

SCOPE OF SERVICES
ASSET MAINTENANCE CONTRACT

CONTRACT ADMINISTRATION

Contract Number: E4N81-R0

Financial Project Number (s): 43211717201

OBJECTIVE

This performance-based contract requires the inspection, management and performance of the maintenance of all components of the transportation facility as identified herein. All such maintenance activities the Department's Maintenance Division formerly performed within the limits of this contract are now to be performed by the Contractor, unless otherwise exempted in this contract. Rather than the Department directing specific work as in most traditional maintenance contracts, this performance-based contract requires the Contractor to continually produce a quality product. The Department will continually evaluate the Contractor's quality of work performed and if applicable rules and procedures were followed to achieve results. The Department is entrusting the Contractor to care for and maintain select roadways, structures, and facilities of Florida's state roads and fully expects the Contractor to take pride in performing a high level of maintenance. The continual quality of the maintenance of the roadways, structures, and facilities will be a direct reflection, under public scrutiny, of the quality and integrity of the Contractor. The roadways, structures, and facilities included in the scope of this contract are as follows:

The locations specified in this Contract are all Rest Areas and Weigh-in-Motion stations on the Interstate (I-95) in Martin and St. Lucie Counties.

GENERAL REQUIREMENTS

1.1 Current Standards and Subsequent Updates

Perform all work to current Department Standards and Specifications throughout the contract duration, as may be updated throughout the life of the contract. Inspect, manage and maintain all assets within the project limits as identified in this scope, perform work that is consistent with the Department's maintenance practices, and produce end results in accordance with Contract Documents in effect at the time of the performance of any work. Contract Documents include *Florida Statutes, Florida Administrative Code, Design Standards, Maintenance Activity Standards*, Rules, Procedures, Handbooks, Guides, Manuals, and applicable *Department Specifications*. Obtain the latest *Department Specifications*, including the *Standard Specifications for Road and Bridge Construction, Workbook of Implemented Modifications to the Standard Specifications*, and *Mandatory Revisions to the Workbook*, from the State Specifications Office Website on the Internet (<http://www.dot.state.fl.us/specificationsoffice/>).

Obtain the latest *Standard Maintenance Special Provisions* from the Maintenance Office Website on the Internet <http://www.dot.state.fl.us/statemaintenanceoffice/>.

1.2 Contract Length

The initial Contract term is 3 years with a renewal option for one or more additional terms with the combined length of all renewal terms not to exceed the length of the original term of the contract. Renewals will be made at the sole discretion and option of the Department and must be agreed upon in writing by both parties. If the Department elects to renew, the Department will negotiate with the Contractor an adjustment factor to be applied to the original annual contract amount. The adjustment factor may be positive, negative, or zero. If negotiations do not lead to a mutually agreed upon adjustment factor, the contract shall not be renewed. The renewed contract amount will be calculated by applying the adjustment factor to the original contract amount, then adjusting for supplemental agreements as appropriate.

Renewal is contingent upon the availability of funds, satisfactory performance of the Contractor, and other factors as determined by the Department.

1.3 Invoicing and Compensation

This is a lump sum contract. Invoice the Department monthly according to the monthly amounts shown in payout schedule. Breakdown the monthly invoice by maintenance area for all work units completed for each Maintenance Management System (MMS) activity number.

1.4 Organizational Structure

Upon contract execution, provide a detailed organizational structure. Clearly define the responsibilities of each position identified in the organization structure. Provide qualifications of all personnel. Throughout the contract duration, submit all changes to organizational structure or position responsibility to the Department.

Decisions regularly require engineering judgment that may affect public health and safety. These decisions require the services of a Professional Engineer registered in the State of Florida. Identify at least one (1) individual licensed as a Professional Engineer in the State of Florida to perform these services. Identify a person in responsible charge of the contract who has the ability to instill public confidence and can responsibly act as a representative of the State of Florida Department of Transportation.

1.5 Performance Expectations and Evaluation

Inspect, manage and maintain the roadways, structures, and facilities as identified in the Scope uniformly and consistently throughout the contract period by meeting the performance specifications/measures established in this scope. The Department will evaluate Contractor performance in two ways: 1) by comparing actual work performance to the performance criteria established within this scope, and 2) by semiannually grading the Contractor according to the *Performance Based Contracting* Procedure. Unsatisfactory performance of work or failure to

perform in accordance with the Contractor's technical proposal or other contract documents will affect the Contractor's semiannual grade and may further result in contract default.

1.6 Partnering

For this Contract, a non-bid pay item has been established for Partnering in the amount of \$1,000.00. The objective of partnering is to establish a partnership charter and action plan between the Contractor, the Department and other parties associated with this Contract.

1.7 Contractor Responsibilities

Review and confirm for validity the data contained on the project CD, which is provided by the Department in conjunction with the Request for Proposal (RFP). Use the supplied project CD to assist in developing a complete understanding of all quantities and workloads pertaining to this scope of work.

Continually monitor all Department policies, procedures, specifications, and other Contract Documents for changes and updates. Be prepared to comply with any revisions.

Manage the maintenance of all assets identified in this scope. Tasks include work needs assessment; resource management; work activity planning and execution; and quality control performance to ensure work complies with contractual requirements. Develop an annual work plan to ensure the desired maintenance is performed.

Perform Routine and Periodic maintenance activities at a frequency that ensures uniform and consistent compliance with the Maintenance Rating Program (MRP) criteria, the required maintenance rating level, and any other established requirements of the Department. Research maintenance activity numbers, activity descriptions, and units of measure in the Department's *Maintenance Cost Handbook*.

Take proper health and safety measures to ensure safety for the traveling public, Department employees, Contractor employees, and Subcontractor employees.

Manage and coordinate existing Department contracts within the limits of this contract until expiration of the Department contracts (Attachment I). Existing Department contracts will continue until money exhaustion or time expiration on the contract, whichever comes first. Document any instances of poor performance by the existing Department Contractor. If the Department prematurely terminates any existing contract, the Department will compensate the Asset Maintenance Contractor, in accordance with *Performance Based Contracting* Procedure, for assuming the unanticipated workload remaining on the terminated contract.

Comply with current lane closure restrictions, requirements, and individual lane closure analysis results. In some locations this may require nighttime work. Lane closure restrictions are subject to change due to updated traffic counts or various other events. Work with Department staff to coordinate lane closures during special events.

Develop and implement a Customer Service Resolution Plan. Maintain a customer service log detailing complaints and requests and the resolution of the items contained in the log. Include Customer name and contact information in the log.

Before performing any non-standard repairs or implementing any innovative ideas, submit the non-standard repair or innovative idea to the Department for approval.

Purchase (via monthly invoice deduction) all needed sign panels from the State Sign Shop in Lake City using the statewide process for requesting and receiving finished sign panels; or, as an alternative, obtain sign panels from a source of the Contractor's choosing. Before installation, ensure sign panels meet minimum design requirements. Maintain a record of all Department provided sign panels.

Monitor and report to the Department all DBE utilization properly detailed as required in Specifications.

Manage the district Adopt-A-Highway as required by Chapter 403.4131, *Florida Statutes*.

Consider participation in the Department's Youth Work Experience Program, as provided by Chapter 334.351, *Florida Statutes*.

Provide any lists, summaries, logs, reports, or other documents to the Department for review as requested.

Pay all fines, fees, and penalties levied to the Department by any Governmental Agency resulting from negligent maintenance.

Pay all tolls required for usage of roads and bridges.

1.8 Department Responsibilities

The Department will provide all potential Contractors (bidders) with a project CD containing a variety of data and information about the roadways, structures, and facilities within the limits of this contract. Although the information on the CD is not complete, it will be useful in determining the extent of expected maintenance activities. The Department will place the following items on the project CD:

- (a) Historical Contract Reports
- (b) Historical MRP Reports
- (c) Summary Spreadsheet for MRP Workloads
- (d) RCI Converted Inventory
- (e) Structure Information

(f) In-House-Crew Unit Cost Reports

Upon request, the Department will provide finished sign panels to the Contractor for sign maintenance and repair on the State Highway System within the project limits. The Department will verify that the Contractor has made a deduction from the Contractor's monthly invoice for the cost of each sign panel obtained from the Lake City Sign Shop.

Annually, the Department will provide additional compensation to the Contractor via Supplemental Agreement or Unilateral Payment if the Contractor experiences a combined substantial economic impact during the previous year due to compliance with any of the following four (4) possible occurrences.

- (a) A change to statewide maintenance programs or practices.
- (b) A change to any of the policies, procedures, standards, manuals, handbooks, guides, specs, or any other State, Local, or Federal documents used to monitor the performance of this contract.
- (c) Increased maintenance due to the construction of roadways, structures, and facilities that were not included in the Department's Work Program at the time of the Contractor's proposal due date or renewal date.
- (d) Increased maintenance due to the transfer of ownership to the Department of non-state roadways, structures, and facilities within the contract limits.

A substantial economic impact is defined as documented financial burden on the Contractor exceeding five percent (5%) of the annual contract amount. If additional compensation is warranted, the Department will compensate only for the value of economic impact beyond the five percent (5%) threshold. The five percent (5%) is not cumulative year to year; it is reset each anniversary of contract start date. The Contractor will not receive any additional compensation for maintenance of projects scheduled in the Department's Work Program at the time of the proposal due date or renewal dates.

Similarly, the Department will reduce payment to the Contractor if the Contractor experiences a combined substantial economic savings during the previous year due to occurrence of any of the following four (4) possibilities:

- (a) A change to statewide maintenance programs or practices.
- (b) A change to any of the policies, procedures, standards, manuals, handbooks, guides, specs, or any other State, Local, or Federal documents used to monitor the performance of this contract.
- (c) Reduced maintenance due to the elimination or planned destruction of roadways, structures, and facilities.

(d) Reduced maintenance due to the transfer of ownership of Department-owned roadways, structures, and facilities to other non-Department entities.

A substantial economic savings is defined as a cost savings exceeding five percent (5%) of the annual contract amount. If cost savings are identified, payment to the Contractor will be reduced only for savings greater than the five percent (5%) threshold. The five percent (5%) is not cumulative year to year; it is reset each anniversary of contract start date.

2. EMERGENCY MANAGEMENT

2.1 General

The Department categorizes Emergency Management into two classifications: “Governor Declared Emergencies” and “Other Emergencies”. For Governor Declared Emergencies, perform pre-event preparation and provide initial response post-event to protect the traveling public from grievous hazards created by the event. For Other Emergencies, perform all aspects of responding to the incident/event, including pre-event preparation, post-event initial response, and post-event cleanup and repair. For both classifications of Emergency Management, perform the following six (6) activities before every foreseeable Emergency Management incident/event:

(a) Contact vendors and subcontractors to verify quantity, availability, and priority of appropriate equipment and personnel (e.g. MOT devices, variable message boards, chainsaws, sand spreaders, etc.). Develop a complete up-to-date list of equipment resources and staging locations and of all stockpiled materials and their locations.

(b) In case of possible area evacuations, prepare for implementation of one-way evacuation plans including the pre-staging of necessary one-way evacuation resources.

(c) If directed by the Department implement one-way evacuation and remove one-way evacuation devices when complete.

(d) Secure and lockdown all structures covered under this contract.

(e) In preparation for high winds, rains, and other impending elements, secure all existing worksites associated with this contract.

(f) Lower all high mast lights within the projected path of a hurricane where wind speeds are projected to be category two or higher at location of high mast lights, or as otherwise directed by the Department. Lower lights to within ten (10) feet of the ground. If the lowered position of lights places them at risk of adjacent tree damage, place lights as low as possible while avoiding tree damage risk. Do not lower high mast lights on routes that are expected to be used for one-way evacuation.

If high mast lighting has been lowered, repaired, or raised due to preparation/reaction to storm events, submit a separate informational invoice detailing the cost of such lowering, repairing, and raising of the high mast lights. Show the high mast lighting costs by maintenance area, by

Financial Project Number, and by activity (lower, repair, raise). Retain all documentation required for the Department to apply for Federal Reimbursement for this activity.

For any one-way evacuation activities performed to prepare/react to storm events, submit a separate informational invoice detailing the cost of such one-way evacuation activities. Show the one-way evacuation costs by maintenance area, by Financial Project Number, and by activity. Retain all documentation required for the Department to apply for Federal Reimbursement for one-way evacuation activities.

For any activities associated with securing bascule bridges in preparation/reaction to storm events, submit a separate informational invoice detailing the cost of such activities. Show the costs to secure bascule bridges by maintenance area, by Financial Project Number, and by activity. Retain all documentation required for the Department to apply for Federal Reimbursement for these activities.

Unless otherwise noted in this contract, the Department will not provide additional compensation to the Contractor through this contract for any Emergency Management activities, including the six activities described above.

For all Emergency Management activities, the Department reserves the right to take control of the incident and/or perform recovery work with its own or other contracted forces when the Department determines it is in the Department's best interest to do so.

2.2 Emergency Management Plan

Know the applicable District Comprehensive Emergency Management Plan as well as the FHWA and FEMA guidelines for federal reimbursement. Ensure compliance with all State and Federal Emergency Management Requirements. Administer all response and recovery efforts in accordance with these documents. Develop an Emergency Management Plan that sufficiently replicates the intent of the District's Comprehensive Emergency Management Plan and incorporate this plan with the Technical Proposal. Include details in the Emergency Management Plan including, but not limited to:

- procedures for incident/event management
- agency & public notifications
- assurance of motorist safety
- handling of hazardous waste
- coordination with Law Enforcement and other appropriate agencies
- traffic control
- coordination with the Department and other agencies to establish or implement pre-established detour routes

- maintenance of detour routes
- making emergency repairs
- debris removal
- evacuation/ one-way evacuation response
- submission of incident/event reports
- plan for compliance with the Open Roads Policy
- detailed organizational structure with the functions, qualifications, experience level, and contact information of staff assigned to respond to incidents/events

Comply with all Department plans and with all Local, State, and Federal laws and regulations concerning evacuation routes and the handling and disposal of hazardous waste. Update the Emergency Management Plan in April of each year by engaging in an iterative process of discussion between the Department and the Contractor whereby lessons learned from past experience can be implemented for future use. Prior to the occurrence of any incidents/events, ensure an approved Emergency Management Plan is in effect and be prepared to act upon that plan.

2.3 Specific Contractor Responsibilities for Governor Declared Emergencies

Governor Declared Emergencies are incidents/events that prompt the Governor of Florida to declare a State of Emergency in response to the incident/event. Governor Declared Emergencies will most commonly be major hurricanes and other natural disasters, but can include smaller natural disasters/events/storms (Acts of God), collisions with structures and related components, and incidents/events resulting from human interactions.

If directed by the Department in writing, perform the following three (3) Pre-Event activities and separately track and invoice the Department for associated costs. The Department will compensate the Contractor for their direct costs of performing these three (3) Pre-Event activities as described in the Department's written directions to the Contractor:

- (a) Supplement Road Ranger Service Patrols and provide fuel assistance to stranded motorists.
- (b) Provide additional security at Rest Areas and Welcome Center facilities.
- (c) Provide additional portable rest room facilities at Rest Areas, Weigh Stations, Welcome Centers, and other locations as directed by the Department.

Perform the following six (6) Post-Event activities. The Department will not provide additional compensation to the Contractor for the performance of these six (6) Post-Event activities:

(d) Search all roadways covered by this contract for grievous hazards (roadway washouts/cave-ins, downed electrical lines, non-traversable bridges, etc.). This may include clearing some debris from the roadway in order to access these hazardous areas. Minimal clearing required to access hazardous areas will not be considered first-push roadway clearing.

(e) Immediately respond to perform traffic control, set up safety devices, and layout established or improvised detour routes in order to protect the traveling public from grievous hazards created by the incident/event. When detour routes are required due to an incident/event occurring on a roadway and/or structure covered by this contract, manage and maintain the entire detour route within the State of Florida, even if the route extends onto roadways and/or structures not covered by this contract (state or non-state). For portions of a detour route extending outside Florida, coordinate detour setup and maintenance with the appropriate State.

(f) Notify the Department's designated contact person immediately upon occurrence of all major incidents/events and immediately upon road closure for all roadway and/or structure closures exceeding one (1) hour. Notify the Department again upon roadway and/or structure reopening.

(g) Inspect, perform any minor repairs, and raise all high mast lighting back to their original position as directed by the Department. "Minor repairs" is defined as repairs not eligible for Federal reimbursement.

(h) Inspect, unlock, and perform any minor repairs to all bascule bridges. "Minor repairs" is defined as repairs not eligible for Federal reimbursement.

(i) Assist the Department in performing damage assessment reviews as per *Bridge, Overhead Sign Structures and High Mast Light Poles Damage Assessment Review Guidelines*.

(j) Do not perform first-push activities, debris removal, cleanup, or federally reimbursable repair work necessitated by a Governor Declared Emergency incident/event.

2.4 Specific Contractor Responsibilities for Other Emergencies

Other Emergencies are incidents/events that do not prompt the Governor of Florida to declare a State of Emergency in response to the incident/event. Other Emergencies will most commonly be traffic crashes, guardrail hits, severe potholes, debris within travel lanes, attenuator hits, roadway shoulder wash-outs, roadway cave-ins, and downed light poles but can include natural disasters/events/storms (Acts of God), collisions with structures and related components, and incidents/events resulting from human interactions.

Respond and deploy resources according to the goals established in the *Open Roads Policy*. Arrive on-site, prepared to take necessary action with necessary manpower and emergency response equipment. Working hours referenced under the Department responsibilities in the *Open Roads Policy* are defined as Monday through Friday 7:00 am to 5:30 pm. Be available to relieve Law Enforcement personnel of traffic control functions within fifteen (15) minutes of arriving onsite.

Manage all aspects of traffic control related to an incident/event, including coordination with Governmental agencies when incidents/events spill over onto roadways and/or structures not covered by this contract. When detour routes are required due to an incident/event occurring on a roadway and/or structure covered by this contract, manage and maintain the entire detour route, even if the route extends onto roadways and/or structures not covered by this contract (state or non-state). Notify the Department's designated contact person immediately upon occurrence of all major incidents/events and immediately upon road closure for all roadway and/or structure closures exceeding one (1) hour. Notify the Department again upon roadway and/or structure reopening.

2.5 Recovery of Costs, Reimbursement and Coverage for Other Emergencies

When an incident/event causes damage to any Department facilities, structures or property (hereinafter collectively referred to as Property), which is subject to the terms of this Agreement, the Department authorizes the Contractor to pursue recovery against any responsible party for reimbursement of costs incurred by the Contractor in accordance with this agreement (hereinafter Costs). Certain Property (assets) of the Department is insured by the Insurance Company under the State of Florida, Department of Transportation's Bridge, Property and Business Interruption Insurance Program (Insurance Program). The following procedures and terms shall apply to the recovery of Costs incurred by the Contractor, Reimbursement by the Department and Coverage by the Insurance Company (as defined herein).

Upon learning that damage has been caused to Department Property covered by this agreement the Contractor will immediately notify the Department Project Manager and Department Claims Attorney (Office of the General Counsel) who will confirm whether the Property is an insured asset. The Department shall notify the Insurance Company.

A. The damaged asset is not insured under the Insurance Program (or the FDOT does not make a claim on the insurance coverage) and Costs are equal to or less than \$1,000,000.00.

1. The Contractor is authorized to pursue recovery against any and all parties responsible for Costs caused by damage to the Property to the extent permitted by law. The Department will assist the Contractor as necessary and will confirm the Contractor's authorization to pursue recovery. The Contractor will be responsible for all attorneys' fees and litigation costs incurred in its recovery activities.

B. The damaged asset is not insured under the Insurance Program (or the FDOT does not make a claim on the insurance coverage) and Costs are in excess of \$1,000,000.00.

1. In this situation the Department may be responsible to reimburse the Contractor for any Costs incurred in excess of \$1,000,000.00. Under these circumstances the Department retains its rights to pursue recovery against any and all parties for the amount of any reimbursement made to the Contractor in excess of \$1,000,000.00 (hereinafter Reimbursement). The Department and Contractor agree to coordinate their pursuit of recovery of their respective Costs and Reimbursement from the responsible parties, and not to execute any documents or take any actions which would impair or limit the other's right to recovery. The Department and

Contractor may enter into an agreement for sharing attorney's fees and litigation costs. The Department and Contractor agree to share any recovery on a pro-rata basis based upon their respective Costs and Reimbursement, in accordance with Florida law, unless otherwise agreed to in a separate writing.

C. The damaged asset is insured under the Insurance Program (and FDOT makes a claim for insurance coverage) and Costs are equal to or less than \$1,000,000.00.

1. In this situation the Insurance Company retains a subrogated interest in the recovery against any and all responsible parties to the extent of its payment for coverage under the appropriate policy (Coverage). The Coverage may include damages other than the Costs incurred by the Contractor. The Contractor is authorized to pursue recovery against any and all parties responsible for Costs caused by damage to the Property to the extent permitted by law. The Department will assist the Contractor as necessary and will confirm the Contractor's authorization to pursue recovery. The Department and Contractor agree to coordinate their pursuit of recovery of their respective Costs and Reimbursement with the Insurance Company and its claim for Coverage from the responsible parties, and not to execute any documents or take any action which would impair or limit the others' right to recovery. The Department, Contractor and Insurance Company may enter into an agreement for sharing attorney's fees and litigation costs, otherwise each will bear its own fees and costs. The Department, Contractor and Insurance Company agree to share any recovery on a pro-rata basis based upon their respective Costs, Reimbursement and Coverage in accordance with Florida law, unless otherwise agreed to in a separate writing.

D. The damaged asset is insured under the Insurance Program (and FDOT makes a claim for insurance coverage) and Costs are in excess of \$1,000,000.00.

1. In this situation the Department may be responsible to reimburse the Contractor for any Costs incurred in excess of \$1,000,000.00. Under these circumstances the Department retains its rights to pursue recovery against any and all parties for the amount of any reimbursement made to the Contractor in excess of \$1,000,000.00 (hereinafter Reimbursement) and the insurance company retains a subrogated interest in the recovery against any and all responsible parties to the extent of its payment for coverage under the appropriate policy (Coverage). The Coverage may include damages other than the Costs incurred by the Contractor. The Contractor is authorized to pursue recovery against any and all parties responsible for Costs caused by damage to the Property to the extent permitted by law. The Department will assist the Contractor as necessary and will confirm the Contractor's authorization to pursue recovery. The Department and Contractor agree to coordinate their pursuit of recovery of their respective Costs and Reimbursement with the Insurance Company and its claim for Coverage from the responsible parties, and not to execute any documents or take any actions which would impair or limit the others' right to recovery in accordance with Florida law. The Department, Contractor and Insurance Company may enter into an agreement for sharing attorney's fees and litigation costs, otherwise each will bear its own fees and costs. The Department, Contractor and Insurance Company agree to share any recovery on a pro-rata basis based upon their respective Costs, Reimbursement and Coverage in accordance with Florida law, unless otherwise agreed to in a separate writing.

In paragraphs 5C and 5D above, the Contractor shall submit all proposed settlement documentation (settlement agreement, release and order of dismissal) for review and approval by the Office of the General Counsel prior to execution. Approval by the Department shall not be unreasonably withheld.

E. Failure to coordinate and cooperate in pursuing recovery, or impairment or limitation of a party's right to recovery.

1. With regard to paragraphs 5A, B, C and D, above, if either the Department or Contractor fails to coordinate and cooperate in the pursuit of any recovery under these provisions or impairs or limits the lawful recovery of the other or the Insurance Company, it will be liable to the other and the Insurance Company for reasonable attorneys' fees and costs incurred in compelling coordination and cooperation or correcting any impairment or limitation to its lawful recovery. The Contractor shall not be entitled to any Coverage which may be available to the Department from the Insurance Company.

Although the Contractor is responsible for repairing damage resulting from an act that is officially declared by the State of Florida as an "act of terrorism", the Department will compensate the Contractor via Supplemental Agreement or Unilateral Payment for "act of terrorism" damage repair costs.

2.6 Financial Relief for Severe Incidents

For any single incident, the Department will reimburse the Contractor for any damage repair construction costs in excess of \$1,000,000.00.

Such financial relief for severe single incidents does not apply if the incident was caused, created, or magnified by the Contractor's negligence.

3. CONTRACT DOCUMENTS

Obtain the complete, up-to-date list of Contract Documents (Specifications, Procedures, Manual, Guides and Handbooks) incorporated as a part of this contract from the Maintenance Office Website on the Internet

(<http://www.dot.state.fl.us/statemaintenanceoffice/AMContractDocuments.shtm>) All of the Contract Documents listed at this website are incorporated by reference as a part of this contract.

4. ASSET MAINTENANCE PERFORMANCE MEASURES

MRP SCORES

MRP notes: The department will hold the retainage withheld from MRP periods 1 & 2 until the Department calculates the final annual rating. If the final annual calculated deduction is less than the total accumulated retainage for the fiscal year, the balance of the retainage will be paid to the Contractor. If the final annual calculated deduction exceeds the total accumulated retainage for the fiscal year, the balance will be deducted from the Contractor's payment. All deductions withheld from the Contractor and all retainage refunds to the Contractor will occur through adjustments to the next appropriate monthly invoice amount.

Deficiency Identification	Deduction/Retainage
a. Failure to meet overall MRP score requirements (Periods 1 & 2)	Retain one half percent (.5%) of one-third of the annual contract amount for each MRP point below procedural requirements for overall MRP score
b. Substandard MRP for individual elements (Periods 1 & 2)	Retain one quarter percent (.25%) of one-third of the annual contract amount for each MRP point below procedural requirements for each element rating
c. Substandard MRP for individual characteristics (Periods 1 & 2)	Retain one eighth percent (.125%) of one-third of the annual contract amount for each MRP point below procedural requirements for each characteristic rating
d. Failure to meet overall MRP score requirements (Final Annual Rating)	Deduct one half percent (.5%) of the annual contract amount for each MRP point below procedural requirements for overall MRP score
e. Substandard MRP for individual elements (Final Annual Rating)	Deduct one quarter percent (.25%) of the annual contract amount for each MRP point below procedural requirements for each element rating
f. Substandard MRP for individual characteristics (Final Annual Rating)	Deduct one eighth percent (.125%) of the annual contract amount for each MRP point below procedural requirements for each characteristic rating

PERFORMANCE CRITERIA NOTES:

For **ALL** performance measures identified in all charts found in this scope, the “Time Allowed/Criteria” is **PER APPLICABLE PROCEDURE**. If the applicable procedure is non-specific for time allowed or criteria, then use the “Time Allowed/Criteria” given in the applicable chart.

For all times allowed in all charts found in this scope, the District Maintenance Engineer/Administrator may grant a time extension for unusual circumstances if the extension is requested during the original time period allowed.

All deductions withheld from the Contractor will occur through adjustments to the next monthly invoice amount.

GUARDRAIL

Deficiency Identification	Time Allowed/Criteria	Deduction
a. Failure to perform timely inspections	Per Procedure, Manuals, Codes, etc.	\$500 per day per delinquent inspection
b. Failure to timely submit Inspection Sheets/Reports	Due within 15 days after completion of inspection	\$100 per day per delinquent report
c. Failure to make repairs identified in Inspection Reports	Within 30 days of identification	\$500 per day per guardrail
d. Failure to make temporary safety repairs resulting from incidents	Must secure with proper Maintenance of Traffic (MOT) before leaving the site	\$1,000 per day per guardrail

e. Failure to make permanent repairs resulting from incidents	Repair within 10 calendar days of Incident	\$1,000 per day per guardrail
CRASH CUSHIONS		
Deficiency Identification	Time Allowed/Criteria	Deduction
a. Failure to perform timely inspections	Per Procedure, Manuals, Codes, etc.	\$500 per day per delinquent inspection
b. Failure to timely submit Inspection Sheets/Reports	Per Procedure, Manuals, Codes, etc.	\$100 per day per delinquent report
c. Failure to make repairs identified in Inspection Reports	Within 30 days of identification	\$500 per day per crash cushion
d. Failure to make temporary safety repairs resulting from incidents	Must secure with proper MOT before leaving the site	\$1,000 per day per crash cushion
e. Failure to make permanent repairs resulting from incidents	Repair within 5 calendar days of Incident	\$1,000 per day per crash cushion
SIGNS		
Deficiency Identification	Time Allowed/Criteria	Deduction
a. Failure to perform timely Inspections	Per Procedure, Manuals, Codes, etc.	\$500 per day per delinquent inspection
b. Failure to timely submit Inspection Sheets/Reports	Due within 15 days after completion of inspection	\$100 per day per delinquent report
c. Failure to make repairs identified in Inspection Reports	Per Procedure, Manuals, Codes, etc.	\$500 per day per sign assembly
d. Failure to replace missing signs and signs downed by incidents	Per Procedure, Manuals, Codes, etc.	Permanent regulatory and warning signs \$2,000 per day per sign assembly. Temporary signs \$100 per day per sign assembly. Permanent signs \$500 per day per sign assembly
CLEAR ZONE OBSTRUCTIONS		
Deficiency Identification	Time Allowed/Criteria	Deduction
a. Failure to temporarily secure reported or discovered clear zone obstructions	Must respond within 1 hour & secure with proper MOT before leaving the site	Response - \$100 per hour per location Secure - \$1,000 per day per location
b. Failure to remove or correct clear zone obstructions	Within 7 days	\$1,000 per day per location

BARRIER WALL		
Deficiency Identification	Time Allowed/Criteria	Deduction
a. Failure to replace or repair damaged barrier wall	Secure with proper MOT before leaving the site. Permanent Repairs within 7 days of notification.	Secure MOT \$1,000 per day per location Permanent repairs \$1,000 per day per location
CUSTOMER SERVICE RESOLUTION		
Deficiency Identification	Time Allowed/Criteria	Deduction
a. Failure to contact customer	Contact customer within 24 hours	\$500 per day per customer
b. Failure to resolve customer service request to the satisfaction of the Department	Resolve within 2 weeks of customer contact	\$500 per day per customer request
EMERGENCY RESPONSE		
Deficiency Identification	Time Allowed/Criteria	Deduction
a. Failure to properly respond to incidents/events as required in Emergency Management section of this scope or according to the goals established in the Open Road Policy.	Per Emergency Management section requirements established in this scope and in the Open Road Policy.	\$1,000 per hour, prorated, per incident/event
EMERGENCY DEBRIS REMOVAL (INCLUDING DEAD ANIMALS)		
Deficiency Identification	Time Allowed/Criteria	Deduction
a. Failure to promptly and properly remove and dispose of emergency debris	Per Emergency Response for Debris Removal Specifications (SMSP)	\$500 per day per incident
GRAFFITI		
Deficiency Identification	Time Allowed/Criteria	Deduction
a. Failure to promptly remove or cover graffiti	Remove or cover graffiti within 36 hours of discovery	\$1,000 per day per roadway mile
SUBMISSION OF DEPARTMENT REQUESTED DOCUMENTS		
Deficiency Identification	Time Allowed/Criteria	Deduction
a. Upon Department request, failure to submit any documents the Contractor is required to maintain	Submit document by the end of the business day following the day of the Department's request	\$100 prorated per business day per requested document
DEPARTMENT POLICIES AND PROCEDURES		
Deficiency Identification	Deduction	
a. Violation of any Department procedures, policies, handbooks, or any other contract document	\$500 per occurrence of violation	
CONTRACTOR'S TECHNICAL PROPOSAL		
Deficiency Identification	Deduction	

a. Deviating from any claims, promises, statements, guarantees, or other assurances made within the Contractor's original Technical Proposal	\$500 per occurrence of violation
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Interchanges, crossroads and ramps to the point at which the right-of-way terminates or as shown by the Department through supplemental description. Includes utility locates. (NOT INCLUDED)

Overpasses and approach roadways over the transportation facilities within limits of right-of-way. (NOT INCLUDED)

Contract includes waterways, canals, ditches, outfalls, and intermittent waterway canals to the right-of-way line including compliance with any permit requirements.

Contract includes stormwater management and mitigation areas associated with the highway corridor including compliance with all permit requirements.

MRP

The scope of this contract does not include MRP evaluation. MRP target scores will not be used as a performance measures for this contract.

HIGHWAY LIGHTING

HIGHWAY LIGHTING		
Deficiency Identification	Time Allowed/Criteria	Deduction
a. Unsatisfactory Department lighting outage survey	Per Procedures, Manuals, Codes, and Per Performance Lighting Specifications (Standard Maintenance Special Provisions)	\$5,000 per survey identifying excessive outage
b. Failure to make temporary safety repairs resulting from Incidents	Must secure public safety from hazards and establish proper MOT before leaving the site	\$1,000 per day per light pole
c. Failure to replace light poles damaged by Incidents	Per Performance Lighting Specifications (Standard Maintenance Special Provisions)	\$500 per day per light pole

PERMITS COORDINATION, PROCESSING, ADMINISTRATION, & INSPECTION

Perform all permitting activities within or associated with Department Right of Way. Meet all the requirements in *Florida Administrative Code (F.A.C.)*.

Coordinate, process, administer, and inspect all permits on the roadways covered by this contract. Enter all permit related data into the Permits Information Tracking System. Collect all permit fees and turn them over to the Department's representative. The Department will retain all approvals and signatures as required by the *F.A.C.* Process all permits expeditiously as

required by *Florida Statutes* and *F.A.C.* Process "General Use" Permits in accordance with District requirements. Process all permits to completion, which is either approval or denial. The scope of this contract does not include permitting of outdoor advertising billboards or permitting of overweight/overdimension vehicles.

In the Technical Proposal, include a Permit Processing Plan which details the permitting process, adherence to permitting requirements, and processes to ensure customer satisfaction.

Permits Performance Criteria

PERMITS		
Deficiency Identification	Time Allowed/Criteria	Deduction
a. Failure to timely processed permits via permits Information Tracking System	Per <i>Florida Statutes, F.A.C.</i> , procedures, permit requirements, etc.	\$500 per day per permit
b. Failure to inspect permitted activity as required	Per <i>Florida Statutes, F.A.C.</i> , procedures, permit requirements, etc.	\$500 per day per permit

CALL BOXES

CALL BOXES		
Deficiency Identification	Time Allowed/Criteria	Deduction
a. Failure to perform timely inspections and testing	Per Procedures , Manuals, Codes, etc.	\$100 per day per delinquent inspection
b. Failure to timely repair deficiencies identified by inspection, testing, or highway patrol	Per Procedures , Manuals, Codes, etc.	\$500 per day per call box
c. Failure to replace non-repairable call boxes identified by inspection, testing, or highway patrol	Within 3 days of identification	\$500 per day per call box
d. Failure to repair non-critical deficiencies identified by inspection, testing, or highway patrol	Per Procedures , Manuals, Codes, etc.	\$100 per day per call box
e. Failure to replace call boxes damaged by Incidents	Per Procedures , Manuals, Codes, etc.	\$500 per day per call box

ROADWAY CHARACTERISTICS INVENTORY (RCI)

The scope of this contract does not include updating and maintenance of the roadway characteristics inventory.

REST AREAS and WAYSIDE PARKS

Manage, operate, and perform maintenance and janitorial services on all Rest Areas and Wayside Parks

(collectively, "Facilities") within the contract limits in accordance with the requirements in the **Contract Documents**. Perform maintenance repairs and replacements on all components, systems, and features of all Facilities as needed to ensure conditions always meet performance requirements. Ensure all Facilities are operational 24 hours per day, seven days per week. At Welcome Centers, the scope of this contract does not include maintenance, janitorial services, or operation of the Commerce side of the facility building.

Properly maintain and operate the water and wastewater facilities at all facilities to achieve compliance with permit conditions, including all monitoring and reporting criteria. Keep all Facility permits up-to-date, operate and maintain all Facilities in accordance with those permits, and manage all environmental issues involving the Facilities.

If it becomes necessary, the Department (not the Contractor) will be responsible for complete replacement/reconstruction of the following:

- Complete pavement resurfacing of the entire Facility
- Complete replacement of the wastewater treatment system
- Complete replacement of the potable water system
- Complete replacement of the Facility building

Until the Department executes such replacements/reconstructions, the Contractor remains responsible to maintain and replace components and parts of these systems to continue to meet performance measures. The Contractor retains the right to replace these systems at own expense if desired.

When subcontracting janitorial services for Facilities, give priority to nonprofit agencies for the blind or for the severely handicapped according to requirements in the **Contract Documents**.

It is expressly understood and agreed that any articles that are the subject of, or required to carry out, this Contract shall be purchased from a nonprofit agency for the blind or severely handicapped that is qualified pursuant to Chapter 413, Florida Statutes, in the same manner and under the same procedures set forth in Section 413.036(1) and (2), Florida Statutes; and for purposes of this Contract the person, firm, or other business entity carrying out the provisions of this Contract shall be deemed to be substituted for the state agency insofar as dealings with such qualified nonprofit agency are concerned.

The Contractor must perform all janitorial services, lawn care, and landscaping at all Facilities via subcontract with RESPECT of Florida, which must accomplish these services using nonprofit agencies for the blind or severely handicapped. RESPECT of Florida may decline providing services at any Facility, in which case the Contractor shall perform these services by other means. For purposes of this paragraph, the term "janitorial services" includes but is not limited to, cleaning/washing/scrubbing the interior and exterior of all grounds, picnic areas, walkways, buildings, and structures and the contents thereof, not including wastewater treatment facilities. Additionally, janitorial services also includes but is not limited to the cleaning/washing/scrubbing of the floors, walls, ceilings and partitions; window, tile and surface cleaning/washing/scrubbing; disinfecting and cleaning/washing/scrubbing of restrooms; mopping, sweeping, dusting and vacuuming all grounds, picnic areas, walkways, buildings, and structures; providing and replenishing bathroom supplies; emptying wastebaskets and trash receptacles of all grounds, picnic areas, walkways, buildings, and structures. Such services are of the type rendered by a janitor in the regular course of duty, and may be rendered alone or in conjunction with other services.

The Department will perform and record Facility inspections as required by Procedure. When conducting a Facility inspection, the Department will invite the Contractor to perform a joint inspection or simultaneous independent inspection. Discuss inspection score results with the Department in order to

identify and rectify any differences in inspection techniques and results. The Contractor reserves the right to decline the inspection invitation. In all cases, the Department's inspection score is the official score upon which performance deductions are based.

For each monthly invoice, reduce the monthly lump sum amount by the total of all Facility performance deductions. Also, for each monthly invoice, reduce the monthly lump sum amount by an amount equal to 50% of the gross monthly revenue generated by the Rest Area Sponsorship Program described in the Contract Documents. Along with the monthly invoice, provide financial statements certifying the Sponsorship Program's monthly gross revenue.

Facility Performance Criteria

REST AREAS and WAYSIDE PARKS		
Deficiency Identification	Time Allowed/Criteria	Deduction
Facility receives single inspection result below minimum allowed.	Per Procedure.	\$1,000 per point below minimum per inspection
Facility's averaged inspection results falls below minimum allowed	Per Procedure.	\$2,000 per point below minimum per each Facility
Facility closure due to Contractor's failure to adequately perform	Deductions begin immediately on closure.	\$1,000 per hour of Facility closure, prorated
When subcontracting, failure to use agencies for blind/handicapped	Per Procedure	\$100 per day of nonconformance

REST AREA AND WELCOME CENTER SECURITY

Provide Security Guard services for all Rest Areas and Welcome Centers (Facilities) in accordance with the requirements set forth in the **Contract Documents**. Ensure that Security Officers properly carry out the primary duty of safeguarding the general public, Department and Contractor personnel, and Department-owned property located within the Facility. Prepare written monthly reports detailing the previous months security related activity that occurred during each post. Ensure thorough monitoring and resolution of all complaints brought forth regarding the Facility Security Guard services by providing a detailed tracking and investigation system.

The scope of this contract does not include providing Security Guard services at Weigh Stations. For each monthly invoice, reduce the monthly lump sum amount by the total of all Facility Security Guard performance deductions.

Security Guard Service Performance Measures

REST AREAS AND WELCOME CENTER SECURITY		
Deficiency Identification	Criteria	Deduction
Failure to comply with the Security Guard laws, rules, licensing requirements, and industry standards.	Per Florida Statutes, Florida Administrative Code. Also per Policies, Procedures, Handbooks, and Guidelines listed in Contract Documents .	\$1,000 per violation for 1 st occurrence, \$5,000 per violation for 2 nd occurrence, \$10,000 per violation thereafter.

Facility is void of Security Guard Services for any length of time when security should be present (either during or between shifts).	Per Security Coverage requirements in Procedure.	\$100 immediately plus \$500 per 15 minutes thereafter.
Any item within the Security Guard Section of the Rest Area Quality Inspection Form is marked as insufficient.	Per Rest Area Inspection Handbooks & Guidelines listed in Contract Documents .	\$1,000 per inspection per facility.
Night Time Security section on the Rest Area Comment Cards average less than minimum allowed rating any 12-month rolling period.	Per Procedure	\$5,000 per facility per substandard average rating.

ROAD RANGER SERVICE PATROL

The scope of this contract does not include providing Road Rangers Service Patrols.

PAYMENT OF REST AREA UTILITY BILLS

Pay all utility bills associated with each Rest Area before the due date each month.

Utility Bill Payment Performance Criteria

REST AREA UTILITY BILLS		
Deficiency Identification	Time Allowed/Criteria	Deduction
a. Failure to pay utility bill on time	As per specific utility bill due date	25% of total amount of utility bill per month
b. Utility is disconnected at facility due to non-payment	\$5,000 per day per occurrence until utility is restored	

PAYMENT OF WELCOME CENTER UTILITY BILLS

The scope of this contract does not include payment of utility bills associated with each Welcome Center.

PAYMENT OF ROADWAY ELECTRIC UTILITY BILLS

The scope of this contract does not include payment of electric utility bills associated with each Roadway covered by this contract.

WEIGH STATIONS and TRUCK COMFORT STATIONS

Manage, operate, and maintain all Weigh Stations and associated Truck Comfort Stations (Stations) within the contract limits in accordance with the requirements established in this scope and applicable Contract Documents. Except as excluded below, maintain, upgrade, and replace all components, systems, and features of all Stations in conditions that always meet performance criteria.

The scope of this contract does not include:

- ~ Maintenance and inspection of the Weigh Station scale system (defined as everything covered in Standard Written Agreement between FDOT and the current scale system contractor, and any successive agreements and/or contracts)
- ~ Maintenance and inspection of any State-owned computer hardware and/or software
- ~ Functions performed by Compliance Officers and/or Weigh Station Inspectors

The Department will perform and record Station inspections as required by Procedure. When conducting a Station inspection, the Department will invite the Contractor to perform a joint inspection or a simultaneous independent inspection. Discuss inspection score results with the Department in order to identify and rectify any differences in inspection techniques and results. When simultaneous inspections are performed, the Department's inspection score is the official score upon which performance deductions are based.

Weigh Station Performance Criteria

WEIGH STATIONS		
Deficiency Identification	Time Allowed/Criteria	Deduction
Station receives single inspection result below minimum allowed	Per Procedure.	\$1,000 per point below minimum for each Station inspection
Average of the last 6 inspection results falls below minimum allowed	Per Procedure.	\$2,000 per point below minimum for each Station
Station closure due to Contractor failure to perform	Immediately upon Station closure	\$1,000 per hour of Station closure

PAYMENT OF WEIGH STATION UTILITY BILLS

Pay all utility bills associated with each Weight Station before the due date each month.

Utility Bill Payment Performance Criteria

WEIGH STATION UTILITY BILLS		
Deficiency Identification	Time Allowed/Criteria	Deduction
a. Failure to pay utility bill on time	As per specific utility bill due date	25% of total amount of utility bill per month
b. Utility is disconnected at facility due to non-payment	\$5,000 per day per occurrence until utility is restored	

OVERLANE SIGN STRUCTURES INSPECTION AND MAINTENANCE

The scope of this contract does not include overlane sign structure inspection and maintenance.

HIGH MAST LIGHT STRUCTURE INSPECTION AND MAINTENANCE

Perform all high mast light structure inspection and maintenance, including collision damage repair. Inspect high mast light structures according to the Department's *Bridge and Other Structures Inspection Reporting Procedures Manual*. Participate in Feasible Action

Review Committee (FARC) meetings and complete Work Orders generated by the Department's Bridge Work Order System within allowable timeframes.

High Mast Light Structure Inspection Performance Criteria

HIGH MAST LIGHT POLES		
Deficiency Identification	Time Allowed/Criteria	Deduction
a. Failure to perform timely Inspections	Per Procedures, Manuals, Codes, etc.	\$500 per day per delinquent inspection
b. Failure to timely submit Inspection Sheets/Reports	Within 60 days from inspection	\$100 per day per delinquent report
c. Failure to make repairs identified in Inspection Reports.	Per Department Procedures, Manuals, Codes, etc.	\$1,000 per day per high mast light structure
d. Failure to make temporary safety repairs resulting from incidents.	Must secure public safety from hazards and establish proper MOT before leaving.	\$1,000 per day per location
e. Failure to replace high mast structures damaged by incidents	Permanent structures installed within 180 days	Permanent structures \$500 per day per location

MOVABLE BRIDGE INSPECTION

The scope of this contract does not include inspection of any movable bridges.

NON-MOVABLE BRIDGE INSPECTION

The scope of this contract does not include inspection of any non-movable bridges.

MOVABLE BRIDGE MAINTENANCE

The scope of this contract does not include maintenance of any movable bridges.

NON-MOVABLE BRIDGE MAINTENANCE

The scope of this contract does not include maintenance of any non-movable bridges.

MOVABLE BRIDGE TENDING & PREVENTATIVE MAINTENANCE

The scope of this contract does not include movable bridge tending duties or bridge tender preventative maintenance.

PAYMENT OF MOVABLE BRIDGE UTILITY BILLS

The scope of this contract does not include payment of utility bills associated with each movable bridge.

TRAFFIC SIGNAL MAINTENANCE

The scope of this contract does not include traffic signal maintenance.

TRAFFIC OPERATIONS WORK ORDERS

The scope of this contract does not include Traffic Operations Work Orders.

INTELLIGENT TRANSPORTATION SYSTEMS (ITS)

The scope of this contract does not include any ITS components.

ATTACHMENTS

Attachments I thru II are incorporated into this contract.

PAYMENT SCHEDULE

The Contractor shall be paid monthly according to the schedule below. For all contract years of the original contract term, the monthly dollar amount will be the total Contract amount multiplied by the monthly factor listed below divided by number of years of original contract term. If renewal is allowed, the monthly dollar amount will be the total Renewal amount multiplied by the monthly factor listed below divided by number of years of renewal term.

Month	Contract Year 1	Middle Contract Years	Final Year of Original Term	Each Renewal Year
1	0.100	0.084	0.090	0.084
2	0.100	0.084	0.090	0.084
3	0.075	0.084	0.090	0.084
4	0.075	0.084	0.090	0.084
5	0.075	0.083	0.090	0.083
6	0.075	0.083	0.090	0.083
7	0.070	0.083	0.090	0.083
8	0.070	0.083	0.090	0.083
9	0.070	0.083	0.090	0.083
10	0.070	0.083	0.090	0.083
11	0.070	0.083	0.090	0.083
12	0.070	0.083	0.090	0.083

5. OTHER CONTRACTUAL REQUIREMENTS

Water and Wastewater Treatment Facilities

Properly operate water and wastewater treatment facilities in accordance with all requirements of the contract. Notify the Department's Contract Coordinator within 1 hour of any malfunctions resulting from the facilities not being operational. Provide alternative temporary

facilities within 24 hours should the facility not be fully functional.

WATER AND WASTEWATER TREATMENT FACILITIES		
Deficiency Identification	Time Allowed / Criteria	Deduction
a. Failure to properly operate water and wastewater treatment facilities	24 hours allowed to provide alternative temporary facilities	\$5,000 per day after the first 24 hours.
b. Failure to notify the Department's Contract Coordinator of malfunctions resulting in the facilities not being operational	1 hour allowed to notify the Department's Contract Coordinator	\$500 for each hour thereafter until notification is received
c. Failure to acquire and comply with all regulatory permits and all conditions and requirements as directed there-in	Non-compliance with permits and requirements	Where any fines, fees and deductions are incurred under Section 1.7 of this agreement, the Department will deduct an additional equivalent amount from the next invoice

Permits

Enter all permit related data into the Permits Information Tracking System.

Coordinate and attend all post approval meetings and inspections including the final inspection. Obtain any project certifications and or final (as-built) plans in accordance with department procedure/FAC requirements.

Identify all non-permitted activities and recommend resolution to address the activities.

MRP

Maintain all areas to Rest Areas Standards and MRP Standards. As MRP is evaluated on adjacent roadways, sample points may fall within the gore limits of Rest Areas/Weigh Stations. If, during a MRP inspection cycle of the adjacent roadway, any MRP characteristic is rated as "does not meet MRP standards" due to a failure to maintain MRP criteria within the Rest Area/Weigh Station limits, the Department will assess a \$5,000 invoice deduction per substandard characteristic per sample point.

RESPECT

All janitorial services, lawn care and landscaping at all facilities must be performed via subcontract with RESPECT of Florida or its successors. RESPECT of Florida will submit a proposal to the Department for this scope of services and the associated cost. This proposal and cost will be provided to the Contractor prior to the submission of the bid documents. The Contractor shall incorporate the RESPECT scope of services in the proposal. The cost of the

proposal shall be included in the contract as a non-bid pay item to be included in the overall bid total. The Contractor shall make payments to RESPECT monthly. Any funds remaining as part of the RESPECT non-bid pay at the completion of the will be reverted back to the Department.

The Contractor shall review the scope of services provided by RESPECT for compliance with contract requirements. The Contractor shall be responsible for the oversight of the work performed by RESPECT of Florida and shall work together to ensure compliance with contract requirements. The Contractor has the right to negotiate additional work, with increased cost, with RESPECT should the Contractor desire. Costs associated with additional services negotiated beyond the original services are the sole responsibility of the Contractor.

CONTRACT EXTENSION

This contract is anticipated to end June 30, 2016. Any time extensions for this contract will be paid at an average daily rate, based on the total price of the Contractor's bid amount plus the cost for the RESPECT non-bid pay item divided by the number of days in the original contract.

ATTACHMENT II

(Revised Jan. 1, 2013)



DIVISION I SPECIFICATIONS FOR ASSET MAINTENANCE CONTRACTS

The terms and conditions of this contract are as established in Division I of the Florida Department of Transportation Standard Specifications, 2013 edition, which is incorporated herein by reference, except that the following provisions are amended as set forth herein:

**STANDARD
MAINTENANCE
SPECIAL
PROVISIONS**

DRAFT

ME001 DEFINITIONS AND TERMS

(REV. 9-25-2009) (07-10)

ARTICLE 1-3 (Pages 2-9). The definition for Contract Documents is deleted and the following substituted:

Contract Documents.

The term “Contract Documents” includes: Advertisement for Proposal, Proposal, Certification as to Publication and Notice of Advertisement for Proposal, Appointment of Agent by Nonresident Contractors, Noncollusion Affidavit, Warranty Concerning Solicitation of the Contract by Others, Resolution of Award of Contract, Executed Form of Contract, Performance Bond and Payment Bond, Specifications, plans (including revisions thereto issued during construction), Addenda, or other information mailed or otherwise transmitted to the prospective bidders prior to the receipt of bids, work orders and supplemental agreements, all of which are to be treated as one instrument whether or not set forth at length in the form of contract.

Note: As used in Sections 2 and 3 only, Contract Documents do not include work orders, and supplementary agreements. As used in Section 2 only, Contract Documents also do not include Resolution of Award of Contract, Executed Form of Contract, and Performance and Payment Bond.

ARTICLE 1-3 (Pages 2 – 9). The definition for Unilateral Payment is deleted and the following substituted:

Unilateral Payment.

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

ARTICLE 1-3 (Pages 2-9). The definition for Work Order is added.

Work Order.

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

ARTICLE 1-3 (Pages 2 - 9). The definition of ‘Engineer’ is modified as follows:

In the first sentence and throughout the Specifications, “Director, Office of Maintenance” is substituted in place of the “Director, Office of Construction”, unless otherwise amended by the Specifications.

ARTICLE 1-3 (Pages 2 - 9) is expanded as follows:

Maintenance Special Provisions.

Additions or revisions (prepared, signed and sealed by an Engineer registered in the State of Florida) to the Standard Maintenance Special Provisions or Specifications setting forth methods of accomplishing maintenance operations that are not routine or are for a specific project.

Standard Maintenance Special Provision.

Approved methods of accomplishing routine recurring maintenance operations not addressed by the Standard Specifications for Road and Bridge Construction.

Work Document.

Work Documents identify the location, description; time allotted and amount of work to be accomplished.

ARTICLE 2-11 (Page 15). Item (d) is deleted.

CONTRACT BOND REQUIRED.

(REV. 10-28-2009) (01-10)

Subarticle 3-5.1 (Pages 17). Deleted and the following substituted:

3-5.1 General Requirements of the Bond: Upon award, the Contractor shall furnish to the Department, and thereafter continue to furnish to the Department during the term of the Contract, a Payment and Performance Bond guaranteeing the Contractor's contract obligations for each twelve month period of the Contract.

No later than the date of Contract execution the contractor shall provide to the Department a Payment and Performance Bond in a penal sum equal to the first year's annual contract amount under the Contract. Annually thereafter, between thirty (30) and forty-five (45) days prior to the contract anniversary date, the Contractor shall provide to the Department a Payment and Performance Bond in a penal sum equal to the upcoming year's annual contract amount. Regardless of the number of separate bonds or bond continuations provided by the Surety hereunder, the Surety's liability for each bond or bond continuation shall be limited to the contract amount for the twelve (12) month period for which the bond or bond continuation is provided.

Each Payment and Performance Bond shall be provided by a surety company authorized to conduct business in the State of Florida. Each Payment and Performance Bond shall be executed only on the forms provided by the Department. Failure to provide any of the required Payment and Performance Bond's to the Department within the aforementioned time frames shall entitle the Department to annul the award, declare the Contractor in default, terminate the Contract, or decline to renew the Contract, all in the Department's sole discretion.

ME005 CONTROL OF THE WORK.

(REV. 11-13-2007) (7-09)

SUBARTICLE 5-1.1 (Page 31) is expanded as follows:

In this contract, references to “the plans” mean the Department’s Design Standards, and revisions thereto current at the time of contract letting, unless otherwise directed in writing by the Engineer. When plans are included as part of this contract, references in this contract to “the plans” mean such plans and the Department’s Design Standards, and revisions thereto current at the time of contract letting, unless otherwise directed in writing by the Engineer.

ARTICLE 5-1 (Pages 31 - 39) is expanded by the addition of the following new Subarticle:

5-1.7 Work Documents/Liquidated Damages: Should any of the specific work locations, identified in this Contract, be inaccessible due to construction, permitting, or other activities, alternate work locations may be substituted at the discretion of the Engineer, upon written agreement of the Contractor. The Contractor will be allowed fourteen (14) calendar days from receipt of the initial Work Document to respond and begin work. The fourteen (14) calendar days begin on the date the document is received in person, by fax or by certified mail. The Contractor will be expected to respond and begin work within five (5) working days of receipt of any subsequent Work Document. If a start date later than five (5) working days is identified in a Work Document, the Contractor will be expected to begin work by the start date identified in the Work Document.

If the Contractor does not begin work by the end of the day specified in the Work Document, or if the assignment of work on the Work Document is not complete within the number of days stipulated on the Work Document, then the Contractor and the Department agree that the Department will assess the Contractor, per day, not as a penalty but as liquidated damages, 1% of the total Work Document amount or the amount shown in Subarticle 8-10.2 (Amount of Liquidated Damages), whichever is less.

The Engineer will issue Work Documents for locations that represent a minimum of one day’s work. All work locations will be described with geographical or landmark reference points that will allow the Contractor to proceed immediately to the location with minimum delay. The Department will make every reasonable effort to plan work locations and develop work documents in systematic and concentrated regions so as to minimize the Contractor’s travel requirements.

Upon completion of the assigned work, notify the Engineer. Certify that the work quantities and quality were accomplished in accordance with these specifications by signing and returning the Work Document to the Department. All work completed will be inspected to verify quantity and quality prior to approval of the Work Document.

Should inclement weather limit or stop the work, immediately notify the Engineer of work stoppage. The end date of a Work Document may be extended by the Engineer in the case of

inclement weather or other unforeseen circumstances, when timely notice is provided by the Contractor.

Schedule work in a manner that prevents delays, stoppages and rework.

ARTICLE 5-2 (Page 40). The second paragraph is deleted and the following is substituted:

In case of discrepancy, the governing order of the documents will be as follows:

1. Scope of Services / RFP
2. Maintenance Special Provisions.
3. Standard Maintenance Special Provisions.
4. Special Provisions.
5. Technical Special Provisions.
6. Plans.
7. Design Standards.
8. Developmental Specifications.
9. Supplemental Specifications.
10. Standard Specifications.

Computed dimensions govern over scaled dimensions.

SUBARTICLE 5-10.2 (Pages 44 and 45) is expanded by the following:

Upon completion of work and before final payment is made, remove from the job site any surplus materials or waste and restore the job site area to conditions acceptable to the Engineer.

**LEGAL REQUIREMENTS AND RESPONSIBILITY TO THE PUBLIC – E-VERIFY.
(REV 6-13-11) (FA 6-16-11) (8-11)**

SECTION 7 (Pages 56 – 80) is expanded by the following new Article:
7-28 E-Verify.

The Contractor shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Contractor during the term of the Contract and shall expressly require any subcontractors performing work or providing services pursuant to the Contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the Contract term.

**LEGAL REQUIREMENTS AND RESPONSIBILITY TO THE PUBLIC –
SCRUTINIZED COMPANIES.**

(REV 6-17-11) (7-11)

SECTION 7 (Pages 56 – 80) is expanded by the following new Article:

7-29 Scrutinized Companies.

For Contracts \$1,000,000 and greater, if the Department determines the Contractor submitted a false certification under Section 287.135(5) of the Florida Statutes, or if the Contractor has been placed on the Scrutinized Companies with Activities in the Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, the Department shall either terminate the Contract after it has given the Contractor notice and an opportunity to demonstrate the Department's determination of false certification was in error pursuant to Section 287.135(5)(a) of the Florida Statutes, or maintain the Contract if the conditions of Section 287.135(4) of the Florida Statutes are met.

ME008 PROSECUTION AND PROGRESS.

(REV. 9-25-2009) (01-10)

ARTICLE 8-1 (Page 80). Delete the third sentence of the first paragraph and substitute the following:

With the Engineer's acceptance of the request, the Contractor may sublet a portion of the work.

ARTICLE 8-1 (Pages 80 and 81) the third paragraph is deleted.

SUBARTICLE 8-3.3 (Page 82). The last sentence is deleted and the following substituted:

The Department will issue the Notice to Proceed within twenty (20) days after execution of the Contract.

SUBARTICLE 8-3.5 (Page 83) is amended by the following:

The word "awarding" in the first sentence is deleted and replaced by "executing".

PROSECUTION OF WORK – PARTNERING

(REV 09-22-09) (01-10)

ARTICLE 8-3 (Pages 81 - 83) is expanded by the following new Subarticle:

8-3.6 Partnering: For this Contract, a no-bid pay item in the lump sum has been established for Partnering. The objective of Partnering is to establish a partnership charter and action plan for the Contractor, the Engineer and other parties impacted by the activities covered under this Contract to identify and achieve reciprocal goals. These objectives may be met through participation in a major workshop held as early as possible after the Contract is awarded and follow-up workshops held periodically throughout the duration of the Contract.

As early as possible and prior to the pre-work conference, meet with the Department's District Maintenance Engineer and plan an initial partnering/team building workshop. At this planning session, select a workshop facilitator, suitable to the District Maintenance Engineer, from the Department's approved list of facilitators maintained by the Quality Initiatives Office. Additionally, the agenda, duration, location, time, and attendees for the initial workshop should be determined. Attendees should include the Department's District Maintenance Engineer and key project personnel, the Contractor's Superintendent and key personnel as well as other project or field-level personnel.

Partnering workshops may be held periodically throughout the duration of the Contract if authorized by the District Maintenance Engineer.

The Department will reimburse the Contractor based on actual invoice amounts for the following costs associated with Partnering:

- a. Meeting room.
- b. Facilitator fees.
- c. Travel expenses of the facilitator, in accordance with Section 112.061, Florida Statutes.

The Department will not reimburse the Contractor for any other expenses.

Payment will be the actual cost prorated as a percent of the Lump Sum amount.

Payment shall be made under:

Item No. 999- 16- Partnering - lump sum.

PROSECUTION OF WORK – MAINTENANCE DISPUTES REVIEW BOARD. (REV 09-22-09) (01-10)

ARTICLE 8-3 (Pages 81 thru 83) is expanded by the following new Subarticle:

8-3.7 Maintenance Disputes Review Board: For this Maintenance Contract, a Maintenance Disputes Review Board will be available to assist in the resolution of disputes and claims arising out of the work on the Contract.

8-3.7.1 Purpose: The Board will provide special expertise to assist in and facilitate the timely and equitable resolution of disputes, claims, and controversies between the Department and the Contractor in an effort to avoid contract delay and future claims.

It is not intended that the Department or the Contractor default on their normal responsibility to cooperatively and fairly settle their differences by indiscriminately assigning them to the Board. It is intended that the Board encourage the Department and Contractor to resolve potential disputes without resorting to this alternative resolution procedure.

The Board will be used when normal Department-Contractor dispute resolution is unsuccessful. Either the Department or the Contractor may refer a dispute to the Board. Referral to the Board should be initiated as soon as it appears that the normal dispute resolution effort is not succeeding. It is a condition of this Contract that the parties shall use the Maintenance Dispute Review Board. The Department and the Contractor agree that the submission of any unresolved dispute or claim to the Board is a condition precedent to the Department or the Contractor having the right to proceed to arbitration or litigation of such unresolved dispute or claim. The Department's Claim Review Committee will not entertain any issues on this project.

The recommendations of the Board will not be binding on either the Department or the Contractor.

The Board will fairly and impartially and without regard to how or by whom they may have been appointed, consider disputes referred to it and will provide written recommendations to the Department and Contractor to assist in the resolution of these disputes.

8-3.7.2 Continuance of Work During Dispute: During the course of the Maintenance Disputes Review Board process, the Contractor will continue with the work as directed by the Engineer in a diligent manner and without delay or otherwise conform to the Engineer's decision or order, and will be governed by all applicable provisions of the Contract. Throughout any protested work, the Contractor will keep complete records of extra costs and time incurred. The Contractor will permit the Engineer and Board access to these and any other records needed for evaluating the dispute.

8-3.7.3 Membership: The Maintenance Disputes Review Board will consist of the same members as established for the "Regional Disputes Review Board", pre-selected by the Department and the President of the Florida Transportation Builders' Association (FTBA), and posted on the Department's Website.

If during the life of the contract, a Board member has a discussion regarding employment or enter into any agreement for employment after completion of the contract with the Department, the Contractor or any subcontractor or supplier on the project, he/she shall immediately disclose this to the Contractor and the Department and shall be disqualified from serving on the Board.

Once established, the Board will remain active and in full force and effect. If, after the Department has made final acceptance of the project, there are unresolved disputes and claims remaining, the Maintenance Disputes Review Board shall remain active and in full force and effect until the project is otherwise administratively closed by the Department following final payment so that the Board may continue in operation until all unresolved disputes and claims are resolved.

8-3.7.4 Procedure and Schedules for Disputes Resolution: Disputes will be considered as quickly as possible, taking into consideration the particular circumstances and the time required to prepare detailed documentation. Steps may be omitted as agreed by the Department and the Contractor and the time periods stated below may be shortened in order to hasten resolution.

a. If the Contractor objects to any decision, action or order of the Engineer, the Contractor may file a written protest with the Engineer, stating clearly and in detail the basis for the objection, within 15 days after the event.

b. The Engineer will consider the written protest and make his decision on the basis of the pertinent contract provisions, together with the facts and circumstances involved in the dispute. The Engineer's decision will be furnished in writing to the Contractor within 15 days after receipt of the Contractor's written protest.

c. This decision will be final and conclusive on the subject, unless a written appeal to the Engineer is filed by the Contractor within 15 days of receiving the decision. Should the Contractor preserve its protest of the Engineer's decision, the matter can be referred to the Board by either the Department or the Contractor.

d. Upon receipt by the Board of a written duly preserved protest of a dispute, either from the Department or the Contractor, it will first be decided when to conduct the hearing.

e. Either party furnishing any written evidence or documentation to the Board will furnish copies of such information to the other party a minimum of 15 days prior to the date the Board sets to convene the hearing for the dispute. If the Board requests any additional documentation or evidence prior to, during, or after the hearing, the Department and/or Contractor will provide the requested information to the Board and to the other party.

f. The Contractor and the Department will each be afforded an opportunity to be heard by the Board and to offer evidence. Neither the Department nor the Contractor may present information at the hearing that was not previously distributed to both the Board and the other party.

g. The Board's recommendations for resolution of the dispute will be given in writing to both the Department and the Contractor, within 15 days of completion of the hearings. In cases of extreme complexity, both parties may agree to allow additional time for the Board to formulate its recommendations. The Board will focus its attention in the written report to matters of entitlement and allow the parties to determine the monetary damages. If both parties' request and sufficient documentation is available, the Board may make a recommendation of monetary damages.

h. Within 15 days of receiving the Board's recommendations, both the Department and the Contractor will respond to the other and to the Board in writing, signifying either acceptance or rejection of the Board's recommendations. The failure of either party to respond within the 15 day period will be deemed an acceptance of the Board's recommendations by that party. If the Department and the Contractor are able to resolve the dispute with or without the aid of the Board's recommendations, the Department will promptly process any required Contract changes.

i. Should the dispute remain unresolved, either party may seek reconsideration of the decision by the Board only when there is new evidence to present. No provisions in this Specification will abrogate the Contractor's responsibility for preserving a claim filed in accordance with 5-12.

Although both the Department and the Contractor should place great weight on the Board's recommendation, it is not binding. If the Board's recommendations do not resolve the dispute, all records and written recommendations of the Board will be admissible as evidence in any subsequent dispute resolution procedures.

8-3.7.5 Contractor Responsibility: The Contractor shall furnish to each Board member a set of all pertinent documents which are or may become necessary for the Board, except documents furnished by the Department, to perform their function. Pertinent documents are any drawings or sketches, calculations, procedures, schedules, estimates, or other documents which are used in the performance of the work or in justifying or substantiating the Contractor's position. A copy of such pertinent documents must also be furnished to the Department.

Except for its participation in the Board's activities as provided in the maintenance Contract and in this Agreement, the Contractor will not solicit advice or consultation from the Board or any of its members on matters dealing in any way with the project, the conduct of the work or resolution of problems.

8-3.7.6 Department Responsibilities: Except for its participation in the Board's activities as provided in the maintenance Contract and in this Agreement, the Department will not solicit advice or consultation from the Board or any of its members on matters dealing in any way with the project, the conduct of the work or resolution of problems.

The Department shall furnish the following services and items:

a. **Contract Related Documents:** The Department shall furnish each Board member a copy of all Contract Documents, supplemental agreements, written instructions issued by the Department to the Contractor, or other documents pertinent to the performance of the Contract and necessary for the Board to perform their function. A copy of such pertinent documents must also be furnished to the Contractor.

b. **Coordination and Services:** The Department, in cooperation with the Contractor, will coordinate the operations of the Board. The Department, through the Engineer, will arrange or provide conference facilities at or near the Contract site and provide secretarial and copying services.

8-3.7.7 Basis of Payment: A per day cost of \$3,300.00 has been established by the Department to provide compensation to the three members of the Maintenance Disputes Review Board. For each day, the Contractor shall compensate each Maintenance Disputes Review Board member a sum of \$1,100.00. Such payment will be full compensation to the Board member for salary and all travel expenses (air fare, rental or personal automobile, motel room, meals, etc.) related to membership on the Board. If an issue or set of issues requires additional time in meeting or in analyzing the issues, additional compensation on a per day basis can be made, if authorized in advance by the Engineer. The Department will reimburse the Contractor for Board expenses incurred if the findings of the Board are in favor of the Contractor. If the findings are in favor of the Department the Department will not reimburse the Contractor for Board expenses incurred. If the Board rules on multiple issues during a single hearing, Department reimbursement to the

Contractor is based on ratio of findings (e.g., if Board hears four issues, regardless of importance or value, and rules favorably for the Contractor on three of them, the Department reimburses Contractor for 75% of Board costs).

The Department will pay all other non-salary and non-travel expenses related to operation of the Board. The Department will prepare and mail minutes and progress reports, will provide administrative services, such as conference facilities and secretarial services, and will bear the cost of these services. If the Board desires special services, such as legal consultation, accounting, data research, and the like, both parties must agree, and the costs will be shared by them as mutually agreed. Payment for non-salary and non-travel expenses and the Department's share of special services shall be made by the Engineer in accordance with Department policy outside of this Contract.

SUBARTICLE 8-7.3.2 (Pages 87 - 90), the last paragraph is deleted.

SUBARTICLE 8-9.1 (Pages 90 - 92) the second paragraph, is amended by the following:

The words "within a period of ten calendar days" are deleted and replaced by "within a period of time specified by the Department".

SUBARTICLE 8-9.3 (Page 93) the second paragraph is amended by the following:

The words "after the ten day notice period" are deleted and replaced by "after the period of time specified by the Department".

ME009 MEASUREMENT AND PAYMENT.

(REV. 9-25-2009) (01-10)

SUBARTICLE 9-2.1 (Pages 96 - 98) is expanded as follows:

Request payment for work completed and accepted by the Department by submitting an invoice. The invoice shall be based on the pay items and unit prices contained in the Contract and shall include the Contract Number, the Financial Project Number, the Invoice Number, the Invoice Date and the period that the invoice represents. Submit the invoice to the Engineer in charge of the project. Upon receipt and approval, payment will be made less an amount retained or withheld per provisions included in the Contract.

SUBARTICLES 9-2.1.1 and 9-2.1.2 (Pages 96 - 98) are deleted.

SUBARTICLE 9-3.2 (Pages 98 and 99) is deleted.

SUBARTICLE 9-3.3.1 (Page 99) is deleted and the following substituted:

9-3.3.1 Error in Lump Sum Quantity: Where the Department designates the pay quantity for an item to be a lump sum and the plans show an estimated quantity, the Department will adjust the lump sum compensation only in the event that either the Contractor submits satisfactory evidence or the Department determines and furnishes satisfactory evidence that the lump sum

quantity shown is in substantial error. The term “substantial error” is defined as the smaller of (a) or (b) below:

(a) a difference between the original plan quantity and final quantity of more than 5%

(b) a change in quantity which causes a change in the amount payable of more than \$5,000.

SUBARTICLE 9-5.1 (Page 100) paragraphs 1, 2 and 3 are deleted and the following substituted:

The Engineer will make payments based upon invoices submitted by the Contractor in accordance with 9-2.1.

An amount may be retained from a Contractor’s payment until final acceptance of materials or work at the end of a burn-in or establishment period. The amount retained will be determined in accordance with the following schedule:

Percentage Contract Amount Completed	Amount Retained
0 to 75	None
75 to 100	10 % of value of work completed exceeding 75% of Contract Amount.

SUBARTICLE 9-5.5.2 (Page 102) is deleted.

Article 9-8 (Pages 104 - 106), is deleted and the following substituted:

9-8 Acceptance and Final Payment.

If the Contractor fails to furnish all required Contract Documents as listed in (1) through (3) below within 90 days of the Contractor’s submittal of a final invoice, the Department may suspend the Contractor from bidding under the provisions of Florida Administrative Code 14-22. Submit a final invoice in accordance with ME009-2.1 for work completed and accepted by the Department. The Department will pay the estimate, less any sums that the Department may have deducted or retained under the provisions of the Contract, provided the Contractor has met the requirements of (1) through (3) below.

1. The Contractor has performed the work and properly maintained the project, as specified in the contract documents.
2. The Contractor has furnished a sworn affidavit to the effect that the Contractor has paid all bills and no suits are pending (other than those exceptions listed, if any, and that the contractor will commence any such arbitration claim or suit within 820 calendar days from and

after the time all work is completed and accepted by the Department, and that failure to file a formal claim within this period constitutes acceptance of final payment) in connection with work performed under the Contract and that the Contractor has not offered or made any gift or gratuity to, or made any financial transaction of any nature with, any employee of the Department in the performance of the Contract. Include with the listed tort liability exceptions, if any, evidence of adequate insurance coverage as required in 7-13.

3. The surety on the Contract bond consents, by completion of their portion of the affidavit and surety release subsequent to the Contractor's completion of his portion, to final payment to the Contractor and agrees that the making of such payment does not relieve the surety of any of its obligations under the bond.

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SPECIAL PROVISIONS

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**EXAMINATION OF CONTRACT DOCUMENTS AND SITE OF WORK.
(REV 12-9-10) (FA 1-27-11)(7-11)**

ARTICLE 2-4 (Page 12) is deleted and the following substituted:

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

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

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

<https://www3.dot.state.fl.us/BidQuestionsAndAnswers/Proposal.aspx/SearchProposal>

Questions posted to this site before 5:00 P.M. (EST) on the seventh calendar day prior to the bid opening, or tenth calendar day prior to the December bid opening, will be responded to by the Department. For questions posted after these times, an answer cannot be assured. For all questions posted before the deadline, the Department will provide and post responses at the same website before 8:00 A.M. (EST) on the second calendar day prior to bid opening. Take responsibility to review and be familiar with all questions and responses posted to this website and to make any necessary adjustments in the proposal accordingly. If the Department's web site cannot be accessed, contact Nancy Bright at (386) 758-3715.

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

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

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

**SCOPE OF THE WORK.
(REV 8-24-10) (FA 10-8-10) (7-11)**

ARTICLE 4-1 (Page 19) is deleted and the following substituted:

4-1 Intent and Scope.

This is a Lump Sum Contract with only one pay item listed in the Contract.

All references to payment under individual pay item numbers, regardless of where those references are contained in the Contract Documents or when in time any such pay item reference is incorporated in the Contract Documents, are superseded by the pay item references in this Special Provision.

SUBARTICLE 4-3.1 (Page 19) is deleted and the following substituted:

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

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

In the instance of an alleged “significant change”, the determination by the Engineer shall be conclusive and shall not be subject to challenge by the Contractor in any forum, except upon the Contractor establishing by clear and convincing proof that the determination by the Engineer was without any reasonable and good-faith basis.

SUBARTICLE 4-3.4 (Pages 24 and 25) is deleted and the following substituted:

4-3.4 Conditions Requiring a Supplemental Agreement or Unilateral Payment: A Supplemental Agreement or Unilateral Payment will be used to clarify the plans and specifications of the Contract; to provide for unforeseen work, grade changes, or alterations in plans which could not reasonably have been contemplated or foreseen in the original plans and specifications; to change the limits of construction to meet field conditions; to provide a safe and functional connection to an existing pavement; to settle documented Contract claims; to make the project functionally operational in accordance with the intent of the original Contract and subsequent amendments thereto.

UNFORESEEABLE WORK.

(REV 9-28-98) (1-10)

ARTICLE 4-4 (Page 30) is deleted and the following substituted:

4-4 Unforeseeable Work.

When the Department requires work that is not covered by a price in the Contract and such work does not constitute a “Significant Change” as defined in 4-3.1, and the Department finds that such work is essential to the satisfactory completion of the Contract within its intended scope,

the Department will make an adjustment to the Contract. The cost of unforeseeable work will be a negotiated amount or, in lieu of negotiations or other agreement, an amount based on material invoices, equipment costs, labor payrolls, and markups provided in 4-3.2.

CONTROL OF THE WORK.

(REV 3-15-02) (1-10)

SUBARTICLE 5-1.1 (Page 31) is expanded by the following:

All reference to separate payment for individual items of work will not apply. The cost for various items of work will be included and paid for under the Contract Lump Sum Price.

ARTICLE 5-2 (Page 40). The first paragraph is deleted and the following substituted:

These Specifications, the plans, Special Provisions, and all supplementary documents are integral parts of the Contract; a requirement occurring in one is as binding as though occurring in all. In addition to the work and materials specifically called for in the Contract Documents and any additional incidental work, not specifically mentioned, when so shown in the plans, or if indicated, or obvious and apparent, as being necessary for the proper completion of the work will be included in the Contract Lump Sum Price.

SUBARTICLE 5-7.6 (Page 43) is deleted.

PERMITS PROCURED BY THE DEPARTMENT.

(REV 8-7-01) (FA 4-14-05) (1-10)

SUBARTICLE 7-2.1 (Page 62) is expanded by the following:

All Permits procured by the Department are posted on the Department's website at the following URL address: <ftp.dot.state.fl.us/permitsandorutilityworkschedules/> . Take responsibility to obtain this information and comply with all requirements posted on this website up through five calendar days before the opening of bids.

Comply with the provisions contained in these permits.

If the Department's web site cannot be accessed, contact the Department's Specifications Office Web Coordinator at (850) 414-4101.

DISCHARGE TO OR WORK OR STRUCTURES IN NAVIGABLE WATERS OF THE U.S., WATERS OF THE U.S. AND WATERS OF THE STATE.

(REV 7-16-09) (FA 7-30-09) (1-10)

SUBARTICLE 7-2.2 (Page 62) is expanded by the following:

The "State of Florida Department of Environmental Protection (DEP) Generic Permit for Stormwater Discharge from Large and Small Construction Activities" applies to this Contract.

Obtain a copy of the permit through the Department's website and comply with the requirements of the permit. The URL for obtaining a copy of the permit is www.dot.state.fl.us/specificationsoffice/Implemented/URLinSpecs/Files/DEPPermit.pdf.

In accordance with the requirements of the DEP generic permit, accept responsibility for the following:

- (a) Preparation, execution and submission of DEP Generic Permit Notice of Intent (NOI) and payment of associated fee(s)
- (b) Preparation and submission of Erosion Control Plan as outlined in Section 104
- (c) Any Contractor initiated SWPPP modifications
- (d) Performing inspections using a qualified inspector
- (e) Completion of SWPPP construction inspection reports
- (f) Executing associated certification forms provided by the Engineer
- (g) Preparation, execution and submission of Notice of Termination (NOT) of the DEP Generic Permit coverage.

Use the SWPPP Construction Inspection Form provided by the Engineer to report all inspection findings and to document all corrective actions taken as a result of the inspection. Sign each inspection report and submit it weekly to the Engineer.

EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS.

(REV 4-25-02) (FA 7-17-02) (1-10)

SECTION 7 (Pages 56-80) is expanded by the following:

7-26 Equal Employment Opportunity Requirements.

7-26.1 Equal Employment Opportunity Policy: Accept as the operating policy, the following statement which is designed to further the provision of equal employment opportunity to all persons without regard to their age, race, color, religion, national origin, sex, or disability and to promote the full realization of equal employment opportunity through a positive continuing program:

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

7-26.2 Equal Employment Opportunity Officer: Designate and make known to the Department's contracting officers an equal employment opportunity officer (hereinafter referred to as the EEO Officer) who must be capable of effectively administering and promoting an active Contractor program employment opportunity and who must be assigned adequate authority and responsibility to do so.

7-26.3 Dissemination of Policy: All members of the Contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the Contractor's equal employment opportunity policy and contractual responsibilities.

7-26.4 Recruitment: When advertising for employees, include in all advertisements for employees the notation "An Equal Opportunity Employer".

7-26.5 Personnel Actions: Establish and administer wages, working conditions, employee benefits, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination without regard to age, race, color, religion, national origin, sex, or disability.

Follow the following procedures:

(1) Conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

(2) Periodically evaluate the spread of wages paid with each classification to determine any evidence of discriminatory wage practices.

(3) Periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action must include all affected persons.

(4) Investigate all complaints of alleged discrimination made in connection with obligations under this Contract, attempt to resolve such complaints, and take appropriate corrective action. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action must include such other persons. Upon completion of each investigation inform every complainant of all of the avenues of appeal.

7-26.6 Subcontracting: Use the best efforts to ensure subcontractor compliance with their equal employment opportunity policy.

7-26.7 Records and Reports: Keep such records as are necessary to determine compliance with the equal employment opportunity obligations. The records kept will be designed to indicate the following:

(1) The number of minority and nonminority group members employed in each work classification on the project.

(2) The progress and efforts being made in cooperation with unions to increase minority group employment opportunities (applicable only to Contractors who rely in whole or in part on unions as a source of their work force).

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority group employees as deemed appropriate to comply with their Equal Employment Opportunity Policy.

(4) The progress and efforts being made in securing the services of minority group subcontractors or subcontractors with meaningful minority group representation among their employees as deemed appropriate to comply with their Equal Employment Opportunity Policy.

All such records must be retained for a period of three years following completion of the contract work and be available at reasonable times and places for inspection by authorized representatives to the Department and the Federal Highway Administration.

Upon request, submit to the Department a report of the number of minority and nonminority group employees currently engaged in each work classification required by the Contract work.

LIMITATIONS OF OPERATIONS – FENCING.

(REV 6-17-04) (FA 7-13-04) (1-10)

SUBARTICLE 8-4.8 (Page 84) is deleted and the following substituted:

8-4.8 Fencing: Erect permanent fence as a first order of business on all projects that include fencing where the Engineer determines that the fencing is necessary to maintain the security of livestock and other animals on adjacent property, or for protection of pedestrians who are likely to gain access to the project from adjacent property. Secure the right-of-way on Limited Access Facilities at all times by a fence, either temporary or permanent, that meets the height of the existing fence or the height required in the Contract.

ARTICLE 9-3 (Pages 98-100) is deleted.

SUPPLEMENTAL SPECIFICATIONS

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**003 EXECUTION OF CONTRACT BOND.
(REV 8-10-09) (FA 8-13-09) (1-10)**

ARTICLE 3-6 (Page 18) is deleted and the following substituted:

3-6 Execution of Contract and Bond.

Within 10 calendar days, excluding Saturdays, Sundays and state holidays, after receipt of the Contract award, execute the necessary agreements to enter into a contract with the Department and return the agreement along with a satisfactory surety bond and documentation evidencing all insurance required by 7-13 to the Department's Contracts Office that awarded the Contract. For each calendar day that the successful bidder is late in delivering to the Department's Contracts Office all required documents in properly executed form, the Department will deduct one day from the allowable Contract Time as specified in 8-7.1. The Department will not be bound by any proposal until it executes the associated Contract. The Department will execute the Contract and bond in the manner stipulated in 2-5.1.

The Department will execute the Contract within 5 calendar days, excluding Saturdays, Sundays and state holidays, after receipt of the necessary agreements and bond from the Contractor.

ARTICLE 3-7 (Page 18) is deleted and the following substituted:

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

In the event that the bidder fails to execute the awarded Contract and to file an acceptable bond, as prescribed in 3-5 and 3-6, within 10 calendar days, excluding Saturdays, Sundays and state holidays, of receipt of the Contract award, the Department may annul the award, causing the bidder to forfeit the proposal guaranty to the Department; not as a penalty but in liquidation of damages sustained. The Department may then award the Contract to the next lowest responsible bidder, re-advertise, or accomplish the work using day labor.

ARTICLE 4-6 (Pages 30 and 31) is deleted and the following substituted:

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

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

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

SUBARTICLE 5-12.2.2 (Pages 46 and 47) is deleted and the following substituted:

5-12.2.2 Claims For Delay: Where the Contractor deems that additional compensation or a time extension is due on account of delay, differing site conditions, breach of Contract, or any other cause other than for work or materials not expressly provided for in the Contract (Extra Work) or which is by written directive of the Engineer expressly ordered by the Engineer pursuant to 4-3, the Contractor shall submit a written notice of intent to the Engineer within ten days after commencement of a delay to a controlling work item expressly notifying the Engineer that the Contractor intends to seek additional compensation, and if seeking a time extension, the Contractor shall also submit a preliminary request for time extension pursuant to 8-7.3.2 within ten calendar days after commencement of a delay to a controlling work item, as to such delay and providing a reasonably complete description as to the cause and nature of the delay and the possible impacts to the Contractor's work by such delay, and a request for Contract Time extension pursuant to 8-7.3.2 within thirty calendar days after the elimination of the delay. On projects with an original Contract amount of \$3,000,000 or less within 90 calendar days after final acceptance of the project in accordance with 5-11, and on projects with an original Contract amount greater than \$3,000,000 within 180 calendar days after final acceptance of the project in accordance with 5-11, the Contractor shall submit full and complete documentation as described in 5-12.3 and duly certified pursuant to 5-12.9.

If the Contractor fails to submit a certificate of claim as described in 5-12.9, the Department will so notify the Contractor in writing. The Contractor shall have ten calendar days from receipt of the notice to resubmit the claim documentation, without change, with a certificate of claim as described in 5-12.9, without regard to whether the resubmission is within the applicable 90 or 180 calendar day deadline for submission of full and complete claim documentation. Failure by the Contractor to comply with the ten calendar day notice shall constitute a waiver of the claim.

There shall be no Contractor entitlement to any monetary compensation or time extension for any delays or delay impacts, whatsoever, that are not to a controlling work item, and then as to any such delay to a controlling work item entitlement to any monetary compensation or time extension shall only be to the extent such is otherwise provided for expressly under 4-3 or 5-12, except that in the instance of delay to a non-controlling item of work the Contractor may be compensated for the direct costs of idle labor or equipment only, at the rates set forth in 4-3.2.1(a) and (c), and then only to the extent the Contractor could not reasonably mitigate such idleness.

SUBARTICLE 5-12.6.2 (Pages 48 and 49) is deleted and the following substituted:

5-12.6.2 Compensation for Delay: Notwithstanding anything to the contrary contained in the Contract Documents, the additional compensation set forth in 5-12.6.2.1 shall be the Contractor's sole monetary remedy for any delay other than to perform extra work caused by the Department unless the delay shall have been caused by acts constituting willful or intentional interference by the Department with the Contractor's performance of the work and then only where such acts

continue after Contractor's written notice to the Department of such interference. The parties anticipate that delays may be caused by or arise from any number of events during the term of the Contract, including, but not limited to, work performed, work deleted, supplemental agreements, work orders, disruptions, differing site conditions, utility conflicts, design changes or defects, time extensions, extra work, right-of-way issues, permitting issues, actions of suppliers, subcontractors or other contractors, actions by third parties, suspensions of work by the Engineer pursuant to 8-6.1, shop drawing approval process delays, expansion of the physical limits of the project to make it functional, weather, weekends, holidays, special events, suspension of Contract time, or other events, forces or factors sometimes experienced in construction work. Such delays or events and their potential impacts on the performance by the Contractor are specifically contemplated and acknowledged by the parties in entering into this Contract, and shall not be deemed to constitute willful or intentional interference with the Contractor's performance of the work without clear and convincing proof that they were the result of a deliberate act, without reasonable and good-faith basis, and specifically intended to disrupt the Contractor's performance.

5-12.6.2.1 Compensation for Direct Costs, Indirect Costs, Expenses, and Profit thereon, of or from Delay: For any delay claim, the Contractor shall be entitled to monetary compensation for the actual idle labor and equipment, and indirect costs, expenses, and profit thereon, as provided for in 4-3.2.1(d) and solely for costs incurred beyond what reasonable mitigation thereof the Contractor could have undertaken.

**006 CONTROL OF MATERIALS.
(REV6-23-10) (FA 7-29-10) (1-11)**

ARTICLE 6-4 (Pages 54 and 55) is deleted and the following substituted:

6-4 Defective Materials.

Materials not meeting the requirements of these Specifications will be considered defective. The Engineer will reject all such materials, whether in place or not. Remove all rejected material immediately from the site of the work and from storage areas, at no expense to the Department.

Do not use material that has been rejected and the defects corrected, until the Engineer has approved the material's use. Upon failure to comply promptly with any order of the Engineer made under the provisions of this Article, the Engineer has the authority to have the defective material removed and replaced by other forces and deduct the cost of removal and replacement from any moneys due or to become due the Contractor.

As an exception to the above, within 30 calendar days of the termination of the LOT or rejection of the material, the Contractor may submit a proposed scope of work to the Engineer for an engineering or independent laboratory (as approved by the Engineer) analysis to determine the disposition of the material. A Specialty Engineer, who is an independent consultant, or the Contractor's Engineer of Record as stated within each individual Section shall perform any such analysis. Upon the Engineer's approval of the scope of work submitted by the Contractor, the engineering analysis must be completed and the report must be submitted to the Engineer within

45 calendar days, or other time frame as approved by the Engineer. The report must be signed and sealed by the Specialty Engineer. The Engineer will determine the final disposition of the material after review of the information submitted by the Contractor. No additional monetary compensation or time extension will be granted for the impact of any such analysis or review.

SUBARTICLE 6-5.3 (Page 56) is deleted and the following substituted:

6-5.3 Contaminated, Unfit, Hazardous, and Dangerous Materials: Do not use any material that, after approval and/or placement, has in any way become unfit for use. Do not use materials containing any substance that has been determined to be hazardous by the State of Florida Department of Environmental Protection or the U.S. Department of Environmental Protection. Provide workplaces free from serious recognized hazards and to comply with occupational safety and health standards, as determined by the U.S. Department of Labor Occupational Safety and Health Administration.

**007 LEGAL REQUIREMENTS AND RESPONSIBILITY TO THE PUBLIC.
(REV 11-24-10) (FA 1-21-11) (7-11)**

SUBARTICLE 7-1.4 (Page 59) is deleted and the following substituted:

7-1.4 Compliance with Federal Endangered Species Act and other Wildlife Regulations: The Federal Endangered Species Act requires that the Department investigate the potential impact to a threatened or endangered species prior to initiating an activity performed in conjunction with a highway construction project. If the Department's investigation determines that there is a potential impact to a protected, threatened or an endangered species, the Department will conduct an evaluation to determine what measures may be necessary to mitigate such impact. When mitigation measures and/or special conditions are necessary, these measures and conditions will be addressed on the plans or in permits as identified in 7-2.1.

In addition, in cases where certain protected, threatened or endangered species may unexpectedly be found or appear within close proximity to the project boundaries, the Department has established guidelines that will apply when interaction with certain species occurs, absent of any special mitigation measures or permit conditions otherwise identified for the project.

These guidelines are posted at the following URL address:

www.dot.state.fl.us/specificationsoffice/Implemented/URLinSpecs/Files/endangeredwildlifeguidelines.pdf.

Take responsibility to obtain this information and take all actions and precautions necessary to comply with the conditions of these guidelines during all project activities.

Prior to establishing any off-project activity in conjunction with a project, notify the Engineer of the proposed activity. Covered activities include but are not necessarily limited to borrow pits, concrete or asphalt plant sites, disposal sites, field offices, and material or equipment storage sites. Include in the notification the Financial Project ID, a description of the activity, the location of the site by township, range, section, county, and city, a site location map including

the access route, the name of the property owner, and a person to contact to arrange a site inspection. Provide this notification sufficiently in advance of planned commencement of the off-site activity, to allow a reasonable period of time for the Engineer to conduct an investigation without delaying job progress.

Do not perform any off-project activity without obtaining written clearance from the Engineer. In the event the Department's investigation determines a potential impact to a protected, threatened or endangered species and mitigation measures or permits are necessary, coordinate with the appropriate resource agencies for clearance, obtain permits and perform mitigation measures as necessary. Immediately notify the Engineer in writing of the results of this coordination with the appropriate resource agencies. Additional compensation or time will not be allowed for permitting or mitigation, associated with Contractor initiated off-project activities.

ARTICLE 7-2 (Page 62) is expanded by the following new Subarticle:

7-2.3 As-Built Drawings and Certified Surveys

7-2.3.1 Surface Water Management Systems for Water Management Districts: As a condition precedent to final acceptance of the project, submit to the Engineer three copies of as-built drawings and a certified survey verifying the as-built conditions for all installed and constructed surface water management systems. The as-built drawings and certified survey must satisfy all the requirements and special conditions listed in the Water Management District's Environmental Resource Permit (ERP) and any applicable local permit. The as-built drawings and certified survey must be signed and sealed by an appropriately licensed professional registered in the State of Florida.

If the ERP does not contain specific requirements, provide as-built drawings with the following information as a minimum:

1. Discharge structures: structure identification number, type, locations (latitude and longitude), dimensions and elevations of all, including weirs, bleeders, orifices, gates, pumps, pipes, and oil and grease skimmers.
2. Side bank and underdrain filters, or exfiltration trenches: locations, dimensions and elevations of all, including clean-outs, pipes, connections to control structures and points of discharge to receiving waters.
3. Storage areas for treatment and attenuation: storage area identification number, dimensions, elevations, contours or cross-sections of all, sufficient to determine stage-storage relationships of the storage area and the permanent pool depth and volume below the control elevation for normally wet systems.
4. System grading: dimensions, elevations, contours, final grades or cross-sections to determine contributing drainage areas, flow directions and conveyance of runoff to the system discharge points.

5. Conveyance: dimensions, elevations, contours, final grades or cross-sections of systems utilized to divert off-site runoff around or through the new system.

6. Water levels: existing water elevations and the date determined.

7. Benchmarks: location and description (minimum of one per major water control structure).

7-2.3.2 Bridge Clearances for Projects under the Authority of a U.S. Coast Guard Permit:

As a condition precedent to final acceptance of the project, submit to the Engineer a certified survey verifying the as-built clearances described in the U.S. Coast Guard Owner's Certification of Bridge Completion. The certified survey must be signed and sealed by a Professional Engineer or Professional Surveyor and Mapper registered in the State of Florida.

7-2.3.3 Projects Under the Authority of a U.S. Army Corps of Engineers Permit: As a condition precedent to final acceptance of the project, submit to the Engineer three copies of as-built drawings and a certified survey verifying the as-built conditions. The as-built drawings and certified survey must satisfy all of the requirements and special conditions listed in the U.S. Army Corps of Engineers permit. The as-built drawings and certified survey must be signed and sealed by a Professional Engineer or Professional Surveyor and Mapper registered in the State of Florida.

SUBARTICLE 7-7.5 (Pages 64 and 65) is deleted and the following substituted:

7-7.5 Contractor's Equipment on Bridge Structures: The Contractor's Engineer of Record shall analyze the effect of imposed loads on bridge structures, within the limits of a construction contract, resulting from the following operations:

- (1) Overloaded Equipment as defined in 7-7.2:
 - (a) Operating on or crossing over completed bridge structures.
 - (b) Operating on or crossing over partially completed bridge structures.
- (2) Equipment within legal load limits:
 - (a) Operating on or crossing over partially completed bridge structures.
- (3) Construction cranes:
 - (a) Operating on completed bridge structures.
 - (b) Operating on partially completed bridge structures.

Any pipe culvert(s) or box culvert(s) qualifying as a bridge under 1-3 is excluded from the requirements above.

A completed bridge structure is a bridge structure in which all elemental components comprising the load carrying assembly have been completed, assembled, and connected in their final position. The components to be considered shall also include any related members transferring load to any bridge structure.

The Contractor's Engineer of Record shall determine the effect that equipment loads have on the bridge structure and develop the procedures for using the loaded equipment without exceeding the structure's design load capacity.

Submit to the Department for approval eight copies of design calculations, layout drawings, and erection drawings showing how the equipment is to be used so that the bridge structure will not be overstressed. The Contractor's Engineer of Record shall sign and seal one set of the eight copies of the drawings and the cover sheet of one of the eight copies of the calculations for the Department's Record Set.

SUBARTICLE 7-11.4 (Page 67) is deleted as the following is substituted:

7-11.4 Traffic Signs, Signal Equipment, Highway Lighting and Guardrail: Protect all existing roadside signs, signal equipment, highway lighting and guardrail, for which permanent removal is not indicated, against damage or displacement. Whenever such signs, signal equipment, highway lighting or guardrail lie within the limits of construction, or wherever so directed by the Engineer due to urgency of construction operations, take up and properly store the existing roadside signs, signal equipment, highway lighting and guardrail and subsequently reset them at their original locations or, in the case of widened pavement or roadbed, at locations designated by the Engineer.

If the Department determines that damage to such existing traffic signs, signal equipment, highway lighting or guardrail is caused by a third party(ies), and is not otherwise due to any fault or activities of the Contractor, the Department will, with the exception of any damage resulting from vandalism, compensate the Contractor for the costs associated with the repairs. Repair damage caused by vandalism at no expense to the Department.

Payment for repairs will be in accordance with 4-3.4.

SUBARTICLE 7-11.6.1 (Pages 68 and 69) is deleted and the following substituted:

7-11.6.1 Arrangements for Protection or Adjustment: Do not commence work at points where the construction operations are adjacent to utility facilities until all necessary arrangements have been made for removal, temporary removal, relocation, de-energizing, deactivation or adjustment with the utility facilities owner to protect against damage that might result in expense, loss, disruption of service, or other undue inconvenience to the public or to the owners. The Contractor is solely and directly responsible to the owners and operators of such properties for all damages, injuries, expenses, losses, inconveniences, or delays caused by the Contractor's operations.

Do not request utility removal, temporary removal, relocation, de-energizing, deactivation, or adjustment when work can be accomplished within the utility work schedules. In the event that removal, temporary removal, relocation, de-energizing, deactivation, or adjustment of a utility or a particular sequence of timing in the relocation of a utility is necessary and has not been addressed in a utility work schedule, the Engineer will determine the necessity for any such utility work. Coordinate such work as to cause the least impediment to the overall construction operations and utility service. The Department is not responsible for utility removal, temporary

removal, relocation, de-energizing, deactivation, or adjustment work where such work is determined not necessary by the Engineer or done solely for the benefit or convenience of the utility owner or its contractor, or the Contractor.

ARTICLE 7-24 (Pages 74 – 76) is deleted and the following substituted:

7-24 Disadvantaged Business Enterprise Program.

7-24.1 Disadvantaged Business Enterprise Affirmative Action Plan: Prior to award of the Contract, have an approved Disadvantaged Business Enterprise (DBE) Affirmative Action Program Plan filed with the Equal Opportunity Office. Update and resubmit the plan every three years. No Contract will be awarded until the Department approves the Plan. The DBE Affirmative Action Program Plan is incorporated into and made a part of the Contract.

7-24.2 Required Contract and Subcontract DBE Assurance Language: In accordance with 49 CFR 26.13 (b), the Contract FDOT signs with the Contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance: “The Contractor, sub-recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted Contracts. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as the recipient deems appropriate.”

7-24.3 Plan Requirements: Include the following in the DBE Affirmative Action Program Plan:

(a) A policy statement, signed by an authorized representative (president, chief executive officer, or chairman of the contractor), expressing a commitment to use DBEs in all aspects of contracting to the maximum extent feasible, outlining the various levels of responsibility, and stating the objectives of the program. Circulate the policy statement throughout the Contractor’s organization.

(b) The designation of a Liaison Officer within the Contractor’s organization, as well as support staff, necessary and proper to administer the program, and a description of the authority, responsibility, and duties of the Liaison Officer and support staff. The Liaison Officer and staff are responsible for developing, managing, and implementing the program on a day-to-day basis for carrying out technical assistance activities for DBEs and for disseminating information on available business opportunities so that DBEs are provided an equitable opportunity to participate in Contracts let by the Department.

(c) Utilization of techniques to facilitate DBE participation in contracting activities which include, but are not limited to:

1. Soliciting price quotations and arranging a time for the review of plans, quantities, specifications, and delivery schedules, and for the preparation and presentation of quotations.

2. Providing assistance to DBEs in overcoming barriers such as the inability to obtain bonding, financing, or technical assistance.

3. Carrying out information and communication programs or workshops on contracting procedures and specific contracting opportunities in a timely manner, with such programs being bilingual where appropriate.

4. Encouraging eligible DBEs to apply for certification with the Department.

5. Contacting Minority Contractor Associations and city and county agencies with programs for disadvantaged individuals for assistance in recruiting and encouraging eligible DBE contractors to apply for certification with the Department.

7-24.4 DBE Records and Reports: Submit the Anticipated DBE Participation Statement at or before the Pre-Construction Conference. Report monthly, through the Equal Opportunity Reporting System on the Department's Website, actual payments (including retainage) made to DBEs for work performed with their own workforce and equipment in the area in which they are certified. Report payments made to all DBE and Minority Business Enterprise (MBE) subcontractors and DBE and MBE construction material and major suppliers. The Equal Opportunity Office will provide instructions on accessing this system. Develop a record keeping system to monitor DBE affirmative action efforts which include the following:

- (a) the procedures adopted to comply with these Specifications;
- (b) the number of subordinated Contracts on Department projects awarded to DBEs;
- (c) the dollar value of the Contracts awarded to DBEs;
- (d) the percentage of the dollar value of all subordinated Contracts awarded to DBEs as a percentage of the total Contract amount;
- (e) a description of the general categories of Contracts awarded to DBEs; and
- (f) the specific efforts employed to identify and award Contracts to DBEs.

Upon request, provide the records to the Department for review.

Maintain all such records for a period of five years following acceptance of final payment and have them available for inspection by the Department and the Federal Highway Administration.

7-24.5 Counting DBE Participation and Commercially Useful Functions: 49 CFR Part 26.55 specifies when DBE credit shall be awarded for work performed by a DBE. DBE credit can only be awarded for work actually performed by DBEs themselves for the types of work for which they are certified. On the Anticipated DBE Participation Statement only include the dollars that a DBE is expected to earn for work they perform with their own workforce and equipment. Submit a revised Anticipated DBE Participation Statement to reflect changes to the initial Anticipated DBE Participation Statement within 14 business days from the date of the change.

When a DBE participates in a contract, the value of the work is determined in accordance with 49 CFR Part 26.55, for example:

(a) The Department will count only the value of the work performed by the DBE toward DBE goals. The entire amount of the contract that is performed by the DBE's own forces (including the cost of supplies, equipment and materials obtained by the DBE for the contract work) will be counted as DBE credit.

(b) The Department will count the entire amount of fees or commissions charged by the DBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services or for providing bonds or insurance specifically required for the performance of a Department-assisted contract, toward DBE goals, provided that the Department determines the fees to be reasonable and not excessive as compared with fees customarily followed for similar services.

(c) When the DBE subcontracts part of the work of its contract to another firm, the Department will count the value of the subcontracted work only if the DBE's subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals.

(d) When a DBE performs as a participant in a joint venture, the Department will count the portion of the dollar value of the contract equal to the distinct, clearly defined portion of the work the DBE performs with its own forces toward DBE goals.

(e) The Contractors shall ensure that only expenditures to DBEs that perform a commercially useful function in the work of a contract may be counted toward the voluntary DBE goal.

(f) A DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself.

(g) To determine whether a DBE is performing a commercially useful function, the Department will evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the DBE credit claimed for its performance of the work, and other relevant factors.

(h) A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation.

(i) If a DBE does not perform or exercise responsibility for at least 30% of the total cost

of its contract with its own workforce, or if the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, the DBE has not performed a commercially useful function.

7-24.6 Prompt Payments: Meet the requirements of 9-5 for payments to all DBE subcontractors.

008 PROSECUTION AND PROGRESS.
(REV 7-22-10) (FA 9-20-10) (7-11)

SUBARTICLE 8-3.3 (Page 82) is deleted and the following substituted:

8-3.3 Beginning Work: Notify the Engineer not less than five days in advance of the planned start day of work. Upon the receipt of such notice, the Engineer may give the Contractor Notice to Proceed and may designate the point or points to start the work. In the Notice to Proceed, the Engineer may waive the five day advance notice and authorize the Contractor to begin immediately. Notify the Engineer in writing at least two days in advance of the starting date of important features of the work. Do not commence work under the Contract until after the Department has issued the Notice to Proceed. The Department will issue the Notice to Proceed within 20 calendar days, excluding Saturdays, Sundays and state holidays, after execution of the Contract.

SUBARTICLE 8-4.9 (Pages 84 and 85) is deleted and the following substituted:

8-4.9 Contaminated Materials: When the construction operations encounter or expose any abnormal condition that may indicate the presence of a contaminated material, discontinue such operations in the vicinity of the abnormal condition and notify the Engineer immediately. Be alert for the presence of tanks or barrels; discolored or stained earth, metal, wood, ground water; visible fumes; abnormal odors; excessively hot earth; smoke; or other conditions that appear abnormal as possible indicators of the presence of contaminated materials. Treat these conditions with extraordinary caution.

Make every effort to minimize the spread of any contaminated materials into uncontaminated areas.

Do not resume the construction operations in the vicinity of the abnormal conditions until so directed by the Engineer.

Dispose of the contaminated material in accordance with the requirements and regulations of any Local, State, or Federal agency having jurisdiction. Where the Contractor performs work necessary to dispose of contaminated material, and the Contract does not include pay items for disposal, the Department will pay for this work as provided in 4-4.

The Department may agree to hold harmless and indemnify the Contractor for damages when the Contractor discovers or encounters contaminated materials or pollutants during the performance of services for the Department when the presence of such materials or pollutants were unknown or not reasonably discoverable. Such indemnification agreements are only effective if the

Contractor immediately stops work and notifies the Department of the contaminated material or pollutant problem.

Such indemnification agreements are not valid for damages resulting from the Contractor's willful, wanton, or intentional conduct or the operations of Contaminated and Hazardous Material Contractors.

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SPECIFICATIONS
PACKAGE**

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