provide the Owner with a Certificate of Insurance and an opportunity to inspect a certified copy of each policy applicable to this Agreement. All policies required under this section must be an "Occurrence" form. The policies shall contain a waiver of subrogation in favor of the Owner. The Contractor's self-insured retention or deductible per line of coverage shall not exceed $25,000.00 without the permission of the Owner.

Schedule	**Amount**
<u>Workers' Compensation</u>	
Florida Statutory Coverage and Employer's Liability (including appropriate Federal Acts)	Statutory Limits (Workers' Compensation) As required by law (Employer's Liability)
<u>Contractor's General Liability</u>	
Completed Operations and Products Liability Property damage and bodily injury	$1,000,000/occurrence, $2,000,000 annual aggregate
<u>Personal Injury Liability</u>	
Property Damage Liability insurance will provide Explosion, Collapse and Underground Hazards (XCU Coverage) as appropriate	
<u>Automobile Liability</u>	
Bodily Injury Property Damage	$200,000/person, $300,000/occurrence $200,000/occurrence
<u>Contractual Liability</u>	
Bodily Injury Property Damage	$500,000/accident $1,000,000 annual aggregate

Builder's Risk Insurance
Amount to be determined by Owner

B. The Contractor's General Liability policies shall be effective for four (4) years after the Work is complete. The above Indemnification provision is separate and is not limited by the type of insurance or insurance amounts stated above.

C. The Contractor shall specify the Owner and the Engineer as additional insureds for all coverage except Workers' Compensation and Employer's Liability. The Certificate of Insurance must name as an additional insured the Owner and the Engineer, excluding worker's compensation and professional liability; must provide that such insurance is primary to any other insurance available to the additional insureds with respect to claims covered under the policy; and must provide that such insurance coverage applies separately to each insured against whom claims are made or suit is brought; but the inclusion of more than one insured shall not operate to increase the insurer's limit of liability.

D. All insurance coverage shall be written with an insurer having an A.M. Best Rating of a least the "A" category and size category of VIII. Such insurance shall be written by a company or companies licensed to do business in the State of Florida and satisfactory to the Owner. Prior to commencing any Work under this Contract, certificates evidencing the maintenance of the insurance shall be furnished to the Owner for approval.

E. The Contractor's and its Subcontractors' Certificates of Insurance shall be mailed to the Owner at City of Wauchula, 126 South 7th Avenue, Wauchula, Florida 33873. To the extent necessary, the Contractor shall thereafter provide the Owner an annual Certificate of Insurance satisfactory to the Owner to evidence such coverage. Such Certificates of Insurance will provide that there shall be no termination, non-renewal, modification or expiration of such coverage without thirty (30) days prior written notice to the Owner.

F. The insurance certificates shall provide that no material alteration or cancellation, including expiration and non-renewal, shall be effective until thirty (30) days after receipt of written notice by the Owner.

G. If there is any failure by the Contractor to comply with the provisions of this section, the Owner may, at its option, on notice to the Contractor, suspend the work for cause until there is full compliance.

H. Owner may, at its sole discretion, purchase such insurance at the Contractor's expense provided that the Owner shall have no obligation to do so and if the Owner shall do so, it shall not relieve the Contractor of its obligation to obtain insurance.

I. Any subcontractors of the Contractor shall procure and maintain the insurance required of the Contractor hereunder during the life of the subcontract. Subcontractors' insurance may be either by separate coverage or by endorsement under insurance provided by the Contractor.

J. The subrecipient shall, or cause its contractor or consultant to carry and keep in force, during the term of this Agreement, a general liability insurance policy or policies with a company or companies authorized to do business in Florida, affording public liability insurance with combined bodily injury limits of at least $200,000 per person and $300,000 each occurrence, and property damage insurance of at least $200,000 each occurrence, for the services to be rendered in accordance with this Agreement. The Subrecipient shall also, or cause its contractor or consultant to carry and keep in force Workers' Compensation Insurance as required by the State of Florida under the Workers' Compensation Law. With respect to any general liability insurance policy required pursuant to this Agreement, all such policies shall be issued by companies licensed to do business in the State of Florida. The Subrecipient shall provide to the Department certificates showing the required coverage to be in effect with endorsements showing the Department to be an additional insured prior to commencing any work under this Agreement. Policies that include Self Insured Retention will not be accepted. The certificates and policies shall provide that in the event of any material change in or cancellation of the policies reflecting the required coverage, thirty days advance notice shall be given to the Department or as provided in accordance with Florida law.

3.5.4 Title and Risk of Loss

A. Ownership, risks of damage to or loss of the Work shall pass to the Owner upon Final Acceptance of the work. The Contractor shall assume all risk of loss or damage to the Work while items are in transit and/or in the Contractor's custody until such time that the Owner issues written notice of Final Acceptance of the work.

SECTION 3.6: GENERAL PERFORMANCE OF WORK

3.6.1 Care of Property Owners

A. The Contractor agrees to provide excellent customer service throughout the execution of the Work during both scheduled Work hours and Overtime in the manner, as a minimum, as set forth below:
   1. The Contractor shall notify the affected property owners prior to any planned outages, line flushing, valve simulations and driveway construction. The notification will be produced by the Contractor and approved by the Owner's Representative.

   2. Within one (1) business day of receiving a concern from a property owner regarding the Work, the Contractor shall notify the Engineer in writing of each customer concern reported directly to the Contractor's personnel. Such notification shall include, as a minimum: the Contractor's name, date and time the concern was communicated to the Contractor, the name, address and phone numbers for the affected party, the nature of their concern and any action that was taken or any action currently underway to resolve the concern.

3.6.2 Workmanship

A. In addition to performing its Work in accordance with the Standard of Care, the Contractor shall perform all Work in a safe, workmanlike and professional manner, and so as to render a neat and uniform appearance. The Contractor shall handle all material in such a way as to preserve its finish and protective coatings from damage. General arrangement shall be satisfactory to the Engineer.

3.6.3 Work Location Cleanliness

A. The Contractor shall, at all times, keep the Work Location free from an accumulation of waste materials or rubbish caused by its operations. At the completion of the Work, the Contractor shall remove all waste materials and any rubbish from and about the project, as well as any tools, construction equipment, machinery and surplus materials, in accordance with applicable laws, rules and regulations. If the Contractor fails to clean up at the completion of the Work, the Owner may do so as provided elsewhere in the Contract and charge the cost thereof to the Contractor.

3.6.4 Surveying

A. Unless specifically stated in the Contract Documents as being provided by the Owner, the Contractor shall be responsible for all surveying necessary to commence and perform this Work. The Contractor shall employ a land surveyor registered in the State of Florida to reference and restore all property corners and/or monuments that may have been disturbed and to ensure accurate horizontal and vertical control during the construction of this project and for staking locations for new structures. Height and spacing of stakes are to be as specified elsewhere herein or as directed by the Engineer.

B. All Work shall be done to the lines, grades and elevations shown on the drawings. Any Work improperly located may be ordered removed and replaced at the Contractor's expense. The Contractor shall be responsible for making its own determination of water table variations and shall not assume that any water levels shown by the aforesaid boring data will necessarily be maintained at the level indicated. The Contractor shall investigate the conditions above or below the surface of the ground as it may deem necessary for the proper and timely performance of its Work including, but not limited to, the making of borings.

SECTION 3.7: SCHEDULES

3.7.1 Preliminary Schedules

A. Within ten (10) calendar days following the Effective Date of the Agreement, the Contractor shall submit to the Engineer the following items:

1. Preliminary Progress Schedule stating days or dates for starting and completing the various stages of the Work in an orderly manner within the Contract Times, indicating any milestones specified in the Contract.

2. Preliminary Schedule of Submittals, showing a reasonable schedule for reviewing and processing required submittals

3. Preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and reasonably subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Prices shall include all overhead and profit.

4. Preliminary Schedule of Progress Payments (Draw Schedule).

B. No later than ten (10) calendar days prior to the date for the submittal of the first Application for Payment, the Contractor and the Engineer shall meet to review the acceptability of the Progress Schedule, the Schedule of Submittals and the Schedule of Values. The Contractor shall have an additional ten (10) calendar days following such meeting to make any adjustments and to resubmit the schedules.

C. The Engineer's approval of the any of the Schedules shall not relieve the Contractor of its sole responsibility for the Progress Schedule, the sequence and scheduling of Work, and the progress of the Work.

D. No progress payments shall be made to the Contractor until the Engineer has approved the Schedules.

E. Upon reasonable written request from the Owner, the Contractor shall furnish to the Owner such evidence as the Owner may reasonably require relating to the Contractor's ability to fully perform the Work in the manner and within the time specified by this Agreement.

3.7.2 Work Days

A. The work schedule is established on the basis of working five (5) days per week, eight (8) hours per day. The Owner may require the Contractor to base its schedule on an accelerated Work Schedule or multiple shifts. The Contractor shall not schedule work on Holidays without obtaining prior written approval from the Owner.

B. The Contractor shall, at no additional cost to the Owner, increase or supplement its working force and equipment and perform the Work on an Overtime or multiple shift basis when directed by the Owner and upon notification that the Contractor is behind schedule. The Contractor shall submit a revised schedule in writing demonstrating the Contractor's schedule recovery plans.

C. The Contractor understands and agrees that the rate of progress set forth in the Approved Schedule already allows for ordinary delays incident to the Work. No extension of the Contract Time will be made for ordinary delays, inclement weather (except as set forth in

Section 19, “Force Majeure”), or accidents, and the occurrence of such events will not relieve the Contractor from the requirement of meeting the Approved Schedule.

3.7.3 Changes to the Progress Schedule

A. The Contractor may submit proposed revisions to the Progress Schedule to the Engineer for review provided that they do not change the Contract Time, and the Engineer may adjust the Progress Schedule from time to time.

B. Proposed changes to the Progress Schedule that change the Contract Time will only be made in accordance with Section 14, “Changes to Work.” Adjustments to the Contract Time shall only be made via Change Order.

C. The Contractor shall refer to the DIVISION 6: TECHNICAL SPECIFICATIONS for additional information regarding Progress Schedules.

SECTION 3.8: MATERIALS, TOOLS & EQUIPMENT

3.8.1 Temporary Utilities

A. The Contractor shall furnish and install all temporary water, electricity and other utilities required to accomplish the Work. The Contractor shall obtain the water required for carrying out the Work from fire hydrants, existing water main connections, or new connections approved by the Owner. The Contractor shall install a back flow preventer and water meter assembly if construction water is necessary. Upon Substantial Completion of Work, the Contractor shall remove all evidence of temporary connections and lines.

B. Prior to initiating any construction Work, the Contractor shall coordinate and schedule the provision of temporary utility service required during construction and arrange for the permanent installation and connection of utilities for the completed Work.

3.8.2 Material Delivery Locations

A. The Contractor shall notify, in writing, the Engineer of all planned material delivery/receiving locations. Such notification shall be prior to initiation of shipment. The Engineer will provide the Contractor with specific written approval for each delivery/receipt location, which will not be unreasonably withheld.

3.8.3 Storage of Equipment

A. The Contractor shall be responsible for all storage of materials, equipment, vehicles, tools, and all other items associated with the Work. Such storage shall comply with applicable regulations appropriate for the items being stored to ensure suitable care for items and protection from theft, vandalism, or inappropriate use. The Contractor is solely responsible for the costs for such storage, unless otherwise indicated in the Contract

Documents, and any costs associated with noncompliant storage including, but not limited to, loss and damage to items. In the event that the Owner directs the Contractor to stop the Work, costs associated with storing equipment or materials will be compensated in accordance with the provisions stated herein in Section 14, "Change in Work." The Contractor shall ensure that the Engineer has access to Work-related storage on an as needed basis during regular Work Hours and Overtime.

3.8.4 Contractor Laydown Area

A. In the event the Contractor decides to utilize public or private property as a laydown area, the Contractor shall enter into a written agreement with the entity or individual who owns the property. The Owner shall have access to all laydown areas. Upon submission of the Contractor's first Invoice or application for payment to the Owner, the Contractor shall provide the Owner with a copy of such signed written agreement. The Contractor shall submit to the Owner a letter of release from the entity in connection with Contractor's final Application for Payment to the Owner.

3.8.5 Substitutions

A. Whenever materials or equipment are specified or described in the Contract by using the name of a proprietary item or the name of a particular supplier, the naming of the item is intended to establish the type, function and quality required.

B. Materials or equipment of other suppliers may be accepted by the Engineer if sufficient information is submitted by the Contractor to allow the Engineer to determine that the material or equipment proposed is equivalent or equal to that named.

C. The Contractor shall make written application to the Engineer for acceptance thereof, certifying that the proposed substitute will perform adequately the functions and achieve the results called for by the general design, be similar and of equal substance to that specified and be suited to the same use as that specified.

D. The application shall state that the evaluation and acceptance of the proposed substitute will not prejudice the Contractor's completion of the Work within the Contract Time, whether or not acceptance of the substitute for use in the Work will require a change in any of the Contract Documents (or in the provisions of any other Contract directly with the Owner for Work on the Contract) to adapt the design to the proposed substitute and whether or not incorporation or use of the substitute in connection with the Work is subject to payment of any license fees, royalties, permits or any other costs.

E. All variations of the proposed substitute from that specified shall be identified in the application and available maintenance, repair and replacement service shall be indicated.

F. The application shall also contain an itemized estimate of all costs that will result directly or indirectly from acceptance of such substitute, including costs of redesign and claims of

other Companies affected by the resulting change, all of which shall be considered by the Engineer in evaluating the proposed substitute.

G. Requests for review of substitute items of material and equipment will not be accepted by the Engineer from anyone other than the Contractor.

H. The Engineer may require the Contractor to furnish, at the Contractor's expense, additional data about the proposed substitute.

I. If a specific means, method, technique, sequence or procedure of construction is indicated in or required by the Contract, the Contractor may furnish or utilize a substitute means, method, sequence, technique or procedure of construction acceptable to the Engineer, if the Contractor submits sufficient information to allow the Engineer to determine that the substitute proposed is equivalent to that indicated or required by the Contract.

J. The Engineer will be allowed a reasonable time within which to evaluate each proposed substitute; such time shall not be deemed justification for an extension of the Contractor's time for completion of the Contract.

K. The Engineer will be the sole judge of acceptability, and no substitute shall be ordered, installed or utilized without the Engineer's prior written notice, which shall be evidenced by a Change Order.

L. The Owner may require reimbursement for the cost associated with the Engineer’s evaluation of substitutions.

M. The Owner may require the Contractor to furnish, at the Contractor's expense, special performance guarantee bonds or other surety with respect to any substitution.

3.8.6 Disposition of Salvage Material

A. All material to be removed from the Work Location, relocated or salvaged, shall be inspected by the Engineer immediately prior to removal, and the Engineer's decision as to the salvageability shall be final. Such material that can be salvaged, in the opinion of the Engineer, shall be stored at the Work Location on-site by the Contractor, as and where directed by the Engineer, or delivered to a location as directed. Under no circumstances may existing structures, plant or facilities be removed or demolished without obtaining prior written approval from the Contract Administrator.

3.8.7 Tools and Equipment

A. All tools and equipment used in the performance of the Work shall be used as intended by the manufacturer and in accordance with manufacturer operating manuals and industry practices, whichever is more stringent. The Contractor shall ensure that all tools and equipment used in the performance of the Work shall be of the size and quality

suitable for safe and efficient performance of the Work. If the Contractor-provided tools and equipment do not meet these requirements, or if in the sole opinion of the Owner formed after considering relevant factors, the tools or equipment are inappropriate for performance of the Work, the Contractor agrees to remove the unacceptable tools and equipment and obtain tools and equipment the Owner considers suitable. Such replacement shall be entirely at the Contractor's expense, and no change to Contract Time will be allowed.

B. The Contractor is responsible for furnishing the security of any and all tools and equipment required to perform the Work.

SECTION 3.9: SAFETY & SECURITY

3.9.1 Safety and Protection Precautions

A. The Contractor shall comply with all applicable federal, state and local laws, ordinances, all Owner procedures and policies, and orders of any public body having jurisdiction for the safety of persons or protection of property. The Contractor understands and agrees that violation of any provision of this clause is grounds for immediate termination of the Contract and the Contractor is responsible for all Owner damages associated with such termination.

B. The Contractor shall ensure that Subcontractors and their personnel have all the necessary personal protective equipment and training needed to perform the Work safely.

C. The Contractor understands and agrees that it is responsible for paying all costs associated with providing a safe work environment including, but not limited to, any costs associated with any Owner directed safety improvements. The Contractor further understands and agrees that it is solely responsible for the safety of personnel and property associated with the Work, and that any actions taken by the Owner or the Owner’s Representatives to prevent harm to persons or damage to equipment does not, in any way, relieve the Contractor of this responsibility.

D. The Contractor’s Representative, or alternatively, the Contractor’s Supervisor, shall be designated as the Contractor's individual responsible for the prevention of accidents.

E. The Contractor shall notify the police and fire departments as to its Work Location in order to ensure prompt response in an emergency.

3.9.2 Emergency Events

A. In the event that a system-wide emergency arises during the Term of this Contract for which the Owner requires assistance from the Contractor including, but not limited to, severe storms, large-scale fires, floods, and terrorist attacks, the Contractor acknowledges the importance of Owner infrastructure and agrees to support, with all its

resources, skills and capabilities, and the maximum extent possible, all restoration efforts of the Owner. The Owner shall notify the Contractor when an emergency event occurs and the Contractor agrees to mobilize its full resources immediately. In the event conditions are such that an emergency event is likely in progress, but the Contractor has not been notified by the Owner, the Contractor shall make all efforts to contact the Owner to determine if and how it should respond. The Owner agrees to reimburse the Contractor for its actual costs incurred, plus overhead and profit, the total not exceeding twelve percent (12%), and any one-time expended cost incurred as a result of supporting the Owner during the emergency event.

3.9.3 Emergency Procedures

A. In emergencies affecting the safety of persons, the Work or property at the Work Location or any other area adjacent thereto, the Contractor, without special instructions or authorization from the Owner, is obligated to act to its best ability, to prevent threatened damage, injury or loss to the Work, any persons, or property. The Contractor shall give the Owner prompt written notice describing the emergency, its cause, actions taken, injuries and casualties, property damage, other damages, and impact on continued performance under this Contract.

3.9.4 Storm Preparedness

A. In the event of a Hurricane Warning, Tropical Storm Warning, or other large storm affecting the Work Location, the Contractor shall secure, or shall remove and store all equipment and materials at the Work Location including, but not limited to, cones, barricades, lights and signs. The Contractor shall begin taking such precautions as necessary to secure the Work Location upon official issuance of mandatory evacuation of the area of the Work Location and no later than twenty-four (24) hours prior to predicted arrival of tropical storm or hurricane force winds, or when notified by the Owner to do so. These activities are considered a regular part of the Work, regardless of the frequency they are required.

3.9.5 Weather Protection

A. The Contractor shall provide proper facilities, take all necessary precautions and assume the entire cost for protecting the Work against weather conditions and for handling all storm, flood and ground water, sewage, or other seepage, that may be encountered during the performance of the Contract. The Contractor shall provide for such contingencies and for carrying on the Work in freezing weather by methods that meet with the approval of the Engineer. If the Contractor fails to provide such protection, or in the event of an emergency, the Owner may provide such protection at the Contractor's expense.

3.9.6 Project Security

A. The Contractor shall provide, at its expense, on-site security personnel at any time the facility's perimeter is unsecured, including but not limited to, alarms disabled, fences or gates down, traffic flows that require gates to be opened repeatedly and/or for more than one hour of the work day. The Contractor shall schedule security personnel. Where existing lighting is disabled or otherwise impacted by the Work, the Contractor shall provide temporary lighting equal to or exceeding that which exists.

3.9.7 Protection of the Environment

A. The Contractor shall immediately notify the Owner of any Hazardous Materials encountered during the Work and shall immediately cease work in the affected area until further direction is received from the Owner.

B. The Contractor and its Subcontractors and Suppliers shall comply with all applicable laws, rules and regulations including, but not limited to, all Environmental Requirements.

C. Asbestos, Lead, or Toxic Mold may be present at the Work Location. The Contractor shall notify the Engineer immediately upon discovery of asbestos, lead, toxic mold. The Contractor shall not disturb or remove known or discovered asbestos, lead, or toxic mold unless directed by the Engineer.

D. Hazardous Materials:

1. The Contractor shall bear full responsibility including, but not limited to, payment and liability for the transportation, use and disposal of any Hazardous Materials under the Contractor's control during the performance of the Work. Disposal of Hazardous Materials should only be disposed of at Owner approved facilities. The Contractor shall provide the Owner with appropriate documentation showing proper disposal of its Hazardous Materials.

2. The Owner has identified and labeled equipment known to contain PCBs. The Owner will remove and transport any equipment so identified. The Contractor shall not remove or transport any equipment containing PCBs. The Contractor shall immediately notify the Owner of any questionable or unmarked equipment and the Owner will arrange for testing and identification.

E. Toxic Substances Introduced by the Contractor:

1. The Contractor shall notify the Engineer in writing of the type, quantity and disposal method of any toxic substance used during the performance of the Work. The Contractor shall be solely responsible for the use and disposal of any such toxic substances. The Contractor shall submit cleanup procedures to the Owner for review and written approval prior to the use of the toxic substance. In the event that a toxic substance escapes into the environment, the Contractor shall immediately notify the

Engineer in writing of the occurrence and the actions taken. In the event that the Contractor encounters toxic substances in the course of construction, the Contractor shall immediately notify the Engineer verbally, with a written notification to follow. The Engineer shall arrange for disposal by the Owner.

2. The Contractor will be solely responsible for all waste material including paints, lubricants, fuels, solvents, and other chemicals used in connection with the Work. The Contractor will provide proper containers for waste materials and comply with all applicable laws, rules and regulations in their disposal. The Contractor will dispose of all empty containers off-site as soon as possible. The Contractor will designate one area for transferring paints and solvents from large containers (55-gallon drums) into smaller containers for daily use.

F. The Contractor understands and agrees that the Work Location may include wetlands or other environmentally sensitive areas. The Contractor shall not enter these areas during the performance of its Work, unless specifically authorized by the Engineer and appropriate state and federal permits have been obtained.

G. The Contractor and/or Subcontractor's employees shall not endanger wildlife species or domestic animals of any kind.

H. The Contractor shall immediately cease any activity that causes or results in a violation of the Owner's or the Contractor's environmental permits or federal, state and local laws and regulations. Such violation shall immediately be reported to the Engineer verbally, with written notification to follow. All additional costs due to the Contractor's noncompliance with the applicable environmental permits or Environmental Requirements shall be paid by the Contractor.

SECTION 3.10: OTHER WORK AND OTHER PROPERTY

3.10.1 Encroachments on Rights or Property

A. The Contractor shall be solely responsible for any encroachments on public property or on the rights or property of adjoining property owners to the Work Location, and shall hold the Owner harmless because of any encroachments that may result because of the Contractor's improper layout. In this regard, the Contractor shall, without extra cost to the Owner, remove any Work or portion of any Work that encroaches on the property other than that of the Work Location, or that is built beyond legal building or setback limits. The Contractor shall rebuild the affected Work or portion of Work at the proper location and in full compliance with the Contract Documents.

3.10.2 Interference With Existing Utilities

A. The Contractor acknowledges and agrees that there is a possibility that existing the Owner or other utility facilities may cross and/or lie parallel to excavations in the area where Work will occur. Although the Owner may indicate recorded obstacles on the drawings, it

does not warrant that other subsurface obstacles do not exist. The Contractor shall be responsible for verifying the data furnished by the Owner and for fully investigating and locating additional obstructions including every type below, on or above the ground. The Contractor should regard these impediments as normal to construction. All costs for performing such work shall not be paid for separately, but shall be included in the Contractor's costs on the Bid Form.

B. The Contractor shall comply with all requirements of the Underground Facility Damage Prevention and Safety Act, Chapter 556, *Florida Statutes*.

C. In the event the Contractor encounters an unidentified utility during performance of the Work, the Contractor shall promptly cease Work in the affected area and shall immediately notify the Owner's Representative in writing. The Owner will investigate the area and propose remedial actions in accordance with the provisions stated herein in the Section 14, "Changes to Work."

D. The Contractor shall work in cooperation with the Owner and representatives of existing utilities to plan and coordinate putting new Work into service so as not to interfere with the operation of the existing utilities. Such plans shall be adhered to unless deviations therefrom are expressly permitted in writing by the Contract Administrator.

E. The Contractor shall at all times conduct the Work in a manner that interferes as little as possible with the existing utilities. Any cables exposed during construction, whether energized or not, must be handled and protected as if they are energized. The Contractor shall so conduct its operations and maintain the Work in such condition that adequate drainage shall be in effect at all times. The Contractor shall not obstruct existing gutters, ditches and other runoff facilities. When working in the vicinity of overhead lines, the Contractor shall request line rubber protection and pole holding services from the Owner of the overhead lines at least ten (10) calendar days in advance of performing the work.

F. The Contractor shall be solely responsible for any damages, interferences, and interruptions of service caused to any utility's assets and services including water, sewer, electric, telephone, gas, cable, and other utility services, that result from the Contractor's failure to fulfill the above stated requirements.

G. In the event the Contractor damages an existing utility, the Contractor shall immediately notify the property owner, the owner of the damaged utility and the Engineer. Should the damage cause an interruption of service, the Contractor shall be responsible for restoring service as soon as possible; however, the Contractor shall not make repairs, other than any required to restore safe conditions, without the approval of the property owner, or the owner of the damaged utility. The Contractor shall be responsible for coordinating any repair effort, and any associated costs should the utility owner or a licensed repair contractor be required to make the repair. The Owner reserves the right to deduct any unsettled claim amount from Contractor's invoices until such time as the claim is satisfactorily resolved.

3.10.3 Interference with Other Owner Work or Other Companies

A. The Contractor shall perform the Work in a manner that minimizes the interference with other Owner work, or with work performed by other companies. The Contractor shall coordinate the Work with other persons and companies employed by the Owner. If a difference of opinion regarding scheduling or coordination of the work arises between the Contractor and another Owner contractor(s) performing work at the Work Location, the Owner may arbitrate the matter. In such cases where the Owner makes a decision regarding the scheduling or coordination of the work, the Contractor agrees to fully abide by the Owner's decision. Unless otherwise agreed in writing by the Owner, the Owner will not be responsible for additional costs.

B. Any claims arising against the Contractor from damages to other companies' work, equipment, machinery, tools or other property shall be settled directly between the Contractor and the other companies involved. The Owner will not, in any way, be a party to arbitrating or mediating any such disputes, nor shall the Owner be responsible for any costs associated with such disputes.

3.10.4 Interference with Railroads

A. The Contractor shall not build across, into, over or under, either temporarily or permanently, any portion of a railway or railway right-of-way without first obtaining all required permits. If the Contractor's operations render any railroad unsafe, the Contractor shall immediately notify the Engineer, and the railroad owner and take appropriate actions and such temporary safeguards as required to protect life, limb, and property, and to maintain orderly traffic.

B. The Contractor shall procure all railroad permits required for the Work beyond those procured by the Owner and the costs for such permits shall be included in the Bid Documents. All costs associated with railroad fees for railroad flagmen, watchouts, inspectors, supervisors, any additional training of Contractor's employees that is required by applicable laws, rules and regulations when performing Work in association with railways, any certifications required for successful completion of the Work and all other associated costs shall be included in the Bid Form.

3.10.5 Interruption of Service

A. The Contractor shall not operate any valves, nor otherwise interrupt water and/or sewer service, without first obtaining permission from the Owner. The Owner shall be present during any interruption of service.

B. If the Contractor must shut down a main or portion of a main, thereby causing an interruption of water service, the Contractor shall provide the Owner with the following information, in writing, a minimum of five (5) business days in advance of any anticipated interruption of service:

1. Date and time of outage.

2. Purpose of the outage.

3. Map of the area to be affected by the outage.

4. Letter stating all offices, businesses, and residents have been or will be notified by the Contractor at least four (4) business days in advance of the outage (unless the Owner chooses to issue such notification).

C. The Contractor is not authorized to proceed with the requested Work without prior written notice from the Owner that such actions are approved.

D. In the event of a major emergency that endangers life or property, the Contractor may take immediate action before notifying the Owner. In all cases, however, the Owner shall be notified in writing at the earliest opportunity after addressing the emergency.

3.10.6 Protection of Existing Facilities and Grounds

A. The Contractor shall be responsible for protecting all the existing facilities including, but not limited to, buildings, lawns, landscaping, sprinkler systems, and pavements, both public and private, that are encountered during the performance of the Work. At all times, the Contractor shall cooperate with the owners of such facilities by arranging and performing the Work in and around such facilities in a manner that facilitates their preservation, relocation, and/or reconstruction. The Contractor shall be responsible for the full restoration or replacement if the Contractor damages such facilities during or resulting from performance of the Work.

B. The Contractor shall verify the existing dimensions and clearances before laying out the Work. When the Work involves the laying of utility lines across landscaped areas and grassed areas, which may include, but is not limited to, irrigation systems, streets, sidewalks, and other paved areas, the Contractor shall protect and preserve all trees, shrubs, palms, landscaping, etc., and restore such areas and all paved areas to their original sound conditions using construction techniques and materials that are the same as existing including replacing plants and trees with those of similar size and age. In the case of planted areas, the Contractor shall maintain the restoration Work until positive growth has been acknowledged in writing by the Engineer.

C. All costs for such restoration and replacement work shall be included in the associated lines on the Bid Form, and shall not be paid for separately.

D. The Contractor shall not (except upon written consent from the property owner and Contract Administrator) enter or occupy with workers, tools, equipment or vehicles any land outside the easements, right-of-ways, or the Owner’s property.

3.10.7 Temporary Closure of Roadways

A. The Contractor shall not close or obstruct any portion of a street, road, or private way without first obtaining permits. If any street or private way is rendered unsafe by the Contractor's operations, the Contractor shall make such repairs or provide such temporary ways and guards necessary for the protection and safety of persons on the Work and the public and for the orderly maintenance of traffic. All costs associated with temporary closure of roadways shall be included in the Bid price.

B. The Contractor shall notify the police and fire departments in writing if it will be necessary to close a street. The Contractor shall copy the Owner on all correspondence relating to street closure. The Contractor shall notify the police and fire departments prior to closure of the street. The Contractor shall be responsible for maintaining proper coordination with the proper authorities.

C. Temporary closure of business entrances must be approved in writing by and coordinated with the Owner.

D. For the purposes of this Contract, the Contractor shall refer to the DIVISION 6: TECHNICAL SPECIFICATIONS.

SECTION 3.11: DRAWINGS

3.11.1 Shop Drawings

A. The Contractor shall submit all Shop Drawings according to the Schedule of Submittals approved by the Engineer and the DIVISION 6: TECHNICAL SPECIFICATIONS.

B. Shop drawings shall establish the actual quantities, dimensions, materials and specified performance and design details of all manufactured or fabricated items, services and equipment that Contractor proposes to provide for the Work; indicate proper relation to adjoining Work; amplify design details of mechanical and electrical equipment in proper relation to physical spaces in the structure; and incorporate minor changes of design or construction to suit actual conditions.

C. Shop drawings shall be complete in every detail, properly identified with the Contract name, Contract and subsection number for identification of each item, and state the qualifications, departures or deviations from the Contract, if any. Shop drawings for each section of the Work shall be numbered consecutively and the numbering system shall be retained throughout all revisions. Each drawing shall have a clear space above the title block in the lower right-hand corner for the approval stamps of the Contractor and the Engineer.

D. In checking the Shop Drawings, the Contractor shall:

1. Verify all dimensions and field conditions, and shall check and coordinate the Shop Drawings of any section or trade with the requirements of all other sections or trades whose Work is related thereto, as required for proper and complete installation of the Work.

2. Verify all rough-in and connections for utilities shall conform to approved equipment Shop Drawings

3. Review and coordinate each Shop Drawing with other Shop Drawings and the Contract Documents

4. Determine and verify all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety programs.

E. The Engineer will review the Shop Drawings and will return them to the Contractor stamped to indicate the action taken. For planning purposes, the Contractor shall allow a minimum of two (2) weeks for review of each Shop Drawing. The stamp will indicate that the Shop Drawing is "No Exception Taken", "Make Corrections Noted", "Revise and Resubmit" or "Rejected". Only those Shop Drawings stamped "Revise and Resubmit" or "Rejected" shall be resubmitted for subsequent review. Resubmittals shall be in the same form and number of copies as original submittals, with notation indicating a revised submittal. The Shop Drawings stamped "No Exception Taken" or "Make Corrections Noted" will be returned to the Contractor, who will be responsible for obtaining prints thereof and distributing them to the field and Subcontractors.

F. At the same time the Engineer returns a reviewed submittal to the Contractor it will forward two copies of each item stamped "No Exception Taken" or "Make Corrections Noted" together with any conditions of approval, to for field and office use. The Engineer may revoke approval of Shop Drawings, should field conditions so dictate.

SECTION 3.12: INSPECTIONS, QUALITY & REPORTING

3.12.1 Contractor's Daily Reports

A. The Contractor shall complete and submit daily reports for each calendar day of the Work, starting with the date of the Notice to Proceed, and said reports shall be submitted to the Owner's Representative by noon of the following workday. The Contractor's failure to submit the daily reports as specified herein will be grounds for withholding payments.

B. Upon review of the Contractor's Daily Reports, any discrepancies in the information noted by the Owner's Representative will be provided to the Contractor. A revised Daily Report will be resubmitted within one (1) business day.

3.12.2 Reporting

A. The Contractor shall provide the reports as defined in the Contract Documents. The Contractor shall refer to DIVISION 6: TECHNICAL SPECIFICATIONS.

B. Where the reporting frequency is daily, reports shall be submitted by noon of the following workday. Where the reporting frequency is weekly, reports are due by Monday at noon, covering the prior workweek. Where Monday is a Holiday, the reports are due at noon on the next workday. Where reports are due monthly, reports are due by noon on the first business day of each month. Sample forms for reports may be included in the Contract Documents. Where they are included, they are to be used. Where they are not included, the Contractor shall provide a sample of its proposed report format for each report to the Engineer at least one (1) week prior to its initial due date. The Engineer will review and either approve or reject the use of the report. Where the proposed report is rejected, the Contractor shall resubmit revised report formats, until the Engineer approves format. The Reporting Cycle shall begin on the Notice to Proceed date or the date of the purchase order, if used.

C. Where the Contract calls for reports to be submitted by the Contractor, such reports shall be in both paper and electronic format, with the electronic version submitted electronically via email to the Engineer.

3.12.3 Quality Control and Quality Assurance

A. The Contractor shall provide Quality Control to ensure the Work is performed in accordance with the Contract and in adherence with the Standard of Care. Quality Control shall be appropriate for the nature of the Work, and shall be conducted in a manner consistent with sound quality management and industrial engineering principles. The Contractor shall have only personnel trained in Quality Control techniques and experienced with the nature of the Work perform the Quality Control function.

B. The Owner may perform Quality Assurance activities. Such activities, whether performed or not, do not in any way limit or reduce the Contractor's requirements. The Owner may become aware of quality related problems during its performance of Quality Assurance, but has no obligation to notify the Contractor of its findings. The Contractor shall provide access to all areas of Work, including the Contractor's facilities, for the Owner’s Quality Assurance personnel and the Owner’s Representatives. The Owner will conduct Quality Assurance activities so as not to excessively interfere with the Work, however, where the Owner Quality Assurance personnel request specific actions of the Contractor, the Contractor shall comply with the request and agrees that such compliance is included as part of its Contract Price.

C. The Contractor shall refer to DIVISION 6: TECHNICAL SPECIFICATIONS.

3.12.4 Inspections and Testing

A. The Owner, or its designated representatives, will perform inspections at the Contractor facilities during normal business hours and in a manner that minimizes disruption to the normal day-to-day work activities of the Contractor. Contractor shall provide safe and proper facilities for inspection access and observation of the Work and also for any inspection or testing by others.

B. If the Contractor has covered or concealed any Work from inspection in any way that the Engineer has not specifically requested prior to the Owner's Representative's inspection, or if the Engineer considers it necessary or advisable that covered Work be inspected or tested by others, the Contractor, at the Engineer's request, shall uncover, expose or otherwise make available the portion of the Work in question for observation, inspection or testing as the Engineer may require. The Contractor shall furnish all necessary labor, material and equipment to make such Work available.

C. The Contractor shall bear all expenses of uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction, including, but not limited to, compensation for additional professional services required by the Owner, and no change in Contract Time will be considered as a result of the foregoing.

D. The Owner may, at its sole discretion, grant the Contractor an extension of the Contract Time directly attributable to such uncovering, exposure, observation, inspection, testing and reconstruction.

E. All materials and equipment used in the construction of the Contract shall be subject to adequate inspection and testing in accordance with accepted standards. The Contractor shall select the laboratory or inspection agency for making all tests required by the specifications, and shall pay for this laboratory service direct, as a part of this Contract.

G. The Contractor shall pay for all required testing of materials and equipment. Two (2) copies of each test showing certification of each test shall be furnished to the Engineer immediately after such test has been made and with the exception of concrete, prior to delivery of the materials or equipment tested to the Work Location. The Owner will not accept the materials or equipment until tests have been approved.

H. Materials of construction, particularly those upon which the strength and durability of the structure may depend, shall be subject to inspection and testing to establish conformance with specifications and suitability for uses intended. Test requirements for all materials are set out in the detailed specifications for that particular material. All materials and equipment prior to being incorporated in the Work, and required by the Engineer to be tested, shall be tested for conformance with contractual requirements. Standard items of a uniform nature may be accepted on the manufacturer's certification. Where specific performance and/or quality is referred to, it is the Contractor's responsibility to have the necessary tests performed by qualified persons to show that the contractual requirements are being met except those tests named in the Contact Documents to be

performed by the Owner. Certified test results shall be submitted promptly in quadruplicate to the Engineer for review. All tests shall be performed in accordance with referenced standards. Where no reference is made, tests shall be performed in accordance with the methods prescribed by the American Society for Testing and Materials or such other organization as would be applicable.

I. The Contractor shall pay for any retests resulting from its failure to provide Work that passes required tests.

J. The Engineer, or the Owner appointed Inspectors may inspect any and all materials and Work. Such inspection may extend to any or all parts of the Work and to the preparation and manufacture of the materials to be used. The Inspectors shall not be authorized to alter, revoke, enlarge or relax the provisions of the Contract, nor will they be authorized to approve or accept any portion of the completed Work, nor to issue instructions contrary to the Contract. The Inspector shall inform the Engineer of the progress of the Work and the manner in which it is being done, and notify the Contractor of any infringement upon the Contract Documents. The Inspectors will have the authority to reject defective materials or to suspend any Work that is being improperly done subject to the final decision of the Engineer.

3.12.5 Performance Evaluation

A. The Owner may, upon completion of the Work or at any time during the Work, issue to the Contractor a written performance evaluation of the Contractor's performance of Work under this Contract. The evaluation will be based upon the Owner’s and the Engineer’s reports, inspections, and first-hand experience in dealing with the Contractor and the Contractor’s representatives. The performance evaluation will indicate whether the Contractor’s performance has been deemed “Satisfactory,” “Unsatisfactory” or “Top Performance” with regard to the following criteria:

1. Timeliness;
2. Customer Service to Owner;
3. Care of Owner’s Customers;
4. Financial Performance;
5. Quality of Workmanship;
6. Quality of Materials & Equipment;
7. Safety;
8. Environmental;

9. Compliance with MBE/WBE Requirements; and

10. Project Administration.

SECTION 3.13: OWNER-FURNISHED ITEMS

3.13.1 Conditions of Provisioning

A. The Contractor understands and agrees that it shall be solely responsible for providing everything necessary to perform the Work and to be in full compliance with the Contract Documents, except for those items specifically listed herein as being provided by the Owner.

B. Any use of Owner-furnished items on non-Owner work is a breach of the Contract and a violation of the law. All Owner-furnished items are the property of the Owner when issued, stored by Contractor, and used in performance of the Work. The Contractor agrees that it shall use all Owner-furnished items in a manner consistent with industry practice, codes, laws, considering the condition of the Owner-furnished item, the skills of the individuals using the Owner furnished item, and all environmental conditions. The Contractor understands and agrees that where the Owner and the Contractor shall share Owner-furnished items, Owner usage shall always have priority over Contractor usage, and the Contract Administrator shall have sole authority to resolve any usage dispute and such resolution shall not result in any claim by Contractor.

C. The Contractor agrees to return to the Owner, and to the location as established by the Engineer, any unused or salvageable items prior to final payment. The Contractor agrees that the Owner has the right to audit and investigate at any time how the Contractor is using Owner-furnished items. The Owner will bill the Contractor for unaccountable Owner-furnished material at the current Owner cost.

3.13.2 Access to Work Locations

A. The Owner will provide, as indicated in the Contract Documents, and no later than the date when needed by the Contractor, access to the Work Location, including rights-of-way or access thereto, and such other lands that are designated for the Contractor's use. The Owner will secure easements for permanent structures or permanent changes in existing facilities, unless otherwise specified in the Contract Documents.

3.13.3 Contract Documents

A. After Contract Award, the Owner will furnish a maximum of one (1) complete set of the Contract Documents, or portions requested thereof, upon request by the Contractor. Additional copies will be supplied at cost to the Contractor.

3.13.4 Site Conditions

A. The Owner will provide to Contractor test data results from field tests. Such data has been determined by the Owner to be sufficient to describe the conditions to be expected during the performance of the Work. The Contractor shall not be entitled to any claim for additional costs associated with any ground related Work, unless the actual conditions found substantially differ from those described by the test data.

B. The Contractor is responsible for verifying Site conditions and obtaining additional data as the Contractor deems necessary. The Contractor will be responsible for all costs associated with the gathering of additional Site data.

SECTION 3.14: CHANGES TO WORK

3.14.1 Unforeseen Conditions

A. The Contractor understands and agrees that it is its responsibility to conduct due diligence prior to the start of Work. Such due diligence includes, but is not limited to, verifying all Work conditions, measurements, dimensions and latent and patent obstructions, the accuracy of drawings, test results, inspections and other informational materials provided in the Contract Documents, and any other causes for existing or potential changes to the Work prior to initiating the Work. In the event that the Work must be changed due to the Contractor's failure to fulfill the above requirements, the Contractor understands and agrees that it will be responsible for all costs associated with the changed condition.

B. In the event, however, that the Contractor exercises the requisite due diligence and a change to the Work becomes necessary resulting from conditions that are clearly unforeseen and that could not have been discovered, the costs for adjusting the Work in response to such unforeseen conditions shall be addressed as stated herein in Article 3.14.2 below titled "Changes in the Work and Change Orders."

3.14.2 Changes in the Work and Change Orders

A. The Engineer may issue to the Contractor a written Field Order to authorize minor changes to the Work having no impact on Contract Price or Contract Time. If the Contractor anticipates that the Field Order work will impact the Contract Price or Contract Time the Contractor should immediately notify the Engineer.

B. In the event of an emergency endangering life or property where it is appropriate for the Contractor to take action, the Contractor shall undertake such actions to preserve life and property. The Owner and the Contractor will determine after emergency is concluded, the extent of out-of-scope work performed by the Contractor, and the Owner will issue a Change Order or amend the Contract for such work, if any and as necessary.

C. Anything to the contrary notwithstanding, in the event that the Owner determines that a change must proceed immediately or if the Owner rejects all or a portion of the

Contractor's estimated effect of a change, then the Owner may direct, and the Contractor shall commence immediately and perform until completion, the necessary services to implement the change. The Owner will issue such direction in the form of a written Work Change Directive. The Contractor shall be compensated for such change in the work, notwithstanding any objections of the Contractor, which objections shall be preserved and not waived by the Contractor's commencement or performance of the Work as directed by the Owner.

D. To request or claim any change in the Work including, but not limited to change in scope, quantities, pricing, or schedules, the Contractor shall submit a letter to the Engineer stating such request or claim. The Engineer shall review and submit a written recommendation to the Owner. The Owner shall have the right to approve or disapprove any request or claim for change as it deems necessary and in its best interests consistent with the other Contract requirements. Whether requested by the Contractor, claimed by the Contractor, or contemplated by the Owner, no change shall be authorized unless made on an Owner Change Order signed by the Contract Administrator or through a formal written amendment to this Contract.

E. All requests for changes filed by the Contractor shall be in writing delivered to the Owner's Representative within ten (10) business days of when the event that prompted the claim was discovered or should have been discovered. The Contractor's failure to timely submit a written claim will constitute a waiver of the right to pursue a claim. Upon receipt of the Contractor's claim notification, Owner's Representative will provide written direction as to the procedures that will be used to address the request. The Contractor's request shall be sufficiently detailed including itemized costs, condition and work descriptions and other information necessary to evaluate the merits of the claim. A cost breakdown showing all labor, material and equipment shall be provided. The Owner's Representative may reject requests providing insufficient supporting information. Any change in the Contract resulting from the request will be incorporated into the Contract via a Change Order or Purchase Order. Where the Engineer and the Contractor are unable to reach a mutually acceptable resolution of request, the Owner's determination will be final.

F. Where necessary, the Owner will determine the value of work covered by a change order using one of the following methods:

1. Where the work is covered by established unit prices contained in the contract, the unit price, if the Owner agrees that this is a fair and reasonable price; otherwise, a negotiated price will be applied to the quantity of work at the discretion of the Owner,

2. By mutual acceptance of lump sum price,

3. By actual cost and a mutually acceptable fixed amount for overhead and profit, or

4. Where Bid Price was based on estimated quantities, prior to making final payment, the Owner will determine actual quantities using sampling, surveying and other

industry recognized means and prepare a Change Order adjusting the price to reflect actual volumes.

G. The Contractor shall immediately notify the Owner's Representative in writing of any unauthorized change in the scope of the Work or significant change in the quantities of the Work that may increase the Contract Price, require an extension of Work schedule, or negatively impact permitting or other regulatory requirements.

H. The Contractor shall submit requests or claims for a Work schedule adjustment in writing and delivered to the Engineer within five (5) business days following the discovery of the event that prompted the claim or when the event should have been discovered. Where accepted by the Owner, changes to the Approved Schedule will only adjust for critical path impacts. Failure to include the necessary critical path analysis with request shall be grounds for rejecting the claim. The path of critical events mentioned herein means the series of interdependent Work events that must be sequentially performed and that require a longer total time to perform than any other such series. Upon receipt of the Contractor's request for a change in the Work schedule, the Owner's Representative will provide any additional directions in writing detailing the procedures that will be used to resolve the request, including provision of time impact or manpower and equipment loading schedules. Where the Owner and the Contractor are unable to reach a mutually acceptable resolution of request, the Owner will make a commercially reasonable determination, made in accordance with the Owner's established policies and procedures, which shall be final.

I. All Work defined on Field Orders, Work Change Directives and Change Orders shall be subject to the conditions of the Contract, unless specifically noted on the Field Order Form, Work Change Directive Form, or Change Order.

3.14.3 Delay

A. Damage, loss, expense or delay incurred or experienced by the Contractor in the prosecution of the Work by reason of unforeseen circumstances, unanticipated difficulties and obstructions, bad weather, or other mischances that are generally considered to be a part of the usual hazards associated with Work, shall be borne entirely by the Contractor and shall not be the subject of any claim for additional compensation or change in Approved Schedule.

B. The Contractor agrees that its sole remedy for any claims, damages or losses related to any delay, disruption or hindrance alleged to be caused by the Owner or any of the Owner's agents or other contractors, shall be an extension of the Contract completion date. As such, the Contractor shall not recover any cost associated with extended home/field office overhead, idle labor/equipment/materials, subcontractors' claims or any other miscellaneous costs.

C. Any demand for equitable time adjustment must be served in writing to the Owner within five (5) calendar days of the event giving rise to any delay, disruption or hindrance. Any

request for an equitable time adjustment shall be accompanied by a logical time impact analysis, demonstrating the nature and magnitude of the event to the critical path. Any request that is not clearly shown to be an impact to the project's critical path will be denied.

D. Failure to strictly comply with these requirements shall be deemed a waiver of any right to seek equitable adjustment.

3.14.4 Notification of Surety

A. The Contractor shall notify its surety of any changes affecting the general scope of the Work or altering the Contract Price.

3.14.5 Contingency Work

A. The Owner will issue a written Change Order to incorporate cost or schedule changes into the Contract. Issuance of a Change Order is solely at the discretion of the Owner. The Change Order shall be used for increases or decreases in the Contract Price, within the contingency amount set forth in the Contract Price, or to make changes in schedule for performance of the Work.

B. The Contractor should not expect that any Change Orders for contingency work will be issued. Owner shall have no obligation to pay for contingency work unless the same is performed pursuant to a written Change Order form signed before the contingency work is commenced.

C. The Contractor and the Engineer shall mutually agree to the pricing of a Change Order for contingency work. Any negotiated increase or decrease in the Contract Price shall be based on the Contractor's costs for labor, materials and supplies directly applicable to the increase or decrease plus ten percent (10%) thereof for Contractor's supervision, overhead, bonds and profit. For any negotiated increase or decrease, the Contractor will provide a complete detailed breakdown for all labor, material, and equipment, etc. associated with the change. A lump sum figure submitted with no breakdown will be returned to the Contractor without review.

D. Cost Reimbursable (Time and Materials) Method:

1. The Owner may, at its sole discretion, implement cost reimbursable procedures in order to limit the costs for performance of contingency work. Also, whenever the Contractor and the Owner are unable to agree on costs for an increase in the Work, the Owner or Engineer shall order the Contractor to proceed with the Work on a cost reimbursable (time and material) basis. The Owner will pay the Contractor for the contingency work in the manner hereinafter described, and the compensation thus provided shall constitute full payment for said work. The Owner shall issue the Change Order for the Contractor to perform the specific contingency work with payment determined as follows:

a. For materials purchased by the Contractor and used in the work, the Contractor shall be paid the actual cost of such materials, including sales taxes if required, and freight and delivery charges as shown by original receipted bills. A mark-up amount equal to ten percent (10%) of the sum thereof shall be added to this cost. The Owner reserves the right to select and approve, or to reject the materials to be used and the sources of supply of any materials furnished by the Contractor.

b. The Contractor will be paid the cost of wages for all labor that is engaged in the Work, plus the actual cost chargeable to the Work for workers' compensation insurance, social security taxes, unemployment compensation insurance and such additional amounts as are paid by the Contractor. A total mark-up shall be added equal to ten percent (10%) of wages and other cost listed above. In evidence of the costs of labor the Contractor shall provide a certified statement of wages actually paid, together with copies of supporting payrolls. Wage rates used in determining the amount of the payment will be the actual wage rates paid by the Contractor for Work under this Contract, except that no rate used shall exceed the rate of comparable labor currently employed on the project.

c. Payment for the services of foremen in direct charge of the specific operation will be made. Payment for the service of superintendents, timekeepers or other overhead personnel will not be made nor will payment for the services of watchmen be made unless required specifically by the contingency Work. The actual function performed by an employee rather than its payroll title will be the criterion used in determining the eligibility of an employee's services for payment under this provision.

d. The types and amounts of equipment and machinery used by the Contractor in carrying out its work under the contingency shall be made in keeping with normal practice for work of similar nature. Owner may, at its discretion, limit by specific instruction the types and amounts of equipment and machinery to be used. For all equipment and machinery used in the contingency work, the Owner will pay eighty percent (80%) of the rental value as set forth in the Blue Book value or actual cost, whichever is less, to which no mark-up percentages will be added.

e. In computing the hourly rental of such equipment, less than thirty (30) minutes shall be considered 1/2 hour except when the minimum rental time to be paid is one hour. Rental time will not be allowed while equipment is inoperative due to breakdowns. The rental time of equipment to be paid for shall be the time the equipment is in operation on the contingency work being performed. The Contractor shall be reimbursed for the time required to move the equipment to the Work, and return it to its original location, only if the Contractor is charged this cost by the renting agency. Excess rental time of equipment due to inefficient work practices will not be reimbursed.

f. No payment will be allowed for the use of small tools and minor items of equipment, which, as used herein, are defined as individual tools or pieces of equipment having a replacement value of $500.00 or less.

g. The Contractor and the Engineer shall compare records of the Work performed on a Cost Reimbursable basis at the end of each day. These records shall be prepared by the Contractor and shall be signed by both the Owner and the Contractor's Representative. A copy of these records shall be submitted to the Owner with the invoice for the work.

h. Payment for cost reimbursable contingency work will be included in monthly progress payments.

i. The Contractor's Subcontractors will be allowed a ten percent (10%) mark-up on Work performed by their own forces. The Contractor will be allowed a five percent (5%) mark-up on the Subcontractor's costs (i.e. labor, materials and equipment) only, no mark-up on the Subcontractor's profit.

3.14.6 Suspension of Work

A. The Owner may suspend the performance of the Work rendered by providing the Contractor with five (5) business days written notice of such suspension. Schedules and compensation for performance of the Work shall be amended by mutual agreement to reflect such suspension. In the event of suspension of Work, the Contractor shall resume the full performance of the Work when the Owner gives written direction to do so. Suspension of Work caused by the Contractor's sole negligence or failure to perform shall not affect the Contractor's compensation as outlined in the Contract Documents.

3.14.7 Unauthorized Work

A. The Owner will consider any Work done without lines and grades given, Work done beyond the lines and grades shown on the Contract or as given, or any extra Work done without written authority, as unauthorized Work and will not pay the Contractor for such Work. If so ordered by the Contract Administrator, the Contractor shall remove such Work and properly replace it at the Contractor's own expense.

3.14.8 Payment of Overtime

A. Any Overtime required for the Contractor to complete the Work within the Contract Time shall be at the sole cost and expense of the Contractor.

B. If the Owner requires the Contractor to perform Overtime Work in order to complete the Work prior to the Contract Time, the Contractor shall bill the Owner for the Overtime such that only the actual costs incurred by the Contractor relating to the payment of Overtime premiums, in accordance with its labor policies and applicable laws. Such actual costs include Overtime wage premium, and additional taxes and insurance directly associated

with the Overtime wage premium. The Contractor agrees that it will not charge for personnel paid a salary, or other form of compensation such that the Contractor incurs no direct costs as a result of the Overtime. The Contractor shall total the direct Overtime charges, and add the agreed upon overhead rate, but in no case, shall such overhead rate exceed ten percent (10%) of the total overtime costs.

C. Overtime may only be charged to the Owner if the Contractor was directed in writing by the Contract Administrator to incur the Overtime. Such authorization for Overtime shall be accompanied by a Change Order.

3.14.9 Scheduling of Overtime (Contractor Initiated Overtime)

A. Whenever the Contractor schedules Work beyond ten (10) hours per day, beyond fifty (50) hours per week, or on Saturdays, Sundays, or Owner Holidays, then the Contractor shall arrange, in advance, for the Engineer to inspect the Work performed during Overtime. The Contractor shall not perform Overtime Work or after-hours Work without an Owner's Representative at the Work Location or available to perform the inspections, as directed by the Contract Administrator. Except where the Owner has requested the Contractor schedule Overtime to perform additional Work, the Contractor shall reimburse the Owner for any additional costs associated with the Owner's Representatives' Overtime pay.

SECTION 3.15: LABOR

3.15.1 E-Verify Requirements.

Effective January 1, 2021, public and private employers, contractors, and subcontractors must require registration with, and use of the E-Verify system in order to verify the work authorization status of all newly hired employees. Contractor acknowledges and agrees to utilize the U.S. Department of Homeland Security's E-Verify System to verify the employment eligibility of:

(1) All persons employed by Contractor to perform employment duties within the State of Florida during the term of the Agreement; and

(2) All persons (including subcontractors/subvendors/subconsultants) assigned by Contractor to perform work pursuant to this Contract with the Owner. Contractor acknowledges and agrees that the use of the U.S. Department of Homeland Security's E-Verify System during the term of this Agreement is a condition of the Contract with the Owner.

By entering this Contract with the Owner, Contractor becomes obligated to comply with the provisions of Section 448.095, Florida Statutes, "Employment Eligibility." This includes, but is not limited to, use of the E-Verify System to verify the work authorization status of all newly hired employees, and requiring all subcontractors to provide an affidavit to Contractor attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Contractor agrees to maintain a copy of such affidavit for the duration of

this Agreement. Failure to comply with this section will result in the termination of this Contract as provided in Section 448.095, Florida Statutes, and Contractor may not be awarded a public contract for at least one (1) year after the date on which the Contract was terminated. Contractor will also be liable for any additional costs to Owner incurred as a result of the termination of this Contract in accordance with this section.

3.15.2 DBE, MBE and/or WBE Requirements

A. Contractor represents that it will comply with all applicable provisions regarding DBE, MBE and/or WBE enterprises requirements stated in the DIVISION 4: SUPPLEMENTAL CONDITIONS.

3.15.3 Contractor's Labor Relations

A. The Contractor shall negotiate and resolve any disputes between the Contractor and its employees, or anyone representing its employees. The Contractor shall immediately notify the Owner of any actual or potential labor dispute that may affect the Work and shall inform the Owner of all actions it is taking to resolve the dispute.

3.15.4 Minimum Qualifications of Contractor Personnel

A. All Contractor personnel shall be at a minimum qualified for the tasks they are assigned. All Contractor personnel shall act in a professional manner, with due sensitivity to other persons at the Work Location. If the Owner, at its sole reasonable discretion, determines that a Contractor's person is unqualified, unfit, or otherwise unsuitable for the tasks assigned, the Contractor shall immediately stop the person from performing the tasks, and replace the person with a qualified individual. The Contractor shall pay all costs associated with replacing the unqualified person including, but not limited to, termination, recruiting, training, and certification costs.

B. The Contractor personnel assigned supervisory roles, and those with increased authority shall be held to strict scrutiny of their qualifications and suitability for their positions. In addition to the other provisions of this clause, the Contractor shall provide written documentation as to experience, education, licenses, certifications, professional affiliations, and other qualifications of the individual, within one (1) day of request from the Engineer. Any changes to such personnel after approval shall require the written permission of the Engineer.

3.15.5 Nondiscrimination

A. Contractor represents that it will comply with all applicable provisions regarding equal employment requirements stated in the DIVISION 4: SUPPLEMENTAL CONDITIONS.

B. The Contractor represents that it has adopted and will maintain a policy of nondiscrimination against employees or applicants for employment on account of race, religion, sex, color, national origin, age or handicap, in all areas of employee relations,

throughout the Term of this Contract. The Contractor agrees that on written request, it will allow the Owner reasonable access to the Contractor's records of employment, employment advertisement, application forms and other pertinent data and records for the purpose of investigation to ascertain compliance with the nondiscrimination provisions of this Contract; provided however, the Contractor shall not be required to produce, for inspection, records covering periods of time more than one (1) year from the effective date of this Contract.

C. The Contractor shall comply with the following executive orders, acts, and all rules and regulations implementing said orders or acts, which are by this reference incorporated herein as if set out in their entirety:

1. The provisions of Presidential Order 11246, as amended, and the portions of Executive Orders 11701 and 11758 as applicable to Equal Employment Opportunity;

2. The provisions of section 503 of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act (ADA); and

3. The provisions of the Employment and Training of Veterans Act, 38 U.S.C. 4212 (formerly 2012).

D. Discriminatory Vendor List. Contractor hereby acknowledges its continuous duty to disclose to the Owner if Contractor or any of its affiliates, as defined by Section 287.134(1)(a), Florida Statutes, has been placed on the Discriminatory Vendor List. Pursuant to Section 287.134(2)(a), Florida Statutes: "An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity."

E. The Contractor agrees that if any of the Work of this Contract will be performed by a Subcontractor, then the provisions of this subsection shall be incorporated into and become a part of the subcontract.

3.15.6 Show-Up Pay

A. In the event that inclement weather prevents the Contractor from performing Work, the Contractor may be obligated to pay its crew a show-up pay. The Contractor shall be solely responsible for providing this pay.

SECTION 3.16: RIGHTS, REMEDIES, AND DISPUTES

3.16.1 Intellectual Property

A. The Contractor grants to the Owner an irrevocable, perpetual, royalty free and fully paid-up right to use (and such right includes, without limitation, a right to copy, modify and create derivative works from the subject matter of the grant of the right to sublicense all, or any portion of, the foregoing rights to an affiliate or a third party service provider) the Contractor's intellectual property (including, without limitation, all trade secrets, patents, copyright and know-how) that is contained or embedded in, required for the use of, that was used in the production of or is required for the reproduction, modification, maintenance, servicing, improvement or continued operation of any applicable unit of Work.

B. If the Work contains, has embedded in, requires for the use of any third party intellectual property, or if the third party intellectual property is required for the reproduction, modification, maintenance, servicing, improvement or continued operation of the Work, the Contractor shall secure for the Owner an irrevocable, perpetual, royalty free and fully paid-up right to use all third party intellectual property. The Contractor shall secure such right at its expense and prior to incorporating any third party intellectual property (including, without limitation, all trade secrets, patents, copyright and know-how) into any Work, including, without limitation, all drawings or data provided under the Contract, and such right must include, without limitation, a right to copy, modify and create derivative works from the subject matter of the grant of the right and a right to sublicense all or any portion of the foregoing rights to an affiliate or a third party service provider.

C. Should the Owner, or any third party obtaining such work product through the Owner, use the Work or any part thereof for any purpose other than that which is specified herein, it shall be at the Owner's sole risk.

D. The Contractor will, at its expense, defend all claims, actions or proceedings against the Owner based on any allegation that the Work, or any part of the Work, constitutes an infringement of any patent or any other intellectual property right, and will pay to the Owner all costs, damages, charges, and expenses occasioned to the Owner by reason thereof. The Owner will give the Contractor written notice of any such claim, action or proceeding and, at the request and expense of the Contractor, the Owner will provide the Contractor with available information, assistance and authority for the defense.

E. If, in any action or proceeding, the Work, or any part thereof, is held to constitute an infringement, the Contractor will forthwith either secure for Owner the right to continue using the Work or will, at the Contractor's expense, replace the infringing items with noninfringing Work or make modifications as necessary so that the Work no longer infringes.

F. The Contractor will obtain and pay for all patent and other intellectual property royalties and license fees required in respect of the Work.

3.16.2 Offsets

A. If the Owner reasonably believes the Contractor is in violation of any requirement of the Contract, the Owner may withhold payments that may be due the Contractor, and may offset existing balances with any Owner incurred costs against funds due the Contractor under this and any other Contractor Contract with the Owner, as a result of the violation, or other damages as allowed by the Contract Documents and applicable law.

3.16.3 Proprietary Information

A. The Contractor shall not copy, reproduce, or disclose to third parties, except in connection with the Work, any information that the Owner furnishes to the Contractor. The Contractor shall insert in any subcontract a restriction on the use of all information furnished by the Owner. The Contractor shall not use this information on another project. All information furnished by the Owner will be returned to the Owner upon completion of the Work. The Contractor may retain a copy of such information solely for its own project records.

3.16.4 Removal of Work

A. The Contractor shall not sell, assign, mortgage, hypothecate or remove Work that has been delivered to or installed at the Work Location without the Owner’s approval.

3.16.5 Right to Audit and Financial Reporting

A. Upon the Owner's reasonable requests, the Contractor agrees to allow the Owner to audit its financial and operating records for the purpose of determining invoice accuracy, or otherwise assessing compliance with the Contract Documents. The Contractor agrees to allow Owner personnel, their qualified representative, and representatives as stated in DIVISION 4: SUPPLEMENTAL CONDITIONS access the records at Contractor's office, with three (3) business days written notice, for a reasonable period, not less than five (5) business days, in a workspace suitable for the audit provided by the Contractor. All audit work will be done on the Contractor’s premises, and no Contractor documentation will be removed from the Contractor’s offices. The Contractor agrees to have knowledgeable personnel available to answer questions for the auditors during the time they are at the Contractor's offices and for a period of two (2) weeks thereafter. The Contractor shall provide to the Owner audited financial statements for the most recent fiscal year upon the Owner's request, not later than five (5) business days after receipt of written request.

B. Contractor represents that it will comply with all applicable provisions stated in the DIVISION 4: SUPPLEMENTAL CONDITIONS.

3.16.6 Title to Materials Found

A. The Owner shall retain the title to water, mineral matter, timber and any other materials that the Contractor, or its Subcontractors, encounter during the excavation or other

operations of the Work. The Contractor shall use or dispose of this material in accordance with the Contract or written instructions from the Engineer. Any materials found in the excavation, or other operations of the Contractor, that are of archaeological or historical value shall be left in place. The Contractor shall immediately notify the Owner of the find and shall take no further action until directed by the Owner.

3.16.7 Owner's Rights for Contractor Breach

A. In the event that Contractor causes delay to Approved Schedule, performs its Work in a manner that fails to meet the Standard of Care, commits a material breach of this Agreement, or otherwise damages the Owner at law or in equity, the Owner is entitled to all remedies and damages available at law, including, but not limited to, liquidated damages, actual damages, consequential damages, attorneys' fees, and costs.

3.16.8 Limited Waiver of Consequential Damages

A. The Parties expressly agree that no Party to this Agreement shall be liable to any other Party or Parties to this Agreement for any special, consequential or exemplary damages of any kind whatsoever, whether arising in contract, warranty, tort (including but not limited to negligence), strict liability, or otherwise, including without limitation losses of use, profits, business reputation and financing, subject to the following exceptions: (i) willful misconduct, recklessness, or fraud by the Contractor or any entity for which it is legally responsible; (ii) the Contractor's third-party indemnity obligations under this Agreement or arising by operation of law, including claims for bodily injury, personal injury, or death; (iii) abandonment; (iv) Contractor's liability for liquidated damages; and (v) liability that is recoverable from Project Specific insurance.

SECTION 3.17: REPRESENTATIONS & WARRANTIES

3.17.1 Contractor's Knowledge of the Work

A. The Contractor represents that the Contract Price and the detailed schedule for the execution of the Work are based on its own knowledge and judgment of the conditions and hazards involved, and not upon any representation of the Owner. The Owner assumes no responsibility for any understanding or representation made by any of its representatives during or prior to execution of the Contract unless such understandings or representations are expressly stated in the Contract and the Contract expressly provides that the Owner assumes the responsibility.

3.17.2 Contractor's Plans and Specifications

A. All plans and specifications that the Contractor provides for any building, structure, system or equipment where required by federal, state, local laws and regulation as part of the Work shall bear the seal of a Professional Engineer duly registered in the State of Florida at no cost to the Owner.

3.17.3 Contractor's Warranties

A. The Contractor unconditionally warrants to the Owner for a period of not less than two (2) years (unless otherwise stated in DIVISION 6: TECHNICAL SPECIFICATIONS) from the earlier of Final Acceptance or Substantial Completion and beginning of normal use by the Owner, that all Work furnished under the Contract including, but not limited to, materials, equipment, workmanship, and intellectual property, including derivative works will be:

1. Performed in a safe, professional and workman like manner;

2. Free from Defects in design, material, and workmanship;

3. Fit for the use and purpose specified or referred to in the Contract;

4. Suitable for any other use or purpose as represented in writing by the Contractor;

5. In conformance with the Contract Documents; and

6. Merchantable, new and of first-class quality.

7. Performed in accordance with the Standard of Care as defined herein.

B. The Contractor warrants that the Work shall conform to all applicable standards and regulations promulgated by federal, state, local laws and regulations, standards boards, organizations of the Department of State, and adopted industry association standards. If the Work fails to conform to such laws, rules, standards and regulations, the Owner may return the Work for correction or replacement at the Contractor's expense, or return the Work at the Contractor's expense and cancel the Contract. If the Contractor performs services that fail to conform to such standards and regulations the Contractor shall make the necessary corrections at Contractor's expense. The Owner may correct services to comply with standards and regulations at the Contractor's expense if the Contractor fails to make the appropriate corrections within a reasonable time.

C. If the Work includes items covered under a manufacturer's or Subcontractor's warranty that exceeds the requirements stated herein, the Contractor shall transfer such warranty to the Owner. Such warranties, do not in any way limit the warranty provided by the Contractor to the Owner.

D. If, within the warranty period, the Owner determines that any of the workmanship or supplies are defective or exhibit signs of deterioration, in the opinion of the Owner, the Contractor, at its own expense, shall repair, adjust, or replace the defective Work to the complete satisfaction of the Owner. The Contractor shall pay all costs of removal, transportation, reinstallation, repair, and all other associated costs incurred in connection with correcting such Defects in the Work. The Contractor shall correct any Defects only at times designated by the Owner. The Contractor shall extend the warranty period an

additional twelve (12) months (thirty-six (36) months total) for any portion of the Work that has undergone warranty repair or replacement.

E. When operational conditions warrant, the Owner may repair or replace any defective equipment at the Contractor's expense. The Owner may repair or replace any defective Work at the Contractor's expense when the Contractor fails to correct the Defect within a reasonable time of receiving written notification of the Defect by the Owner, when the Contractor is unable to respond in an emergency situation, or when necessary to prevent the Owner from substantial financial loss. Where the Owner makes repairs or replaces defective Work, the Owner will issue the Contractor a written accounting and invoice of all such work to correct Defects. The Contractor's liability to the Owner for the costs of removal, transportation, reinstallation, and all other associated costs incurred in connection with correcting Defects in the Work will be limited to 1.5 times the original installed purchase price of the specific Work.

F. The Contractor's warranty excludes remedy for damage or Defect caused by abuse, improper or insufficient maintenance, improper operation, or wear and tear under normal usage.

3.17.4 Competent Performance of the Work

A. The Contractor represents that it will conduct the Work in a manner and with sufficient labor, materials and equipment necessary to affect a diligent pursuance of the Work through Final Completion. If, in the sole opinion of the Owner, the Contractor fails to perform the Work as represented, the Owner may, at its sole discretion, take charge of the Work and furnish and provide the labor, materials, and equipment necessary to complete the Work as planned within the required time if the Owner deems the organization of the Contractor or its management, or the manner in which Contractor is performing the Work, to be manifestly incompetent or inadequate to complete the Work as specified. The Contractor shall pay the Owner for the cost of all such Work completed by the Owner.

3.17.5 Encroachment on Outside Property

A. The Contractor warrants that it shall not encroach on any rights or property of the public or adjoining property owners and shall hold the Owner harmless because of any encroachments that may result from the Contractor's lack of proper layout. If such an encroachment occurs, the Contractor agrees to remove any Work or portion thereof, that encroaches on the property of others, or that is built beyond legal building or setback limits, and shall rebuild the affected Work, or portion thereof, at the proper location, all without extra cost to the Owner.

3.17.6 Free and Clear Title

A. The Contractor warrants that it has title to all equipment and materials furnished under the Contract where title will pass to the Owner, and that the equipment and materials

passed to the Owner are free and clear of all liens, claims, security interests and encumbrances.

3.17.7 Performance of the Work

A. The Contractor represents and warrants that it has the full corporate right, power and authority to enter into the Contract and to perform the acts required of it hereunder, and that the performance of its obligations and duties hereunder does not and will not violate any Contract to which the Contractor is a party or by which it is otherwise bound. The Contractor warrants that all items provided under the Contract shall be free from Defect and services shall be performed in a professional manner and with professional diligence and skill, consistent with the prevailing standards of the industry. The Contractor warrants that the Work will meet the functional and performance requirements defined in the Contract.

3.17.8 Safety Representation

A. The Contractor represents and warrants to the Owner that it has the capacity to train and supervise its employees, Subcontractors and Suppliers to ensure the Work complies with all safety requirements of the Contract Documents. The Contractor shall be responsible for executing the necessary safety training and supervision of its employees and Subcontractors, and acknowledges that the Owner is not responsible for training or supervising the Contractor's employees, except when noted for the purpose of enforcing compliance with these safety requirements.

SECTION 3.18: TERM & TERMINATION

3.18.1 Term of Contract (Through Work Completion)

A. The Contract shall be in force through completion of all Work, Final Acceptance and final payment, including resolution of all disputes, claims, or suits, if any. Certain provisions of this Contract may extend past termination including Warranty provisions.

3.18.2 Termination for Convenience

A. The Owner shall have the absolute right to terminate in whole or part the Contract, with or without cause, at any time after Award upon written notification of such termination.

B. In the event of termination for convenience, the Owner will pay the Contractor for all disbursements and expenses that the Contractor has incurred, or those for which it becomes obligated prior to receiving the Owner's notice of termination. Owner will also pay the Contractor costs incurred less the reasonable resale value, of materials or equipment that the Contractor has already ordered, obtained or fabricated in connection with the Contract.

C. Upon receipt of such notice of termination, the Contractor shall stop the performance of the Work hereunder except as may be necessary to carry out such termination and take any other action toward termination of the Work that the Owner may reasonably request, including all reasonable efforts to provide for a prompt and efficient transition as directed by the Owner.

D. The Owner will have no liability to the Contractor for any cause whatsoever arising out of, or in connection with, termination (whether for convenience or default) including, but not limited to, lost profits, lost opportunities, or resulting change in business condition, except as expressly stated within these Contract Documents.

3.18.3 Termination for Default

A. Owner may give the Contractor written notice to discontinue all Work under the Contract in the event that:

1. The Contractor assigns or subcontracts the Work without prior written permission;

2. Any petition is filed or any proceeding is commenced by or against the Contractor for relief under any bankruptcy or insolvency laws;

3. A receiver is appointed for the Contractor's properties or the Contractor commits any act of insolvency (however evidenced);

4. The Contractor makes an assignment for the benefit of creditors;

5. The Contractor suspends the operation of a substantial portion of its business;

6. The Contractor suspends the whole or any part of the Work to the extent that it impacts the Contractor's ability to meet the Work schedule, or the Contractor abandons the whole or any part of the Work;

7. The Contractor, at any time, violates any of the conditions or provisions of the Contract Documents, or the Contractor fails to perform as specified in the Contract Documents, or the Contractor is not complying with the Contract Documents;

8. The Contractor attempts to willfully impose upon the Owner items or workmanship that are, in the Owner's sole opinion, defective or of unacceptable quality;

9. The Contractor breaches any of the representations or warranties contained herein;

10. The Contractor is determined, in the Owner's sole opinion, to have misrepresented the utilization of funds or misappropriated property belonging to the Owner; or

11. There is any material change in the financial or business condition of the Contractor.

B. If, within twenty-four (24) hours after service of such notice upon the Contractor, an arrangement satisfactory to the Owner has not been made by the Contractor for continuance of the Work, the Owner may terminate the Contract.

C. Once a Contractor is declared in default, the surety shall assume the Contractor's place in all respects and shall be paid by the Owner all monies, if any, due the Contractor at the time of such notice to discontinue, or any monies thereafter that may become due the Contractor in accordance with the terms of the Contract.

D. If the Contractor fails to make arrangements satisfactory to the Owner within ten (10) days after service to the Contractor of a notice to discontinue Work, and in the case where a Payment Bond and a Performance Bond are in effect, the surety has not exercised its option, then without further notice to the Contractor or the surety, the Owner may terminate the Contract and shall have the power to complete the Work herein described as it may determine. In such a case, the Owner shall have the right to take possession of and use any of the materials, plant, tools, equipment, supplies and property of any kind provided by the Contractor for the purpose of this Work.

E. The Owner will charge the expense of completing the Work to the Contractor and will deduct such expenses from monies due, or which at any time thereafter may become due, to the Contractor. If such expenses are more than the sum that would otherwise have been payable under the Contract, then the Contractor shall pay the amount of such excess to the Owner upon notice of the expenses from the Owner. The Owner shall not be required to obtain the lowest price for completing the Work under the Contract, but may make such expenditures that, in its sole judgment, shall best accomplish such completion. The Owner will, however, make reasonable efforts to mitigate the excess costs of completing the Work.

F. The Contract Documents shall in no way limit the Owner's right to all remedies for nonperformance provided under law or in equity, except as specifically set forth herein. In the event of termination for nonperformance, the Contractor shall immediately surrender all Work records to the Owner. In such a case, the Owner may offset any money owed to the Contractor against any liabilities resulting from the Contractor's nonperformance.

G. The Owner has no responsibility whatsoever to issue notices of any kind, including but not limited to deficient performance letters and scorecards, to the Contractor regarding its performance prior to default by Contractor for performance related issues.

H. The Owner shall have no liability to the Contractor for termination costs arising out of the Contract, or any of the Contractor's subcontracts, as a result of termination for default.

SECTION 3.19: MISCELLANEOUS TERMS & CONDITIONS

3.19.1 Independent Contractor

A. This Agreement does not create an employer/employee relationship between the parties. The parties agree and intend that the Contractor is a separate and independent enterprise from the Owner. This Agreement shall not be construed as creating any joint employment relationship between the Contractor and the Owner and the Owner will not be liable for any obligation incurred by the Contractor, including but not limited to unpaid minimum wages and/or overtime, or any other obligation of the Contractor, whether arising under state or federal law, or contract, to Contractor's employees, subcontractors, or subvendors.

B. Contractor undertakes performance of the Services as an independent contractor and shall be wholly responsible for the methods of performance.

C. The Contractor shall not pledge the Owner's credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien or any form of indebtedness and shall have no right to speak for or bind the Owner in any manner.

D. Contractor further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.

3.19.2 Authority to Practice, Compliance with Laws, Public Records, and Trade Secrets

A. The Contractor hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business, and that it will at all times conduct its business activities in a reputable manner.

B. In performing the Services, the Contractor shall comply with all applicable regulatory requirements, including federal, state, special district, and local laws, rules, regulations, orders, codes, criteria, and standards.

C. Public Records. The parties acknowledge and agree that the Owner is a public agency subject to Chapter 119, Florida Statutes. To the extent the Contractor is a company acting on behalf of the Owner pursuant to Section 119.0701, Florida Statutes, the Contractor must comply with all public records laws in accordance with Chapter 119, Florida Statutes. In accordance with Chapter 119, Florida Statutes, the Contractor agrees to:

(1) Keep and maintain all records that ordinarily and necessarily would be required by the Owner to perform the services under this Agreement.

(2) Upon request from the Owner, provide the Owner with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the costs provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

(3) Ensure that public records that are exempt, or confidential and exempt, from public records disclosures are not disclosed as except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the Contractor does not transfer the records to the Owner.

(4) Upon completion of the services under this Agreement, at no cost, either transfer to the Owner all public records in the Contractor's possession or keep and maintain public records required by the Owner to perform the services. If the Contractor transfers all public records to the Owner upon completion of the services, the Contractor must destroy any duplicate public records that are exempt, or confidential and exempt, from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the services under this Agreement, the Contractor must meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Owner, upon request from the Owner, in a format that is compatible with the information technology systems of the Owner.

(5) IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE OWNER'S CUSTODIAN OF PUBLIC RECORDS AT: scamacho@cityofwauchula.com **or 863-773-3535.**

If the Contractor does not comply with the provisions of this section, the City will enforce the Agreement provisions in accordance herewith and may unilaterally cancel this Agreement in accordance with Florida law.

D. Trade Secrets and Proprietary Confidential Business Information. Documents submitted by Contractor which it contends constitute trade secrets as defined in Sections 812.081 and 688.002, Florida Statutes, or confidential and propriety business information when held by the Owner as a utility owner, consistent with Section 119.0713(5), Florida Statutes, and which are clearly marked or stamped as confidential by the Contractor at the time of submission to the Owner, will not be subject to public access. However, should a requestor of public records challenge Contractor's claim of trade secret or confidential and proprietary business information, within five (5) calendar days of such challenge, Contractor must provide a separate written affidavit that includes an indemnification and release guarantee, as approved by the Owner's Attorney or designee, to the Owner to support its claim that the alleged trade secrets or proprietary and confidential business information actually constitutes same as defined by law. Contractor must demonstrate the need for confidentiality of the documentation by showing a business advantage or opportunity to obtain an advantage would be gained if the documentation were released. Otherwise, Contractor is required to timely seek a protective order in the Circuit Court of Hardee County to prevent the Owner's release of the requested records.

E. Drug Free Workplace. Contractor shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 USC § 701 et seq.) and maintain a drug-free work environment; and the final rule, government-wide requirements for drug-free work place issued by the Office of Management and Budget to implement the provisions of the Drug-Free Work Place Act of 1988 is incorporated by reference and the Contractor shall comply with the relevant provisions thereof, including any amendments, which are made part of this Agreement.

3.19.3 Public Entity Crimes, Section 287.133, Fla. Stat.; Scrutinized Companies List/Countries of Concern/Interests of Foreign Countries, Sections 287.135, 215.473, and 287.138, Fla. Stat.; and Anti-Trust Vendor Violator, Section 287.137, Fla. Stat.

A. Pursuant to Section 287.133(2)(a), Florida Statutes, Contractor, by submission of a signed bid and execution of a contract or contract renewal, hereby certifies that neither it nor its affiliate(s) have been placed on the convicted vendor list following a conviction for a public entity crime. If placed on that list, Contractor must notify the Owner immediately and may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.

B. Contractor, by submission of a signed bid and execution of a contract or contract renewal, hereby certifies that it: (a) has not been placed on the Scrutinized Companies that Boycott Israel List, nor is engaged in a boycott of Israel; (b) has not been placed on the Scrutinized Companies with Activities in Sudan List nor the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; and (c) has not been engaged in business operations in Cuba or Syria. If Owner determines that Contractor has falsely certified facts under this Paragraph or if Contractor is found to have been placed on the Scrutinized Companies Lists or is engaged in a boycott of Israel after the execution of this Agreement, the Owner will have all rights and remedies to terminate this Contract consistent with Section 287.135, Florida Statutes.

C. The Contractor has a continuous duty to disclose to the Owner if the Contractor or any of its affiliates, as defined by section 287.137(1), Fla. Stat., are placed on the Antitrust Violator Vendor List. Pursuant to section 287.137, Fla. Stat., "A person or an affiliate who has been placed on the antitrust violator vendor list following a conviction or being held civilly liable for an antitrust violation may not submit a bid, proposal, or reply for any new contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply for a new contract with a public entity for the construction or repair of a public building or public work; may not submit a bid, proposal, or reply on new leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier,

subcontractor, or consultant under a new contract with a public entity; and may not transact new business with a public entity."

3.19.4 Ambiguous Contract Provisions

A. The parties agree that this Contract has been the subject of meaningful analysis and/or discussions of the specifications, terms and conditions contained in this Contract. Therefore, doubtful or ambiguous provisions, if any, contained in this Contract will not be construed against the party who physically prepared this Contract. The rule commonly known as "Fortius Contra Proferentem" will not be applied to this Contract or any interpretation thereof.

3.19.5 Amendments

A. This Contract may not be altered or amended except in writing, signed by the Owner and the Contractor, or each of their duly authorized representatives.

3.19.6 Choice of Law, Venue, Waiver of Jury Trial, and Attorney's Fees

A. This Contract, and the rights and duties of the parties arising from or relating to this Contract or its subject matter, shall be construed in accordance with the laws of the State of Florida and the ordinances of the City of Wauchula without regard to its conflicts of law provisions. Each of the parties irrevocably submits to the exclusive jurisdiction of the courts of Hardee County, Florida, and further agree that the venue for any legal action brought by or filed against the Owner/City relating to any matter arising under this Contract shall be exclusively in that state or federal court, sitting in Hardee County, Florida that has jurisdiction over such legal actions.

B. **WAIVER OF JURY TRIAL. BY ENTERING INTO THIS AGREEMENT, THE CONTRACTOR AND THE OWNER/CITY HEREBY EXPRESSLY WAIVE ANY RIGHTS THEY MAY HAVE TO A TRIAL BY JURY IN ANY LITIGATION ARISING OUT OF OR RELATED TO THIS AGREEMENT.**

C. If any action or other proceeding is brought for the enforcement of this Agreement or due to any uncured dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, or to interpret this Agreement, the prevailing Party shall be entitled to recover from the other Party reasonable attorney's fees and other costs incurred in the prosecution of the action or proceeding

3.19.7 Conflict of Interest

A. This Contract is subject to Chapter 112, Florida Statutes, and the Conflict of Interest Procedures for State Funded Grant Programs. Accordingly, Contractor acknowledges and agrees that:

(1) No member, officer, or employee of the Contractor or the City, during that person's tenure or for a period of two (2) years thereafter, shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

(2) Contractor shall adhere to the Conflict of Interest Procedures for State Funded Grant Programs as set forth in FDOT Topic No. 375-030-006, https://pdl.fdot.gov/api/procedures/downloadProcedure/375-030-006.

B. Restrictions on Lobbying. Contractor shall comply with the restrictions on lobbying set forth in 31 C.F.R. Part 21.

C. Debarment and Suspension. This Agreement is a covered transaction for purposes of 2 C.F.R. Part 180. Contractor certifies that it is not listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB Guidelines at 2. C.F.R. Part 180, "Debarment and Suspension." Contractor shall comply with OMB Guidelines on Debarment and Suspension (nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (subcontracts as described in 2 C.F.R. Part 180, subpart B) that the subcontract is subject to 2 C.F.R. Part 180 and the U.S. Treasury's implementing regulations at 31 C.F.R. Part 19.

3.19.8 Cumulative Remedies

A. Except as otherwise expressly provided in this Contract, all remedies provided for in this Contract shall be cumulative and in addition to and not in lieu of any other remedies available to either party at law, in equity or otherwise.

3.19.9 Entire Agreement

A. This Contract contains all of the understandings and agreements of the parties hereto in respect of the subject matter hereof as of the Effective Date of the Contract. Any and all prior understandings and agreements, expressed or implied, between the parties hereto in respect of the subject matter hereof shall be superseded hereby. Parol or extrinsic evidence will not be used to vary or contradict the express terms of this Contract.

B. The Contract Documents are complementary; what is called for by one is binding as if called for by all. The Contractor shall, upon discovery, inform the Owner in writing of any conflict, error or discrepancy in the Contract Documents. Should the Contractor proceed with the Work prior to written resolution of the error or conflict by the Owner, all Work done is at the sole risk of the Contractor.

3.19.10 Expanded Definitions

A. Unless otherwise specified, words importing the singular include the plural and vice versa and words importing gender include all genders. The term "including" means "including without limitation", and the terms "include", "includes" and "included" have similar meanings. Any reference in this Contract to any other agreement is deemed to include a reference to that other agreement, as amended, supplemented or restated from time to time. Any reference in the Contract to "all applicable laws, rules and regulations" means all federal, state and local laws, rules, regulations, ordinances, statutes, codes and practices.

3.19.11 Force Majeure

A. No party shall be liable for any default or delay in the performance of its obligations under this Contract due to an act of God or other event to the extent that: (a) the non-performing party is without fault in causing such default or delay; (b) such default or delay could not have been prevented by reasonable precautions; and (c) such default or delay could not have been reasonably circumvented by the non-performing party through the use of alternate sources, work-around plans or other means. Such causes include, but are not limited to: act of civil or military authority (including but not limited to courts or administrative agencies); acts of God; war; terrorist attacks; riot; insurrection; inability of the Owner to secure approval, validation or sale of bonds; inability of the Owner or the Contractor to obtain any required permits, licenses or zoning; blockades; embargoes; sabotage; epidemics; fires; hurricanes, tornados, floods; or strikes.

B. In the event of any delay resulting from such causes, the time for performance of each of the parties hereunder (including the payment of monies if such event actually prevents payment) shall be extended for a period of time reasonably necessary to overcome the effect of such delay, except as provided for elsewhere in the Contract Documents.

C. In the event of any delay or nonperformance resulting from such causes, the party affected shall promptly notify the other in writing of the nature, cause, date of commencement and the anticipated impact of such delay or nonperformance. Such written notice, including Change Orders, shall indicate the extent, if any, to which it is anticipated that any delivery or completion dates will be thereby affected.

3.19.12 Headings

A. The division of this Contract into sections, the insertion of headings and/or index numbers and the provision of a table of contents are for convenience of reference only and are not to affect the construction or interpretation of this Agreement.

3.19.13 Language and Measurements

A. All communication between the Contractor and the Owner, including all documents, notes on drawings, and submissions required under the Contract, will be in the English

language. Unless otherwise specified in the Contract, the US System of Measurements shall be used for quantity measurement. All instrumentation and equipment will be calibrated in US System of Measures.

3.19.14 Nonwaiver

A. Failure by either party to insist upon strict performance of any of the provisions of the Contract will not release either party from any of its obligations under the Contract.

3.19.15 Publicity and Advertising

A. The Contractor shall not take any photographs for the purpose of making any announcements or release any information concerning the Contract or the Work to any member of the public, press or official body unless prior written consent is obtained from the Owner. The Owner is governed by the Florida Public Records Laws therefore all Contract Documents are available for public inspection, subject to certain statutory exemptions as set forth in Chapter 119, *Florida Statutes*. In addition, the Owner is governed by Florida Sunshine Laws and as such, certain meetings are required to be open to the public.

3.19.16 References

A Unless otherwise specified, each reference to a statute, ordinance, law, policy, procedure, process, document, drawing, or other informational material is deemed to be a reference to that item, as amended or supplemented from time to time. All referenced items shall have the enforcement ability as if they are fully incorporated herein.

3.19.17 Relationship of the Parties

A. The Contractor agrees that it shall perform the Work as an independent contractor and that it does not (a) have the power or authority to bind the Owner or to assume or create any obligation or responsibility, express or implied, on the Owner's part or in the Owner's name, except as may be authorized by the Owner under a separate written document, or (b) represent to any person or entity that it has such power or authority except as may be authorized by the Owner under a separate written document.

3.19.18 Severability

A. In the event that any provision of this Contract is found to be unenforceable under applicable law, the parties agree to replace such provision with a substitute provision that most nearly reflects the original intentions of the parties and is enforceable under applicable law, and the remainder of this Contract shall continue in full force and effect.

3.19.19 Subcontracting or Assigning of Contract

A. Each party agrees that it shall not subcontract, assign, delegate, or otherwise dispose of the Contract, the duties to be performed under the Contract, or the monies to become due under the Contract without the other party's prior written consent.

B. The assignment of the Contract will not relieve either of the parties of any of its obligations until such obligations have been assumed in writing by the assignee. If the Contract is assigned by either of the parties, it will be binding upon and will inure to the benefit of the permitted assignee. The Contractor shall be liable for all acts and omissions of its assignee or its Subcontractor.

C. The Contractor agrees to retain the services of such subcontractors and subconsultants as reasonably required to provide the Work required by this Agreement. All subcontractors and subconsultants will be under contract to the Contractor. The Contractor shall supervise and coordinate all subcontractors and subconsultants and shall be responsible to the Owner for their work.

D. Any subcontractor or subconsultant retained by the Contractor shall be licensed in the State of Florida in the field applicable to such subcontractor or subconsultant's scope of work.

E. The Contractor's choice of subcontractors must be approved by the Owner. While the Owner shall have the right to approve or reject each sub-consultant, such approval shall not be unreasonably withheld.

F. In no event will the Contractor subcontract portions of the Work under this Agreement without the approval of the Owner. The Owner's approval of any subcontractor or subconsultant will not relieve the Contractor of its responsibility for the acts and omissions of such subcontractors or subconsultants. Any subcontract shall include, among other appropriate provisions, those provisions of this Agreement that by its terms are required to be provided in the subcontract agreement.

G. The Owner may reasonably request that the Contractor contract with additional subcontractors or subconsultants in order to adequately perform the Work on the Project.

3.19.20 Survival

A. The obligations of the Owner and the Contractor under this Contract that are not, by the express terms of this Contract, fully to be performed during the Term, shall survive the termination of this Contract for any reason.

3.19.21 Third Party Agreements

A. Unless otherwise agreed in writing by the Owner, the Owner shall have no obligation to enter into any third party agreements under this Contract. Such third party agreements shall include, but not be limited to: joint check agreements, and revocable or irrevocable letters of direction with sureties. In the event the Owner agrees to execute any such agreement(s), then such agreement(s) shall incorporate additional language as required by the Owner.

3.19.22 Time and Date

A. Unless otherwise specified, references to time of day or date mean the local time or date in Wauchula, Florida. If under this Contract any payment or calculation is to be made, or any other action is to be taken, on or as of a day that is not a regular business day for the Owner, that payment or calculation is to be made, and that other action is to be taken, as applicable, on or as of the next day that is a regular business day. Where reference is made to day or days, it means calendar days. Where reference is made to workday, workdays, business day, or business days, it means regular working days for the Owner.

3.19.23 Waiver of Claims

A. A delay or omission by the Owner hereto to exercise any right or power under this Contract shall not be construed to be a waiver thereof. A waiver by the Owner under this Contract shall not be effective unless it is in writing and signed by the party granting the waiver. A waiver by a party of a right under, or breach of, this Contract shall not be construed to operate as a waiver of any other or successive rights under, or breaches of, this Contract.

B. The Contractor's obligations to perform and complete the Work in accordance with the Contract shall be absolute. None of the following will constitute a waiver of any of the Owner's rights under the Contract: approval or payment of any progress payments or any other payments, including final payment; issuance of the Certificate of Substantial Completion or Certificate of Contract Completion; any use or occupancy of the Work by the Owner; nor any correction of faulty or defective work by the Owner.

3.19.24 ACKNOWLEDGEMENT OF COMPLIANCE WITH SECTION 255.0993, FLORIDA STATUTES

The Contractor acknowledges to and for the benefit of the Owner that it understands that the products to be installed as a part of this contract must be in compliance with 255.0993, Florida Statutes, Public works projects; United States-produced iron and steel products.

(1) DEFINITIONS.— As used in this section, the term:

(a) “Governmental entity” means the state, or any office, board, bureau, commission, department, branch, division, or institution thereof, or a separate agency or unit of local government created or established by law or ordinance and the officers thereof. The term

includes, but is not limited to, a county; a city, a town, or other municipality; or a department, a commission, an authority, a school district, a taxing district, a water management district, a board, a public corporation, an institution of higher education, or other public agency or body thereof authorized to expend public funds for the construction, maintenance, repair, renovation, remodeling, or improvement of public works.

(b) "Iron or steel product" means any product made primarily of iron or steel, including, but not limited to, lined or unlined pipes and fittings; bars and rods; wire, wire ropes, and link chains; forgings; grating and drainage products; access covers, hatches, manhole covers, and other castings; hydrants; electric transmission and distribution poles; tanks; flanges; pipe clamps and restraints; valves; structural steel and other steel mill products; materials made primarily of iron and steel within precast concrete; and other construction materials made primarily of iron or steel.

(c) "Manufacturing process" means the application of a process to alter the form or function of materials or elements of a product in a manner that adds value and transforms the materials or elements into a new finished product functionally different from a finished product produced merely from assembling materials or elements into a product without applying such a process.

(d) "Produced in the United States" means that, with respect to iron and steel, all manufacturing processes, from initial melting through application of coatings, occur in the United States, other than metallurgical processes to refine steel additives.

(e) "Public works project" means an activity paid for with any state-appropriated funds or state funds administered by a governmental entity which consists of the construction, maintenance, repair, renovation, remodeling, or improvement of a building, road, street, sewer, storm drain, water system, site development, irrigation system, reclamation project, gas or electrical distribution system, gas or electrical substation, or other facility, project, or portion thereof owned in whole or in part by any governmental entity.

(2) UNITED STATES-PRODUCED IRON AND STEEL REQUIREMENT.

(a) Notwithstanding any other law, a governmental entity entering into a contract for a public works project or for the purchase of materials for a public works project must include in the contract a requirement that any iron or steel product permanently incorporated in the project be produced in the United States.

(b) Paragraph (a) does not apply if the governmental entity administering the funds for a public works project or the purchase of materials for a public works project solely determines that any of the following applies:

1. Iron or steel products produced in the United States are not produced in sufficient quantities, reasonably available, or of satisfactory quality.

2. The use of iron or steel products produced in the United States will increase the total cost of the project by more than 20 percent.

3. Complying with paragraph (a) is inconsistent with the public interest.

(c) When steel and iron materials are used in a public works project, paragraph (a) does not prevent a minimal use of foreign steel and iron materials if:

1. Such materials are incidental or ancillary to the primary product and are not separately identified in the project specifications; and

2. The cost of such materials does not exceed one-tenth of 1 percent of the total contract cost or $2,500, whichever is greater. For purposes of this subparagraph, the cost of such materials is that shown to be the value of the iron or steel products as they are delivered to the project.

(d) Electrical components, equipment, systems, and appurtenances, including supports, covers, shielding, and other appurtenances related to an electrical system, necessary for operation or concealment, except transmission and distribution poles, are not considered iron or steel products and are exempt from the requirements of paragraph (a).

(3) INTERNATIONAL AGREEMENTS.—This section shall be applied in a manner consistent with, and may not be construed to impair, the state's obligations under any international agreement.

(4) RULEMAKING.—The Department of Management Services shall develop guidelines and procedures by rule to implement this section.

(5) APPLICABILITY.—This section does not apply to contracts procured by the Department of Transportation subject to the Buy America requirements of 23 C.F.R. s. 635.410.

[END OF SECTION]

DIVISION 4:
SUPPLEMENTAL CONDITIONS

a. The Subrecipient will comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964, the regulations of the U.S. Department of Transportation issued thereunder, and the assurance by the Subrecipient pursuant thereto.

b. The Subrecipient will comply with all applicable requirements imposed by the Americans with Disabilities Act (ADA), as amended, the regulations of the Federal Government issued thereunder, and assurance by the Subrecipient pursuant thereto.

DIVISION 5:
FORMS

SECTION 5.1: FORMS TO SUBMIT WITH BID

The following forms must be completed and included in the Bidder's response to this Solicitation. This list represents the forms only and does not include all information and items necessary to be responsive to the Bid Solicitation.

5.1.1 Bid Form

5.1.2 Bid Security

5.1.3 Bidder's Qualifications

5.1.4 Bidder's Statement of Disputes, Litigation, Arbitration, and Surety Completion

5.1.5 Drug-Free Workplace Certificate

5.1.6 Florida Trench Safety Act Acknowledgement

5.1.7 Non-Collusion Affidavit

5.1.8 Public Entity Crimes Statement

5.1.9 Tabulation of Subcontractors and Suppliers

SECTION 5.2: FORMS FOR CONVENIENCE

The following forms are included for convenience in the Bid Documents. The Owner may require additional forms during the performance of the Work:

5.2.1 Certificate of Final Completion Form

5.2.2 Certification of Substantial Completion Form

5.2.3 Change Order Form

5.2.4 Contractor's Application for Payment Form

5.2.5 Field Order Form

5.2.6 Notice of Award Form

5.2.7 Notice to Proceed Form

5.2.8 Payment Bond Form

5.2.9 Performance Bond Form

5.2.10 Work Change Directive Form

5.1.1 Bid Form

PROJECT: City of Wauchula – Court Street Roadway Improvements
FPID No. 447959-1-54-01

A. Bid Recipient

1. This Bid is submitted to:

   City of Wauchula
   Attn: City Manager
   126 South 7th Street
   Wauchula, FL 33873

2. The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with the Owner in the form included in the Bid Documents to perform all Work as specified or indicated in the Bid Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bid Documents.

B. Bidder's Acknowledgements

1. The Bidder accepts all of the terms and conditions of DIVISION 1: INSTRUCTIONS TO BIDDERS, including without limitation those dealing with the disposition of the Bid Security. The Bid will remain subject to acceptance for 120 days after the Bid Opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.

C. Bidder's Representations

1. In submitting this Bid, the Bidder represents that:

   a. The Bidder has received from the Issuing Office a complete set of Bid Documents and other related data identified in the Bid Documents, and the following Addenda, receipt of which is hereby acknowledged:

Addendum No.	Addendum Date
_____	_____
_____	_____
_____	_____

   b. The Bidder has examined and carefully studied the Bid Documents, Addenda, and the other related data identified in the Bidding Documents, and provided the information to Subcontractors and Suppliers who have provided quotations to the Bidder for the Work.

c. The Bidder has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

d. The Bidder is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.

e. The Bidder has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities) that have been identified in DIVISION 1: INSTRUCTIONS TO BIDDERS, and (2) reports and drawings of Hazardous Environmental Conditions, if any, at the Site that have been identified in DIVISION 1: INSTRUCTIONS TO BIDDERS.

f. The Bidder has obtained and carefully studied (or accepts the consequences for not doing so) all additional or supplemental examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by the Bidder, including applying the specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bid Documents to be employee by the Bidder, and safety precautions and programs incident thereto.

g. The Bidder does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the price(s) bid and within the times and in accordance with the other terms and conditions of the Bid Documents

h. The Bidder is aware of the general nature of the Work to be performed by the Owner and others at the Site that relates to the Work as indicated in the Bid Documents.

i. The Bidder has correlated the information known to the Bidder, information and observations obtained from visits to the Site, reports and drawings identified in the Bid Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Bid Documents.

j. The Bidder has given the Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that the Bidder has discovered in the Bid Documents, and the written resolution thereof by the Engineer is acceptable to the Bidder.

k. The Bid Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work for which this Bid is submitted.

l. Bidder certifies Bidder's authority and qualification to do business in the state where the Project is located, that the Bidder is a state-certified Contractor in good standing and holds current registration with the Florida Construction Industry Licensing Board of the Florida Department of Professional Regulation, that the type of license is in a class that authorizes the Bidder to perform the general nature of the construction to be performed on this project, and that the Bidder's State Contractor's license number for the state of the project is shown on the Bid Form.

m. Bidder certifies to the greatest extent practicable, all equipment and products purchased with funds made available under this award should be American-made. To support the efforts, any non American-made equipment proposed must be accompanied by proof of good-faith efforts to utilize American-made equipment such as written quotes, solicitations, advertisements, etc.

D. Bidder's Certification

1. Bidder certifies that:

a. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation;

b. The Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid;

c. The Bidder has not solicited or induced any individual or entity to refrain from bidding; and

d. The Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph:

i. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process;

ii. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of the Owner, (b) to establish Bid Prices at artificial non-competitive levels, or (c) to deprive the Owner of the benefits of free and open competition;

iii. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of the Owner, a purpose of which is to establish Bid Prices at artificial, non-competitive levels; and

iv. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

E. Basis of Bid

1. The Bidder has reviewed DIVISION 6: TECHNICAL SPECIFICATIONS; and will complete the Work in accordance with the Contract Documents for the following price(s):

A. BASE BID

BID FORM ***COURT STREET ROADWAY IMPROVEMENTS*** ***FPID NO. 447959-1-54-01***					
BID ITEM	*DESCRIPTION*	*UNIT*	*QTY.*	*BID UNIT PRICE*	*TOTAL BID PRICE*
101-1	*MOBILIZATION*	*LS*	*1*		
102-1	*MAINTENANCE OF TRAFFIC*	*LS*	*1*		
104-10-3	*SEDIMENT BARRIER*	*LF*	*415*		
110-04-10	*REMOVAL OF EXISTING CONCRETE*	*SY*	*7*		
110-04-10	*REMOVAL OF EXISTING TYPE "F" CURB AND GUTTER, VALLEY GUTTER, AND MIAMI CURB*	*LF*	*725*		
110-1-1	*REMOVAL OF EXISTING ASPHALT, BASE COURSE, AND SUBGRADE*	*SY*	*720*		
334-1-13	*SUPERPAVE ASPH. CONC., TRAFFIC C, (2" SP-12.5 C)*	*TN*	*80*		
0285706	*OPTIONAL BASE GROUP 6 (CRUSHED CONCRETE, 6" THICK)*	*SY*	*720*		
160-04	*TYPE B STABILIZATION, 12" THICK*	*SY*	*720*		
522-1	*CONCRETE SIDEWALK, 4"; DOES NOT INCLUDE CURB CUT RAMPS**	*SY*	*4*		
522-1	*CURB CUT RAMPS*	*SF*	*33*		
527-2	*DETECTABLE WARNING, CAST-IN CONCRETE AND PAINTED YELLOW; TWO COATS*	*SF*	*10*		
570-1-2	*PERFORMANCE TURF, SOD*	*SY*	*105*		
700-1-11	*SINGLE POST SIGN*	*EA*	*2*		
520-1-10	*CONCRETE CURB & GUTTER, TYPE F, INCLUDES DEPRESSED CURB AT RAMPS, FLARE END SECTIONS AND STRAIGHT END SECTIONS, INCLUDES 2.5" MIN. ASPHALT BASE CURB PAD*	*LF*	*485*		
520-3	*VALLEY GUTTER (ADJACENT TRANSITION SLAB; INCLUDES 2.5" MIN ASPHALT BASE CURB PAD)*	*LF*	*190*		
520-3	*MIAMI CURB(ADJACENT TRANSITION SLAB; INCLUDES 2.5" MIN ASPHALT BASE CURB PAD)*	*LF*	*50*		
711-11-125	*THERMOPLASTIC, STANDARD, WHITE, SOLID, 24"*	*LF*	*20*		
711-15-201	*THERMOPLASTIC, STANDARD-OTHER SURFACES, YELLOW, SOLID, 6"*	*LF*	*100*		

TOTAL BASE BID:

_____ ($_____)
(words) (numerals)

The Bidder acknowledges that estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all Unit Price Bid items will be based on actual quantities, determined as provided in the Contract Documents.

F. Time of Completion

1. The Bidder agrees that the Work will be substantially complete within **180** calendar days after the issuance of the Notice to Proceed, and completed and ready for final payment in accordance with the Contract Documents within **210** calendar days after the date when the Contract Time commences to run.

2. The Bidder accepts the provisions of the Agreement as to liquidated damages.

G. Attachments to This Bid

1. The following documents are submitted with and made a part of this Bid:

   a. DIVISION 5: FORMS – Bid Form
   b. DIVISION 5: FORMS – Bid Security

   c. DIVISION 5: FORMS – Bidder's Qualifications

   d. DIVISION 5: FORMS – Bidder's Statement of Disputes, Litigation, Arbitration, and Surety Completion, Last Three (3) Years

   e. DIVISION 5: FORMS – Drug-Free Workplace Certificate

   f. DIVISION 5: FORMS – Florida Trench Safety Act Acknowledgement

   g. DIVISION 5: FORMS – Non-Collusion Affidavit

   h. DIVISION 5: FORMS – Public Entity Crimes Statement

   i. DIVISION 5: FORMS – Tabulation of Subcontractors and Suppliers

   j. Evidence of authority to do business in the State of the Project; or a written covenant to obtain such license within the time for acceptance of Bids;

      Contractor's License No.: _____.

H. Defined Terms

1. The terms used in this Bid with initial capital letters have the meanings stated in DIVISION 1: INSTRUCTIONS TO BIDDERS and DIVISION 4: SUPPLEMENTAL CONDITIONS.

I. Bid Submittal

1. This Bid is submitted by:

If Bidder is:

An Individual

Name (typed or printed): _____

By: _____ (SEAL)

(Individual's signature)

Doing business as: _____

A Partnership

Partnership Name: _____

By: _____ (SEAL)

(Signature of general partner – attach evidence of authority to sign)

Name (typed or printed): _____

State Contract License No. _____

A Corporation

Corporation Name: _____

_____ (SEAL)

State of Incorporation: _____

Type (General Business, Professional, Service, Limited Liability):_____

By: _____

(Signature – attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____

(Corporate Seal)

Attest _____

(Signature of Corporate Secretary)

Date of Qualification to do business in Florida is _____/_____/_____.

State Contractor License No. _____.

A Joint Venture

Name of Joint Venture: _____

First Joint Venturer Name: _____ (SEAL)

By: _____

(Signature of first joint venture partner – attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____

Second Joint Venturer Name: _____(SEAL)

By: _____

(Signature of first joint venture partner – attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____

(Each joint venturer 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.)

Bidder's Business Address _____

_____

Phone No. _____ Fax No. _____

E-mail _____

SUBMITTED on _____, 20_____.

State Contractor License No. _____.

5.1.2 Bid Security Form

Any singular reference to Bidder, Surety, Owner, or other party shall be considered plural where applicable.

BIDDER (Name and Address):

SURETY (Name and Address of Principal Place of Business):

OWNER (Name and Address):

BID

Bid Due Date:

Project (Brief Description Including Location):

BOND

Bond Number:

Date (Not later than Bid due date):

Penal sum _____ _____
(Words) (Figures)

Surety and Bidder, intending to be legally bound hereby, subject to the terms printed on the reverse side hereof, do each cause this Bid Bond to be duly executed on its behalf by its authorized officer, agent, or representative.

BIDDER	**SURETY**
_____ (Seal)	_____ (Seal)
Bidder's Name and Corporate Seal	Surety's Name and Corporate Seal
By: _____	By: _____
Signature and Title	Signature and Title (Attach Power of Attorney)
Attest: _____	Attest: _____
Signature and Title	Signature and Title

Note: Above addresses are to be used for giving required notice.

A. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to pay to the Owner upon default of the Bidder the penal sum set forth on the face of this Bond. Payment of the penal sum is the extent of Surety's liability.

B. Default of Bidder shall occur upon the failure of the Bidder to deliver within the time required by the Bid Documents (or any extension thereof agreed to in writing by the Owner) the executed Agreement required by the Bid Documents and any performance and payment bonds required by the Bid Documents.

C. This obligation shall be null and void if:

   i. The Owner accepts the Bidder's Bid and the Bidder delivers within the time required by the Bid Documents (or any extension thereof agreed to in writing by the Owner) the executed Agreement required by the Bid Documents and any performance and payment bonds required by the Bid Documents, or

   ii. All Bids are rejected by the Owner, or

   iii. The Owner fails to issue a Notice of Award to the Bidder within the time specified in the Bid Documents (or any extension thereof agreed to in writing by the Bidder and, if applicable, consented to by Surety when required by Paragraph E hereof).

D. Payment under this Bond will be due and payable upon default by the Bidder and within 30 calendar days after receipt by the Bidder and the Surety of written notice of default from the Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.

E. The Surety waives notice of any and all defenses based on or arising out of any time extension to issue the Notice of Award agreed to in writing by the Owner and the Bidder, provided that the total time for issuing the Notice of Award including extensions shall not in the aggregate exceed 120 days from the Bid Due Date without the Surety's written consent.

F. No suit or action shall be commenced under this Bond prior to 30 calendar days after the notice of default required in Paragraph D above is received by the Bidder and the Surety and in no case later than one year after the Bid Due Date.

G. Any suit or action under this Bond shall be commenced only in a court of competent jurisdiction located in the state in which the Project is located.

H. Notices required hereunder shall be in writing and sent to the Bidder and the Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier, or by United States Registered or Certified Mail, return receipt requested, postage pre-paid, and shall be deemed to be effective upon receipt by the party concerned.

I. The Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent, or representative who executed this Bond on behalf of Surety to execute, seal, and deliver such Bond and bind the Surety thereby.

J. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond shall be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute shall govern and the remainder of this Bond that is not in conflict therewith shall continue in full force and effect.

K. The term “Bid” as used herein includes a Bid, offer, or proposal as applicable.

5.1.3 Bidder's Qualifications

The Bidder warrants the truth and accuracy of all statements and answers herein contained.
(Include additional sheets if necessary.)

THIS QUESTIONNAIRE MUST BE COMPLETED AND SUBMITTED WITH YOUR BID.

A. LICENSE # and COMPANY'S NAME:_____

B. CO. PHYSICAL ADDRESS:_____

C. TELEPHONE NUMBER: (_____)_____ D. FAX: (_____)_____

E. Bidding as an; individual:_____; a partnership:___; a corporation:___; a joint venture:___.

F. If a partnership: list names and addresses of partners; if a corporation: list names of officers, directors, shareholders, and state of incorporation; if joint venture: list names and addresses of venturers and the same if any venturer is a corporation for each such corporation, partnership, or joint venture:

_____

_____

G. Your organization has been in business (under this firm's name) as a _____

_____for how many years? _____

H. Describe and give the date and owner of the last three government projects you've completed which are similar in cost, type, size, and nature as the one proposed (for a public entity). Include contact name and phone number:

_____

_____

_____

I. Have you ever been awarded additional time to complete work awarded to you during the past five (5) years? If so, state when, where (contact name, address, and phone number) and why.

_____

_____

J. Have you ever been assessed liquidated damages under a contract during the past five (5) years? If so, state when, where (contact name, address, and phone number) and why.

_____

_____

K. Have you ever failed to complete work awarded to you? If so, state when, where (contact name, address, phone number) and why?

L. Have you ever been debarred or prohibited from bidding on a governmental entity's construction project? If yes, name the entity and describe the circumstances:

M. Name three individuals, governmental entities, or corporations for which you have performed similar work and to which you refer. Include contact name and phone number:

N. What specific steps have you taken to examine the physical conditions at or contiguous to the site, including but not limited to, the location of existing underground facilities?

O. What specific physical conditions, including but not limited to, the location of existing underground facilities have you found which will, in any manner, affect cost, progress, performance, or finishing of the work?

P. Will you subcontract any part of this Work? If so, describe which major portion(s):

Q. If any, list (with contract amount) MBE/WBE's to be utilized:

R. What equipment do you own to accomplish this Work?

_____

_____

S. What equipment will you purchase/rent for the Work? (specify which)

_____

_____

T. List the following in connection with the Surety which is providing the Bond(s):

Surety's Name: _____

Surety's Address: _____

Name, address and phone number of Surety's resident agent for service of process in Florida:

_____

_____

_____

Phone: (___) _____

U. List names and contact information for each and every project Bidder has performed for Florida city or county governments within three (3) years of submittal of its bid.

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

5.1.4 Bidder's Statement of Disputes, Litigation, Arbitration, and Surety Completion – Last Three (3) Years

Project	Name and Address of Owner or Engineer	Name and Phone Number of Owner or Engineer Representative	Date of Contract	Amount	Status

5.1.5 Drug-Free Workplace Certificate

I, the undersigned, in accordance with Section 287.087, *Florida Statutes* hereby certify that

_____
(Print or Type Name of Firm)

☐ Publishes a written statement notifying that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace named above and specifying actions that will be taken against violations of such prohibition.

☐ Informs employees about the dangers of drug abuse in the workplace; the firm's policy of maintaining a drug-free working environment and available drug counseling, rehabilitation, and employee assistance programs; and the penalties that may be imposed upon employees for drug-use violations.

☐ Gives each employee engaged in providing commodities or contractual services that are under bid or proposal a copy of the statement specified above.

☐ Notifies the employees that as a condition of working on the commodities or contractual services under bid or proposal, the employees will abode by the terms of the statement and will notify the employer of any conviction of or plea of guilty or nolo contendere to any violation of Chamber 1893 or any controlled substance law of the State of Florida or the United States for a violation occurring in the workplace, no later than 5 days after such conviction, and requires employees to sign copies of such written statement to acknowledge their receipt.

☐ Imposes a sanction on or requires the satisfactory participation in a drug-abuse assistance or rehabilitation program, if such is available in the employee's community, by any employee who is so convicted.

☐ Makes a good faith effort to continue to maintain a drug-free workplace through the implementation of the drug-free workplace program.

"As a person authorized to sign this statement, I certify that the business, firm, or corporation named above complies fully with the requirements set forth herein."

_____ _____
Authorized Signature Date Signed

State of: _____

County of: _____

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

Personally known _____ or Produced Identification _____
Specify Type of Identification

_____
Signature of Notary

My Commission Expires: _____

5.1.6 Certificate of Compliance with the Florida Trench Safety Act

The Bidder acknowledges sole responsibility for complying with the Florida Trench Safety Act (Act) and Occupational Safety and Health Administration's excavation safety standard 29 CFR 1926.650 (Subpart P as amended). The Bidder further acknowledges that included in the various items of the Proposal and in the Total Base Bid Price are costs for complying with the Florida Trench Safety Act (90-96, Laws of Florida) effective October 1, 1990. The Bidder further identifies the costs to be summarized below:

	Trench Safety Method (Description)	Units of Measure (LF, SY)	Unit (Quantity)	Extended Cost	Unit Extended Cost
A.	_____	_____	_____	_____	_____
B.	_____	_____	_____	_____	_____
C.	_____	_____	_____	_____	_____
D.	_____	_____	_____	_____	_____
				Total:	

Failure to complete the above may result in the Bid being declared non-responsive. The costs indicated above are provided to comply with the Act and shall not constitute grounds for any additional compensation to that listed for the separate line items of the Proposal Form.

By: _____

Bidder: _____

Date: _____

Authorized Signature: _____

State of: _____

County of: _____

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

Personally known _____ or Produced Identification _____
Specify Type of Identification

_____
Signature of Notary

My Commission Expires: _____

5.1.7 Non-Collusion Affidavit of Prime Bidder

State of _____

County of _____

_____, being first duly sworn, deposes and says that:
Name

1. He/She is _____ of _____, the
   Title Company
   Bidder that has submitted the attached bid;

2. He/She is 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 not any of his/her officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has 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 Contract for which the attached Bid has been submitted or has refrained from bidding in connection with such Contract; nor in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm or person to fix the price or prices in the attached Bid or if any other Bidder; not has fixed any overhead, profit or cost element of the Bid Price, or the Bid Price of any other Bidder; not has secured through any collusion, conspiracy, connivance or unlawful agreement, any advantage against the City of Wauchula, Florida or any person interested in the proposed Contract; and

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 of its agents, representatives, owners, employees, or parties in interest, including this affiant.

(Signed) _____
Name

_____
Title

Subscribed and sworn to before me this _____ day of _____, 20_____

_____
Signature

_____
Title

My commission expires _____

5.1.8 Sworn Statement Pursuant to Section 287.133(3)(A), *Florida Statues*, 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 the City of Wauchula, 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 Identification Number (FEIN) is _____.
   (If the entity has no FEIN, include the Social Security of the individual signing this sworn statement: _
   _____.)

2. I understand that a "public entity crime" as defined in Section 287.133 (1)(g), *Florida Statues* 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 of the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or such an agency or political subdivision of any other state or of the United States and involving anti-trust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

3. I understand that "convicted" or "conviction" as defined in Section 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 stated trial court of record relating to charges brought by indictment or information after July 1. 1989, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.

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

   1. A predecessor or successor of a person convicted of a public entity crime: or

   2. An 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, executives, partners, shareholders, employees, members, and agents who are active in the 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 prima facie case that one person controls another person. A person who knowingly enters in to a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.

5. I understand that a "person" as defined in Section 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 "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an 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 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 the 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 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 STATUES*, FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

_____
(Signature)

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

Personally known _____

OR Produced Indentification_____ Notary Public-State of _____

_____ My commission expires_____
(Type of Indentification)

_____
(Printed, Typed or Stamped
Commissioned Name of Notary Public)

5.1.9 Tabulation of Subcontractors and Suppliers

The Undersigned states that the following is a full and complete list of the proposed Subcontractors and Suppliers on this Project and the class of work to be performed by each and that such list will not be added to nor altered without written consent to the Owner through the Engineer.

	SUBCONTRACTOR OR SUPPLIER AND ADDRESS	MBE/WBE STATUS	CLASS OF WORK OR MATERIAL
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			

BIDDER: _____

By: _____

Name: _____

Title: _____

Date: _____

5.2.1 Certificate of Final Completion

Project:	Owner: City of Wauchula	Owner's Contract No.:
Contract:		Date of Contract:
Contractor:		Engineer's Project No.:

This Certificate of Final Completion applies to:

☐ All Work under the Contract Documents: ☐ The following specified portions:

_____

_____

_____

_____
Date of Final Completion

The Work to which this Certificate applies has been inspected by authorized representatives of the Owner, the Contractor and the Engineer, and found to be complete and final. The Date of Final Completion of the Project or portion thereof designated above is hereby declared.

_____ _____
Executed by Engineer Date

_____ _____
Accepted by Contractor Date

_____ _____
Accepted by Owner Date

5.2.2 Certificate of Substantial Completion

Project:	Owner: City of Wauchula	Owner's Contract No.:
Contract:		Date of Contract:
Contractor:		Engineer's Project No.:

This [tentative] [definitive] Certificate of Substantial Completion applies to:
☐ All Work under the Contract Documents: ☐ The following specified portions:

_____

_____

_____
Date of Substantial Completion

The Work to which this Certificate applies has been inspected by authorized representatives of Owner, Contractor and Engineer, and found to be substantially complete. The Date of Substantial Completion of the Project or portion thereof designated above is hereby declared and is also the date of commencement of applicable warranties required by the Contract Documents, except as stated below.

A [tentative] [revised tentative] [definitive] list of items to be completed or corrected, is attached hereto. This list may not be all-inclusive, and the failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

The responsibilities between OWNER and CONTRACTOR for security, operation, safety, maintenance, heat, utilities, insurance and warranties shall be as provided in the Contract Documents except as amended as follows:

☐ Amended Responsibilities ☐ Not Amended

Owner's Amended Responsibilities:

_____

_____

Contractor's Amended Responsibilities:

_____

_____

The following documents are attached to and made part of this Certificate:

_____

_____

This Certificate does not constitute an acceptance of Work not in accordance with the Contract Documents nor is it a release of Contractor's obligation to complete the Work in accordance with the Contract Documents.

_____ _____
Executed by Engineer Date

_____ _____
Accepted by Contractor Date

_____ _____
Accepted by Owner Date

Prepared by the Engineers' Joint Contract Documents Committee and endorsed by the Associated General Contractors of America and the Construction Specifications Institute
#69213181 v1

5.2.3 Change Order Form

No. _____

Date of Issuance: _____ Effective Date: _____

Project:	**Owner:** City of Wauchula	**Owner's Contract No.:**
Contract:		**Date of Contract:**
Contractor:		**Engineer's Project No.:**

The Contract Documents are modified as follows upon execution of this Change Order:
Description:

_____

_____

Attachments: (List documents supporting change):

_____

_____

CHANGE IN CONTRACT PRICE:

Original Contract Price:

$ _____

[Increase] [Decrease] from previously approved Change Orders No. _____ to No. _____

$ _____

Contract Price prior to this Change Order:

$ _____

[Increase] [Decrease] of this Change Order:

$ _____

Contract Price incorporating this Change Order:

$ _____

CHANGE IN CONTRACT TIMES:

Original Contract Times: ☐ Working days ☐ Calendar days
Substantial completion (days or date): _____
Ready for final payment (days or date): _____

[Increase] [Decrease] from previously approved Change Orders No. _____ to No. _____
Substantial completion (days): _____
Ready for final payment (days): _____

Contract Times prior to this Change Order:
Substantial completion (days or date): _____
Ready for final payment (days or date): _____

Increase] [Decrease] of this Change Order:
Substantial completion (days or date): _____
Ready for final payment (days or date): _____

Contract Times with all approved Change Orders:
Substantial completion (days or date): _____
Ready for final payment (days or date): _____

RECOMMENDED:	**ACCEPTED:**	**ACCEPTED:**
By: _____	By: _____	By: _____
Engineer (Authorized Signature)	Owner (Authorized Signature)	Contractor (Authorized Signature)
Date: _____	Date: _____	Date: _____

Approved by Funding Agency (if applicable): _____ Date: _____

Prepared by the Engineers' Joint Contract Documents Committee and endorsed by the Associated General Contractors of America and the Construction Specifications Institute
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5.2.4 Contractor's Application for Payment **Application for Payment No:.**_____

	Application Period:	Application Date:
To (Owner): City of Wauchula	From (Contractor):	Via (Engineer):
Project:	Contract:	
Owner's Contract No.:	Contractor's Project No.:	Engineer's Project No.:

APPLICATION FOR PAYMENT

Change Order Summary

Approved Change Orders		
Number	Additions	Deductions
TOTALS		
NET CHANGE BY CHANGE ORDERS		

CONTRACTOR'S CERTIFICATION

The undersigned Contractor certifies that: (1) all previous progress payments received from Owner on account of Work done under the Contract have been applied on account to discharge Contractor's legitimate obligations incurred in connection with Work covered by prior Applications for Payment; (2) title of all Work, materials and equipment incorporated in said Work or otherwise listed in or covered by this Application for Payment will pass to Owner at time of payment free and clear of all Liens, security interests and encumbrances (except such as are covered by a Bond acceptable to Owner indemnifying Owner against any such Liens, security interest or encumbrances); and (3) all Work covered by this Application for Payment is in accordance with the Contract Documents and is not defective.

By:	Date:

1. ORIGINAL CONTRACT PRICE ..... $_____
2. Net change by Change Orders ..... $_____
3. CURRENT CONTRACT PRICE (Line 1 ± 2) ..... $_____
4. TOTAL COMPLETED AND STORED TO DATE
   (Column F on Progress Estimate) ..... $_____
5. RETAINAGE:
   a. _____ % x $_____ Work Completed ..... $_____
   b. _____ % x $_____ Stored Material ..... $_____
   c. Total Retainage (Line 5a + Line 5b) ..... $_____
6. AMOUNT ELIGIBLE TO DATE (Line 4 - Line 5c) ..... $_____
7. LESS PREVIOUS PAYMENTS (Line 6 from prior Application) ..... $_____
8. AMOUNT DUE THIS APPLICATION ..... $_____
9. BALANCE TO FINISH, PLUS RETAINAGE
   (Column G on Progress Estimate + Line 5 above) ..... $_____

Payment of: $_____ _____
(Line 8 or other - attach explanation of other amount)

is recommended by: _____ _____
(Engineer) (Date)

Payment of: $_____
(Line 8 or other - attach explanation of other amount)

is approved by: _____ _____
(Owner) (Date)

Approved by: _____ _____
Funding Agency (if applicable) (Date)

Progress Estimate **Contractor's Application**

For (contract):					Application Number:			
Application Period:					Application Date:			
A		B	Work Completed		E	F		G
Item Specification Section No.	Description	Scheduled Value	C From Previous Application (C + D)	D This Period	Materials Presently Stored (not in C or D)	Total Completed and Stored to Date (C + D + E)	% (F) B	Balance to Finish (B - F)
	Totals							

Progress Estimate **Contractor's Application**

For (contract):				Application Number:			
Application Period:				Application Date:			
A		B	Work Completed		E	F	G
Item Specification Section No.	Description	Scheduled Value	C From Previous Application (C + D)	D This Period	Materials Presently Stored (not in C or D)	Total Completed and Stored to Date (C + D + E)	% (F) B	Balance to Finish (B - F)
	Totals							

Progress Estimate **Contractor's Application**

For (contract):					Application Number:		
Application Period:					Application Date:		
A		B	Work Completed		E	F	G
Item Specification Section No.	Description	Scheduled Value	C From Previous Application (C + D)	D This Period	Materials Presently Stored (not in C or D)	Total Completed and Stored to Date (C + D + E)	% (F) B	Balance to Finish (B - F)
	Totals							

5.2.5 Field Order Form

No. _____

Date of Issuance: _____ Effective Date: _____

Project:	**Owner:** City of Wauchula	**Owner's Contract No.:**
Contract:		**Date of Contract:**
Contractor:		**Engineer's Project No.:**

Attention:
You are hereby directed to promptly execute this Field Order for minor changes in the Work without changes in Contract Price or Contract Times. If you consider that a change in Contract Price or Contract Times is required, please notify the Engineer immediately and before proceeding with this Work.

Reference: _____ _____
(Specification Section(s)) (Drawing(s) / Detail(s))

Description:

Attachments:

Engineer:	Date:
Receipt Acknowledged by (Contractor):	Date:

Copy to Owner

Prepared by the Engineers' Joint Contract Documents Committee and endorsed by the Associated General Contractors of America and the Construction Specifications Institute
#69213181 v1

5.2.6 Notice of Award

Dated _____

Project:	**Owner:** City of Wauchula	**Owner's Contract No.:**
Contract:		**Date of Contract:**
Contractor:		**Engineer's Project No.:**

Bidder: _____

Bidder's Address: (send Certified Mail, Return Receipt Requested)

_____

_____

_____

You are notified that your Bid dated _____ for the above Contract has been considered. You are the Successful Bidder and are awarded a Contract for _____

_____

_____

(Indicate total Work, alternates or sections or Work awarded.)

The Contract Price of your Contract is _____ Dollars ($_____)

_____ copies of each of the proposed Contract Documents (except Drawings) accompany this Notice of Award.

_____ sets of the Drawings will be delivered separately or otherwise made available to you immediately.

You must comply with the following conditions precedent within five (5) days of the date you receive this Notice of Award.

1. Deliver to the Owner fully executed counterparts of the Contract Documents.
2. Deliver with the executed Contract Documents the Contract Security [Bonds].
3. Other conditions precedent:

   _____

   _____

   _____

Failure to comply with these conditions within the time specified will entitle Owner to consider you in default, annul this Notice of Award and declare your Bid security forfeited.

Within ten days after you comply with the above conditions, Owner will return to you one fully executed counterpart of the Contract Documents.

City of Wauchula
Owner

By: _____
Authorized Signature

_____
Title

Copy to Engineer

Prepared by the Engineers' Joint Contract Documents Committee and endorsed by the
Associated General Contractors of America and the Construction Specifications Institute
#69213181 v1

5.2.7 Notice to Proceed

Dated _____

Project:	**Owner:** City of Wauchula	**Owner's Contract No.:**
Contract:		**Date of Contract:**
Contractor:		**Engineer's Project No.:**
Contractor:		
Contractor's Address: (send Certified Mail, Return Receipt Requested)		

You are notified that the Contract Times under the above contract will commence to run on _____. On or before that date, you are to start performing your obligations under the Contract Documents. The date of Substantial completion is _____ and the date of readiness for final payment is _____ _____ [(or) the number of days to achieve Substantial Completion is _____ and the number of days to achieve readiness for final payment is_____].

Before you may start any Work at the Site, you and Owner must each deliver to the other (with copies to Engineer and other identified additional insureds) certificates of insurance which each is required to purchase and maintain in accordance with the Contract Documents.

Also, before you may start any Work at the Site, you must [add other requirements]:

_____

_____

_____

_____	_____
Contractor	Owner
Received by:_____	Given By: _____
	Authorized Signature
_____	_____
Title	Title
_____	_____
Date	Date

Copy to Engineer

5.2.8 Payment Bond

Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address):

SURETY (Name and Address of Principal Place of Business):

OWNER (Name and Address):

CONTRACT
Date:
Amount:
Description (Name and Location):

BOND
Bond Number:
Date (Not earlier than Contract Date):
Amount:
Modifications to this Bond Form:

Surety and Contractor, intending to be legally bound hereby, subject to the terms printed on the reverse side hereof, do each cause this Payment Bond to be duly executed on its behalf by its authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL
Company:

Signature: _____(Seal)
Name and Title:

SURETY

_____(Seal)
Surety's Name and Corporate Seal

By: _____
Signature and Title
(Attach Power of Attorney)

(Space is provided below for signatures of additional parties, if required.)

Attest: _____
Signature and Title

CONTRACTOR AS PRINCIPAL SURETY
Company:
Signature: _____(Seal)
Name and Title:

_____(Seal)
Surety's Name and Corporate Seal

By: _____
Signature and Title
(Attach Power of Attorney)

Attest: _____
Signature and Title:

Originally prepared through the joint efforts of the Surety Association of America, Engineers Joint Contract Documents Committee, the Associated General Contractors of America, the American Institute of Architects, the American Subcontractors Association, and the Associated Specialty Contractors.
#69213181 v1

1. Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to Owner to pay for labor, materials, and equipment furnished by Claimants for use in the performance of the Contract, which is incorporated herein by reference.

2. With respect to Owner, this obligation shall be null and void if Contractor:
   2.1. Promptly makes payment, directly or indirectly, for all sums due Claimants, and

   2.2. Defends, indemnifies, and holds harmless Owner from all claims, demands, liens, or suits alleging non-payment by Contractor by any person or entity who furnished labor, materials, or equipment for use in the performance of the Contract, provided Owner has promptly notified Contractor and Surety (at the addresses described in Paragraph 12) of any claims, demands, liens, or suits and tendered defense of such claims, demands, liens, or suits to Contractor and Surety, and provided there is no Owner Default.

3. With respect to Claimants, this obligation shall be null and void if Contractor promptly makes payment, directly or indirectly, for all sums due.

4. Surety shall have no obligation to Claimants under this Bond until:

   4.1. Claimants who are employed by or have a direct contract with Contractor have given notice to Surety (at the addresses described in Paragraph 12) and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.

   4.2. Claimants who do not have a direct contract with Contractor:

      1. Have furnished written notice to Contractor and sent a copy, or notice thereof, to Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials or equipment were furnished or supplied, or for whom the labor was done or performed; and

      2. Have either received a rejection in whole or in part from Contractor, or not received within 30 days of furnishing the above notice any communication from Contractor by which Contractor had indicated the claim will be paid directly or indirectly; and

      3. Not having been paid within the above 30 days, have sent a written notice to Surety and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to Contractor.

5. If a notice by a Claimant required by Paragraph 4 is provided by Owner to Contractor or to Surety, that is sufficient compliance.

6. When a Claimant has satisfied the conditions of Paragraph 4, the Surety shall promptly and at Surety's expense take the following actions:

   6.1. Send an answer to that Claimant, with a copy to Owner, within 45 days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.

   6.2. Pay or arrange for payment of any undisputed amounts.

7. Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by Surety.

8. Amounts owed by Owner to Contractor under the Contract shall be used for the performance of the Contract and to satisfy claims, if any, under any performance bond. By Contractor furnishing and Owner accepting this Bond, they agree that all funds earned by Contractor in the performance of the Contract are dedicated to satisfy obligations of Contractor and Surety under this Bond, subject to Owner's priority to use the funds for the completion of the Work.

9. Surety shall not be liable to Owner, Claimants, or others for obligations of Contractor that are unrelated to the Contract. Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.

10. Surety hereby waives notice of any change, including changes of time, to the Contract or to related Subcontracts, purchase orders and other obligations.

11. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the Work or part of the Work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Paragraph 4.1 or Paragraph 4.2.3, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

12. Notice to Surety, Owner, or Contractor shall be mailed or delivered to the addresses shown on the signature page. Actual receipt of notice by Surety, Owner, or Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.

13. When this Bond has been furnished to comply with a statutory requirement in the location where the Contract was to be performed, any provision in this Bond conflicting with said statutory requirement shall be deemed deleted herefrom and provisions conforming to such statutory requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory Bond and not as a common law bond.

14. Upon request of any person or entity appearing to be a potential beneficiary of this Bond, Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.

15. DEFINITIONS
   15.1. Claimant: An individual or entity having a direct contract with Contractor, or with a first-tier subcontractor of Contractor, to furnish labor, materials, or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Contract, architectural and engineering services required for performance of the Work of Contractor and Contractor's Subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.

   15.2. Contract: The agreement between Owner and Contractor identified on the signature page, including all Contract Documents and changes thereto.

   15.3. Owner Default: Failure of Owner, which has neither been remedied nor waived, to pay Contractor as required by the Contract or to perform and complete or comply with the other terms thereof.

FOR INFORMATION ONLY (*Name, Address and Telephone)*
Surety Agency or Broker:
Owner's Representative (*Engineer or Other Party*):

Originally prepared through the joint efforts of the Surety Association of America, Engineers Joint Contract Documents Committee, the Associated General Contractors of America, the American Institute of Architects, the American Subcontractors Association, and the Associated Specialty Contractors.
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5.2.9 Performance Bond

Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

CONTRACTOR (*Name and Address*):

SURETY (*Name, and Address of Principal Place of Business*):

OWNER (*Name and Address*):

CONTRACT
Effective Date of Agreement:
Amount:
Description (*Name and Location*):

BOND
Bond Number:
Date (*Not earlier than Effective Date of Agreement*):
Amount:
Modifications to this Bond Form:

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL	SURETY
_____(Seal)	_____(Seal)
Contractor's Name and Corporate Seal	Surety's Name and Corporate Seal
By: _____	By: _____
Signature	Signature (Attach Power of Attorney)
_____	_____
Print Name	Print Name
_____	_____
Title	Title
Attest: _____	Attest: _____
Signature	Signature
_____	_____
Title	Title

Note: Provide execution by additional parties, such as joint venturers, if necessary.

Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to Owner for the performance of the Contract, which is incorporated herein by reference.

1. If Contractor performs the Contract, Surety and Contractor have no obligation under this Bond, except to participate in conferences as provided in Paragraph 2.1.

2. If there is no Owner Default, Surety's obligation under this Bond shall arise after:
   2.1 Owner has notified Contractor and Surety, at the addresses described in Paragraph 9 below, that Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with Contractor and Surety to be held not later than 15 days after receipt of such notice to discuss methods of performing the Contract. If Owner, Contractor, and Surety agree, Contractor shall be allowed a reasonable time to perform the Contract, but such an agreement shall not waive Owner's right, if any, subsequently to declare a Contractor Default; and
   2.2 Owner has declared a Contractor Default and formally terminated Contractor's right to complete the Contract. Such Contractor Default shall not be declared earlier than 20 days after Contractor and Surety have received notice as provided in Paragraph 2.1; and
   2.3 Owner has agreed to pay the Balance of the Contract Price to:
      1. Surety in accordance with the terms of the Contract; or
      2. Another contractor selected pursuant to Paragraph 3.3 to perform the Contract.

3. When Owner has satisfied the conditions of Paragraph 2, Surety shall promptly, and at Surety's expense, take one of the following actions:
   3.1 Arrange for Contractor, with consent of Owner, to perform and complete the Contract; or
   3.2 Undertake to perform and complete the Contract itself, through its agents or through independent contractors; or
   3.3 Obtain bids or negotiated proposals from qualified contractors acceptable to Owner for a contract for performance and completion of the Contract, arrange for a contract to be prepared for execution by Owner and contractor selected with Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Contract, and pay to Owner the amount of damages as described in Paragraph 5 in excess of the Balance of the Contract Price incurred by Owner resulting from Contractor Default; or
   3.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:
      1. After investigation, determine the amount for which it may be liable to Owner and, as soon as practicable after the amount is determined, tender payment therefor to Owner; or
      2. Deny liability in whole or in part and notify Owner citing reasons therefor.

4. If Surety does not proceed as provided in Paragraph 3 with reasonable promptness, Surety shall be deemed to be in default on this Bond 15 days after receipt of an additional written notice from Owner to Surety demanding that Surety perform its obligations under this Bond, and Owner shall be entitled to enforce any remedy available to Owner. If Surety proceeds as provided in Paragraph 3.4, and Owner refuses the payment tendered or Surety has denied liability, in whole or in part, without further notice Owner shall be entitled to enforce any remedy available to Owner.

5. After Owner has terminated Contractor's right to complete the Contract, and if Surety elects to act under Paragraph 3.1, 3.2, or 3.3 above, then the responsibilities of Surety to Owner shall not be greater than those of Contractor under the Contract, and the responsibilities of Owner to Surety shall not be greater than those of Owner under the Contract. To the limit of the amount of this Bond, but subject to commitment by Owner of the Balance of the Contract Price to mitigation of costs and damages on the Contract, Surety is obligated without duplication for:

5.1 The responsibilities of Contractor for correction of defective Work and completion of the Contract;
5.2 Additional legal, design professional, and delay costs resulting from Contractor's Default, and resulting from the actions of or failure to act of Surety under Paragraph 3; and
5.3 Liquidated damages, or if no liquidated damages are specified in the Contract, actual damages caused by delayed performance or non-performance of Contractor.

6. Surety shall not be liable to Owner or others for obligations of Contractor that are unrelated to the Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than Owner or its heirs, executors, administrators, or successors.

7. Surety hereby waives notice of any change, including changes of time, to Contract or to related subcontracts, purchase orders, and other obligations.

8. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the Work or part of the Work is located, and shall be instituted within two years after Contractor Default or within two years after Contractor ceased working or within two years after Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

9. Notice to Surety, Owner, or Contractor shall be mailed or delivered to the address shown on the signature page.

10. When this Bond has been furnished to comply with a statutory requirement in the location where the Contract was to be performed, any provision in this Bond conflicting with said statutory requirement shall be deemed deleted herefrom and provisions conforming to such statutory requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

11. Definitions.
11.1 Balance of the Contract Price: The total amount payable by Owner to Contractor under the Contract after all proper adjustments have been made, including allowance to Contractor of any amounts received or to be received by Owner in settlement of insurance or other Claims for damages to which Contractor is entitled, reduced by all valid and proper payments made to or on behalf of Contractor under the Contract.
11.2 Contract: The agreement between Owner and Contractor identified on the signature page, including all Contract Documents and changes thereto.
11.3 Contractor Default: Failure of Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Contract.
11.4 Owner Default: Failure of Owner, which has neither been remedied nor waived, to pay Contractor as required by the Contract or to perform and complete or otherwise comply with the other terms thereof.

FOR INFORMATION ONLY (*Name, Address and Telephone)*
Surety Agency or Broker:
Owner's Representative (*Engineer or Other Party*):

5.2.10 Work Change Directive Form

No._____

Date of Issuance: _____ Effective Date: _____

Project:	**Owner:** City of Wauchula	**Owner's Contract No.:**
Contract:		**Date of Contract:**
Contractor:		**Engineer's Project No.:**

You are directed to proceed promptly with the following change(s):

Item No.	Description

Attachments (list documents supporting change):

_____

_____

Purpose for Work Change Directive:

- □ Authorization for Work described herein to proceed on the basis of Cost of the Work due to:
  - □ Nonagreement on pricing of proposed change.
  - □ Necessity to expedite Work described herein prior to agreeing to changes on Contract Price and Contract Time

Estimated change in Contract Price and Contract Times:

Contract Price $_____ (increase/decrease) Contract Time _____ (increase/decrease) days

If the change involves an increase, the estimated amounts are not to be exceeded without further authorization.

Recommended for Approval by Engineer:	Date:
Authorized for Owner by:	Date:
Accepted for Contractor by:	Date:
Approved by Funding Agency (if applicable):	Date:

DIVISION 6:
TECHNICAL SPECIFICATIONS

Refer to Florida Department of Transportation Standard Specifications for Road and Bridge Construction (Latest Edition) for all specifications.