
IFB NO. Y16-138-J2

ISSUED: September 30, 2015

**INVITATION FOR BIDS
TERM CONTRACT FOR**

**COLD IN-PLACE BITUMINOUS BASE RECYCLING WITH ASPHALT
RESURFACING**

Mail or Hand Deliver

ORIGINAL BID FORM & THREE (3) COMPLETE COPIES

By November 3, 2015

To:

**BOARD OF COUNTY COMMISSIONERS
ORANGE COUNTY, FLORIDA
INTERNAL OPERATIONS CENTRE II
PROCUREMENT DIVISION
400 E. SOUTH STREET – 2nd FLOOR
ORLANDO, FLORIDA 32801**

Bid Opening:

November 3, 2015 - 2:00 PM

**Internal Operations Centre II
Procurement Division, 2nd Floor
Orlando, Florida 32801**

**Non-Mandatory Pre-Bid Conference - October 14, 2015 - 2:00 PM
Roads & Drainage 3rd Floor Conference Room
4200 S. John Young Parkway, Orlando, FL 32839
Interested bidders are encouraged to attend.**

NOTICE TO BIDDERS/OFFERORS

To ensure that your Bid/proposal is responsive, you are urged to request clarification or guidance on any issues involving this solicitation before submission of your response. Your point-of-contact for this solicitation is **John Schmidt at 407/836-5647, email to John.Schmidt@OCFL.net.**

PART A

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NEW BID BOND REQUIREMENT – See Part C, Instructions to Bidders, Paragraph 19e.

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ISSUED: September 30, 2015

**NOTICE
INVITATION FOR BIDS (IFB) NO. Y16-138-J2**

**COLD IN-PLACE BITUMINOUS BASE RECYCLING WITH ASPHALT
RESURFACING**

Sealed Bid offers (Original Bid Form and three (3) complete copies) for furnishing the above will be accepted up to **2:00 PM, November 3, 2015**, in the Internal Operations Centre II, the Procurement Division, 2nd Floor, 400 E. South Street, Orlando, FL 32801. Bids will be opened shortly thereafter in the Second Floor Conference Room, Orange County Internal Operations Centre II.

Bid Documents may be obtained from the **Orange County Procurement Division at the above address, Phone: (407) 836-5635.**

NOTE: Bid documents are now available for downloading from the internet at orangecountyfl.net.

The IFB contains all required documents for this solicitation. No other technical specifications, drawings or other documents are required.

A **Non-Mandatory Pre-Bid Conference** will be held on **October 14, 2015, 2:00 PM, at Roads & Drainage 3rd Floor Conference Room, 4200 S. John Young Parkway, Orlando, FL 32839.** Interested bidders are encouraged to attend.

SCOPE OF WORK: This work is the in-place construction of a Cold Recycled Bituminous Base Course (Cold in Place Recycling (CIR)), using either reclaimed asphalt pavement (RAP) material and/or reclaimed aggregate material (RAM), combined with virgin aggregates and/or bituminous material. Work shall be authorized on an as-needed basis.

LOCATION ADDRESS: Any location in Orange County, Florida.

Note to Bidders: FDOT Pre-Qualification requirement (See Page G-5.)

Johnny M. Richardson, CPPO, CFCM
Manager, Procurement Division

PART B

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PART C - INSTRUCTION TO BIDDERS

1. GENERAL:

- a. The term County used herein refers to the Board of County Commissioners, Orange County, Florida, or its duly authorized representative.
- b. The term Bidder used herein refers to the contractor, or business organization submitting a Bid to the County in response to this Invitation for Bids.

2. PREPARATION AND SUBMISSION OF BIDS:

- a. Form of Proposal: Each Bidder shall submit the **Bid in four parts (original Bid Form, marked original, with attachments and three (3) copies of the Bid Form and all attachments)** and indicate his base Bid price and any alternative(s) that may be included in the proper space(s).

The base Bid is the sum of all pay item totals and the County reserves the right to correct errors in pay item totals arising from incorrect extensions. See "**Bid Errors**", Item 5.

- b. All Bids, proposals or quotations, unless otherwise specified, must be delivered in a sealed envelope, either mailed or hand carried, to the Procurement Division, Internal Operations Centre II, 400 E. South Street, 2nd Floor, Orlando, Florida 32801, prior to the Bid opening time as specified in Part B. Bids received after the date and time specified will be returned unopened. The time/date stamp clock located in the Procurement Division shall serve as the official authority to determine lateness of any Bids.

Respondents are cautioned that they are responsible for delivery to the specific location cited above. Therefore, if your Bid, proposal or quotation is delivered by an express mail carrier or by any other means, it is your responsibility to ensure delivery to the above address. This office will not be responsible for deliveries made to any place other than the specified address.

The delivery of said Bid to the Procurement Division prior to the time and date stated in the preceding sentence is solely and strictly the responsibility of the Bidder. The County shall not be responsible for delays in delivery to the Procurement Division caused by the United States Postal Service or courier service, delivery to any other County Office or delays caused by any other occurrence. The Bid delivery time will be scrupulously observed. Bid proposals received after the delivery time specified will not be considered.

The decision to refuse to consider a bid or proposal that was received beyond the date/time established in the solicitation shall not be the basis for a protest pursuant to the Orange County (Procurement Ordinance).

- (1) Invitation for Bid Number
 - (2) Hour and Date of Opening
 - (3) Name of Bidder
 - (4) Return address of the Bidder
- c. Bids will be publicly opened in the Procurement Division Conference Room, 2nd Floor of the Orange County Internal Operations Centre II, 400 E. South Street, Orlando, Florida.
- d. All Bid proposals must be manually and duly signed by an authorized corporate officer, principal, or partner (as applicable) with a signature in full. When a firm is a Bidder, the officer signing shall set out the corporate name in full beneath which he shall sign his name, give title of his office and affix the corporate seal. Anyone signing the Bid proposal as agent must file with it legal evidence of signature authority. Bidders who are nonresident corporations shall furnish to the County a duly certified copy of their permit to transact business in the State of Florida along with the Bid Proposal. Failure to promptly submit this evidence or qualification to do business in the State of Florida may be basis for rejection of the Bid Proposal.
- e. The Bidder is solely responsible for reading and completely understanding the requirements and the specifications of the solicitation.
- f. Bid proposals may be withdrawn by written, telecopied or telegraphic requests dispatched by the Bidder and received by the Manager of the Procurement Division before the time for receiving Bids has expired. Negligence on the part of the Bidder in preparing a Bid proposal is not grounds for withdrawal or modification of a Bid proposal after such Bid proposal has been opened by the County. A Bidder may not withdraw or modify a Bid proposal after the appointed Bid proposal opening and such Bid proposal must be in force for **ninety (90)** days after the Bid opening. Bidders may not assign or otherwise transfer their Bid proposals.
- g. At the time and place fixed for the opening of Bid proposals (see above), every Bid proposal properly delivered within the time fixed for receiving Bid proposals will be opened and publicly read aloud, irrespective of any irregularities found therein. Bidders and other persons interested may be present, in person or by representative. Opened Bids shall remain confidential for thirty days after Bid opening or upon posting of the recommended award, whichever comes first.
- h. A Bid, Payment and Performance Bond are a requirement of the IFB when the bid/contract amount exceeds \$100,000.

If Bid security is required by Paragraph h. of this Section, submission of an original Bid Bond (copy not acceptable) completed and signed by all required parties and submitted on the form provided in Exhibit 1 to the Bid Proposal (Part D), or in the alternative, a Certified Check, a Cashier's Check shall be required to accompany each Bid proposal in a stated dollar amount of not less than ten (10%) percent of the total estimated Contract amount for the first Contract year. Submittal of a Bid Bond less than ten percent (10%) of the total estimated Contract amount for the first Contract year shall result in rejection of the bid. **Any submitted Bid Bond must be submitted to the County in duplicate.** The duplicate copy must be a photographic reproduction of the completed form set forth in the Contract Documents and clearly marked "COPY". **Failure to submit the Bid Bond on the form provided in Exhibit 1 to the Bid Proposal (Part D) shall result in rejection of the bid.**

In order to be acceptable to the County, the Surety company issuing the Bid Bond as called for in this Invitation for Bids, shall meet and comply with the minimum standards described in Part C, Section 19, "Qualifications of Surety Companies". **Failure to submit a Bid Bond from a Surety Company meeting these minimum standards shall result in rejection of the bid.**

Certified Checks or Cashier's Checks shall be drawn on a solvent bank or trust company to the order of The Board of County Commissioners and shall have all necessary documentary revenue stamps attached, if required by law. Personal checks are not acceptable to the County. See Section 19, "Qualifications of Surety Companies" for additional requirements.

- i. A pre-Bid conference will be held at the time and location shown in the Notice, Part B of this Bid package.
- j. No oral interpretation of the meaning of the plans, specifications, or other Contract documents shall be considered binding. Every request for interpretation shall be in writing addressed to **John Schmidt, Fax Number (407) 836-5899**. To be given consideration, such requests must be received Ten (10) days prior to bid opening.

Any and all such interpretations and any supplemental instructions will be in the form of a written addendum which, if issued, will be available for downloading from the Internet at orangecountyfl.net. All addenda so issued shall become part of the Contract Documents and receipt shall be acknowledged on the Bid Form, Part D, or by completion of the applicable information on the addendum and returning it not later than the date and time for receipt of the bid.

3. MINORITY/WOMEN OWNED BUSINESS ENTERPRISES:

- a. To provide for the participation of certified minority and women owned businesses (M/WBE's) in the County's procurement of construction services, Bidders submitting bids to the County are urged to comply with M/WBE subcontracting goals established by the County Minority/Women Business Enterprise Ordinance, No. 94-02 and amended by Ordinance No.2009-21. The overall goal for all bids (inclusive of all additive and deductive alternates) is 25% participation for M/WBE subcontractors and suppliers. Upon Contract award the Contractor must meet the M/WBE expenditure required by the Contract.

The Ordinance also addresses minority/women group employment levels setting goals to encourage each Bidder to maintain 18% minority and 6% women employees.

Note: Only 50% of material/supply dollars purchased from M/WBE distributors is applied toward the goals for minority and women business enterprise participation on construction projects. Contractor shall list **the total amount of material/supply dollars** to be purchased from each M/WBE distributor on the Subcontractor/Supplier Page (Attachment C-2). **The County will calculate the actual dollars applied toward the goals.**

- b. **NOTICE: Goals for bids under \$100,000**

There are M/WBE goals for all bids including bids for IFB estimated to be less than \$100,000 (inclusive of all additive and deductive alternates).

- c. **M/WBE Bidders competing as primes**

If an M/WBE firm bidding as a prime certifies with his/her bid that it will self-perform 51% percent or more of the project, as evidenced by Attachment C-2, then that firm will not be required to comply with the M/WBE subcontracting goals. **Failure to include the percentage of work and the scope of work to be self-performed, and the dollar amount for the work an M/WBE Bidder competing as a prime intends to self-perform will result in the M/WBE Bidder receiving zero M/WBE participation for the bid.**

However, if the M/WBE Bidder will not be self-performing at least 51% percent of the project, then he/she must comply with the M/WBE participation goal, and good faith effort documentation required from non-M/WBE Bidders to receive M/WBE compliance consideration.

- d. **Subcontracts/Purchase Orders**

The successful Bidder shall provide a copy of all fully executed subcontracts and purchase orders issued to M/WBE's listed on Attachment C-2 to the Business Development Division.

Submittal of these subcontracts/purchase orders is a condition precedent to execution of the prime Contract by the County.

The Contractor **must** include a Prompt Payment Clause (reference Part F, Article 21, paragraph B) in all subcontracts and purchase orders. The Contractor should include in the subcontracts that they are contingent upon execution of the prime Contract.

The County may, at its discretion, require copies of subcontracts/purchase orders for the non-M/WBE's listed on Attachment C-2. However, if this option is not exercised, the awarded Contractor **must** provide a list of all non-M/WBE Subcontractors and suppliers certifying that a prompt payment clause has been included in that Contract or purchase order.

e. **Good Faith Effort Documentation Requirements -**

If the established goals (reference paragraph 3.a above) are not achieved, to maximize consideration for MWBE participation, Bidders **must** provide with the bid sufficient documentation to substantiate that ALL FIVE of the mandatory efforts listed below were undertaken. Bidders meeting or exceeding the goals need not provide good faith effort documentation. Refer to paragraph f for the sliding scale for enforcement of the good faith effort document.

- i. If a bidder desires to meet the good faith effort documentation requirements he/she must provide written notice to certified M/WBEs that provide the type of work that the Bidder intends to subcontract. The notice shall be by e-mail or fax, no fewer than seven (7) calendar days prior to bid or proposal opening. All e-mails and faxes shall include the legal name of the M/WBE firm. The notice **shall** advise the M/WBE's:
 - a. that their interest in the contract is being solicited;
 - b. of the specific work the Bidder intends to subcontract
 - c. how to obtain information about and review the contract plans and specifications;
 - d. information on bonding, insurance and other pertinent requirements;
 - e. the deadline for bid or proposal submissions to the Bidder and the bid due date to the County;
 - f. 24 hours notice of any addenda.
- ii. Also bidders shall provide an explanation why the M/WBE goals were not achieved, and list the scopes of service not subcontracted on Attachment C-2.

- iii. Bidders shall follow up initial submittals of interest by contacting M/WBEs and documenting using a **contact** log, which shall include the firm's name address, contact information (e-mail, telephone and/or fax numbers), scope of work requested, the date, name of person making the effort, denote if M/WBEs will bid, time quote received and notes denoting if plans and specifications were sent. Each bidder shall use the standardized contact log, Attachment C-5.
- iv. In instances where a non-minority/non-woman contractor is listed for work for which M/WBE availability exists, the Bidder shall submit **ALL** quotations received from M/WBEs **AND** the listed non-M/WBE **within twenty-four (24) hours, if one of the three (3) apparent low Bidders**. The Bidder shall provide an explanation as to why the M/WBE's quotations were not accepted.

Receipt of a lower quotation from a non-M/WBE prior to bid opening will not in itself excuse a Bidder's failure to meet M/WBE participation goals. However, a Bidder's good faith effort obligation does not require a Bidder to accept a quotation from a M/WBE which is an unreasonable price. For the purpose of this subsection, "unreasonable price" means a price above (or below) competitive levels which cannot be attributed to the M/WBE's attempt to cover costs inflated by the present effect of discrimination.

- v. Bidder shall contact the Business Development Division staff as a resource to obtain M/WBE participation goal.

If the Bidder fails to meet one of the first four good faith effort requirements (i – iv) then the Bidder will be permitted to substitute one good faith effort requirement with only one of the following with documentation showing that:

- (1) The National Entrepreneur Center (NEC) was used to host a workshop that informed M/WBE firms how to better prepare for sub-contracting opportunities;
- (2) The Bidder has participated in Orange County Business Development Division's sponsored "How to do Business" workshop;
- (3) The Bidder has sponsored a match-maker event with certified M/WBE firms.

Orange County Business Development Division will determine the usage of this substitution, along with the appropriate time frame for utilizing this credit.

If, after Contract award, Prime Contractors who have not achieved the M/WBE participation goals choose to subcontract work indicated as being self-performed without prior written approval of the Business Development Division (reference Part F, Article 21, paragraph D), the matter will be reported to the Procurement Division with an appropriate responsibility recommendation for consideration in the event the contractor competes for future County contracts.

f. Sliding scale for enforcement of good faith effort requirements

If the established goals are not achieved by the low Bidder and it has been determined that the good faith efforts required for compliance have not been documented by the low Bidder, then the bid shall be rejected as non-responsive, but only if the next lowest responsive bid does not exceed the low bid by more than:

- i. Eight (8) percent on contract awards up to one hundred thousand dollars (\$100,000.00);or
- ii. Seven (7) percent on contract awards from \$100,000.00 to \$500,000.00; or
- iii. Six (6) percent on contract awards from five hundred thousand dollars and one cent (\$500,000.01) to seven hundred fifty thousand dollars (\$750,000.01); or
- iv. Five (5) percent on contract awards from seven hundred fifty thousand dollars and one cent (\$750,000.01) to two million dollars (\$2,000,000.00);or
- v. Four (4) percent on contract awards from two million dollars and one cent (\$2,000,000.01) to five million dollars (\$5,000,000.00); or
- vi. Three (3) percent on contract awards over five million dollars and one cent (\$5,000,000.01)

However, if the next low bid is responsive only because of the Bidder having made good faith effort (not because of having met the goals), the Board may approve award of the Contract to the next low Bidder only if the value of its M/WBE participation is equal to or greater than that of the low Bidder.

- g. Letters of Intent **must** match **exactly the information provided on** Attachment C-2 to the Bid Forms D, Attachment C-3 and **must** be executed by the apparent low Bidder and all M/WBE Subcontractors and/or suppliers listed on Attachment C-2 **must** be submitted to the Business Development Division office before 5:00 P.M. on the second business day after bid opening.

- h. Bidders shall not reject an M/WBE as unqualified without sound reasons based on a thorough and documented investigation of that M/WBE's capabilities.
- i. Bidder's efforts will be evaluated considering the ability of other Bidders to meet the requirements relating to the use of M/WBE subcontractors.
- j. Bidders should make whatever additional efforts are necessary to achieve the goals and it is recommended that these efforts be documented. However, this documentation shall not replace the required documentation if the goals are not met. Bidders are encouraged to contact the Business Development Division for guidance and assistance. Additional efforts by Bidders may include but are not limited to the following:
 - i. Bidders should provide interested M/WBE's with assistance in reviewing the Contract plans and specifications.
 - ii. Bidders should assist interested M/WBE's in obtaining required lines of credit, insurance or bonding.
 - iii. Bidders should solicit only types of work that match the capabilities of the M/WBE's and for which they are certified.
- k. All participating M/WBE's must be certified by Orange County. The Business Development M/WBE Directory is available by e-mail or through the Orange County web site at Orangecountyfl.net.

Only firms having established offices in the Orlando MSA (Orange, Lake, Seminole and Osceola Counties) are eligible for Orange County certification. All firms must be certified prior to bid opening and must be certified in the area(s) for which they will be used. If a firm claims to be certified, but is not listed in the Directory, Contractor should obtain a copy of their Certificate and/or contact the Business Development Division for verification of certification.

- l. The County has established a credit program whereby Contractors are awarded credits to be applied toward meeting the M/WBE goals on certain County bids. Emphasis will be placed on credits for Non-County Utilization and First-Time M/WBE Utilization. Bidders are encouraged to contact the Business Development Division for information on acquiring and applying the credits.
- m. Effective August 1, 2003, the County implemented a graduation program. Under this program, utilization of M/WBE firms designated as graduates shall count toward meeting M/WBE participation goals only on specified projects. All construction solicitations for which the County has determined the overall contract amount to be awarded to the prime in excess of \$10,000,000 for vertical construction, \$7,000,000 for horizontal construction and \$7,000,000 for all other construction are eligible for graduate M/WBE participation.

Vertical construction is any construction of a structure or building which requires a general or building contractor's license. Horizontal construction includes but is not limited to roadwork, site work, drainage or utilities work. Other construction is any construction other than what is defined as vertical or horizontal construction.

The Bidder's total base bid, which is used by the Procurement Division as the basis for determining Contract award value, will be used to determine if graduated M/WBE firms are eligible to participate. If the contract has option provisions, the total base Bid is the total of the Basic Contract Year plus all Option Years. Prime contractors will receive full M/WBE credit for the use of graduated M/WBE's that meet all other requirements.

It is the Bidder's responsibility to insure that graduate M/WBE's are not listed in proposals to meet M/WBE participation requirements on projects in which they are not eligible to participate.

- n. The County is compiling information about the MWBE program in order to gauge the level of program understanding and acceptance. Bidders should complete the M/WBE Survey, Attachment C-4 and return with their Bid Proposal Form. Failure to submit the completed survey may delay award of the Contract.

Intentional failure to attempt compliance and/or intentional failure to comply with the M/WBE subcontract goals pursuant to the Minority/Women Business Enterprise Ordinance, may result in the County invoking penalties under that ordinance and/or a finding by the County that a Bidder is "non-responsible", thus resulting in that bid being rejected and the Bidder facing possible suspension or debarment from future County IFB's.

4. BID PREFERENCE FOR SERVICE-DISABLED VETERANS (SDV)

The Orange County Service-Disabled Veteran Business Program Ordinance sets vendor preferences for service-disabled veteran business enterprises registered with Orange County Business Development Division.

As part of this program, Contractors are required to complete the Attachment C-2 listing **ALL** subcontractors (majority, women and minority, and service-disabled veteran) their firm will utilize in fulfillment of the requirements of this solicitation.

Also, in accordance with the County SDV Ordinance, preferences for registered service-disabled veteran business enterprises shall be applied on bid awards (sealed bids). The following bid preference scale shall apply to bids submitted by registered service-disabled veteran business enterprises as long as the bid does not exceed the low bid by more than 8% on bid awards up to \$100,000 ; 7% on bid awards from \$100,000.01 to \$500,000; 6% on bid awards from \$500,00.01 to \$750,000; 5% on bid awards from \$750,000.01 to \$2,000,000; 4% on contract awards from \$2,000,000.01 to \$5,000,000.00 and 3% on bid awards over \$5,000,000.01.

Registered service-disabled veteran business enterprises may be awarded or recommended for award of contracts when their bids are within the above allowed percentage in comparison to the low responsive and responsible bid(s).

If a registered service-disabled veteran business enterprise, entitled to the vendor preference under this section, and one (1) or more other businesses also entitled to this preference, or another vendor preference provided by the Orange County Code, submit bids, proposals, or replies for procurement of commodities or contractual services which are otherwise equal with respect to all relevant considerations, including price, quality, and service, then the Procurement Division Manager shall award the procurement or contract to the business having the smallest net worth.

5. BID ERRORS:

Where Bid forms have erasures or corrections, each erasure or correction must be initialed in ink by the Bidder. In case of unit price Bid items, if an error is committed in the extension of an item, the unit price as shown in the Official Bid Form, will govern. Errors between any sum, computed by the Bidder, and the correct sum thereof will be resolved in favor of the correct sum. Any discrepancy between words and numbers will be resolved in favor of the written words.

6. DEVIATIONS:

Bidders are hereby advised that Orange County will only consider Bid Proposals that meet the specifications and other requirements of the solicitation. In instances where a deviation is stated in the Bid form, said Bid will be subject to rejection by the County in recognition of the fact that said Bid Proposal does not meet the exact requirements imposed by the solicitation.

7. SUBSTITUTE MATERIAL AND EQUIPMENT:

The Contract, if awarded, will be on the basis of material and equipment described in the Drawings or specified in the Specifications without consideration of possible substitute or accepted "or-equal" items. Whenever materials or equipment or patented processes are specified or described in the Contract Documents by naming a trade name, manufacturer, supplier or proprietary item or catalog number, the naming of the item is intended to establish the type, function and quality required and to establish a basis for bidding. Substitute materials or equipment may be considered after a Contract for the Work is executed if sufficient information is supplied by Contractor to allow Project Manager to evaluate the proposed substitution, unless the naming of the item is followed by words indicating that no substitution is permitted. The procedure for submittal of any such application by Contractor and consideration by Project Manager is set forth in the General Conditions. In the event that substitute materials or equipment are used and are less costly than the originally specified material or equipment, then the difference in cost of the item shall benefit the County and Contractor in equal proportions. Applications for substitute materials and equipment shall only be evaluated after the Contract is executed. The Base Bid and Alternates shall reflect the costs for the materials and equipment named or specified only.

8. REQUESTED INFORMATION AND DESCRIPTIVE LITERATURE:

Bidders must furnish all requested information in the spaces provided on the Bid form or attachments thereto. Additionally, where required pursuant to the provisions of this solicitation, Bidders must submit with their Bid Proposal cuts, sketches, descriptive literature and/or complete specifications relative to the items proposed and offered.

9. AWARD OF CONTRACT/REJECTION OF BIDS:

A Contract will be awarded to the low, responsive and responsible Bidder(s), price and other factors considered. The County will award one Contract for this requirement.

The County, at its sole discretion, reserves the right to reject any and all Bids and to waive any informality concerning Bid Proposals whenever such rejection or waiver is in the best interest of the County. The ability of a Bidder to obtain a performance bond and a payment bond shall not be regarded as the sole test of such Bidder's competency or responsibility. Nothing contained herein shall place a duty upon the County to reject Bids or award a Contract based upon anything other than its sole discretion as described herein.

Determination of the low Bidder when additive or deductive Bid items are involved shall be as follows:

A. ADDITIVE/DEDUCTIVE BID ITEMS:

1. If it is deemed to be in the best interest of the County to accept the alternate(s), award will be made to the Bidder that offers the lowest aggregate amount for the base Bid, plus or minus (in the order listed on the Bid form), those additive or deductive Bid items that provide the most features of the work.
2. All Bids will be evaluated on the basis of the same additive or deductive Bid items.
3. Failure of the Bidder to provide pricing for all unit priced items and/or the Base Bid and ALL requested additive/deductible bid items, or alternate bids shall be cause for rejection of the bid as non-responsive.

B. RECIPROCAL LOCAL PREFERENCE

In the event the lowest responsive and responsible bid submitted in response to any invitation for bid is by a bidder whose principal place of business is in a county other than Orange County, and such county grants a bid preference for purchases to a bidder whose principal place of business is in such county, then Orange County may award a preference to the (next) lowest responsive and responsible bidder having a principal place of business within Orange County, Florida. Such preference shall be equal to the preference granted by the county in which the lowest responsive and responsible bidder has its principal place of business **except as provided below.**

Effective July 1, 2015 the reciprocal local preference shall not apply to construction services in which 50 percent or more of the cost will be paid from state-appropriated funds which have been appropriated at the time of the competitive solicitation.

10. POSTING OF RECOMMENDED AWARD:

The recommended award will be posted for review by interested parties at the Procurement Division and at <http://apps.ocfl.net/OrangeBids/AwardsRec/default.asp> prior to submission through the appropriate approval process and will remain posted for a period of five full business days. Failure to file a protest to the Manager of the Procurement Division by 5:00 PM on the fifth full business day after the posting date shall constitute a waiver of bid/proposal protest proceedings. Additional information relative to protests can be found at:

<http://www.orangecountyfl.net/VendorServices/VendorProtestProcedures.aspx>

A lobbying blackout period shall commence upon issuance of the solicitation until the Board selects the successful Bidder. For procurements that do not require Board approval, the blackout period commences upon solicitation issuance and concludes upon Contract award. Additional information relative to lobbying can be found at:

<http://www.orangecountyfl.net/OpenGovernment/LobbingAtOrangeCounty.aspx>

The Board of County Commissioners may void any Contract where the County Mayor, one or more County Commissioners, or a County staff person has been lobbied in violation of the blackout period restrictions of Ordinance No. 2002-15.

11. CONTRACT DOCUMENTS:

The Contract Documents shall include the Delivery Orders issued pursuant to the Contract and documents stated in the Contract (Titles, Subtitles, Headings, Running Headlines, Table of Contents and Indexes are used merely for convenience purposes).

12. MODIFICATION/ALTERATION OF SOLICITATION AND/OR CONTRACT DOCUMENTS

Modification or alteration of the documents contained in this solicitation or the contract resulting from this solicitation shall only be made upon receipt of prior written consent of the County.

13. LAWS AND REGULATIONS:

The Bidder's attention is directed to the fact that all applicable Federal and State laws, municipal and county ordinances, and the rules and regulations of all authorities having jurisdiction over any part of the project shall apply to the Contract throughout, and they will be deemed to be included in the Contract the same as though herein written.

14. REQUIRED DISCLOSURE:

Bidder shall disclose all material facts with its Bid submission pertaining to any felony conviction or any pending felony charges in the last three (3) years anywhere in the United States against (i) Bidder, (ii) any business entity related to or affiliated with Bidder, or (iii) any present or former executive employee, officer, director, stockholder, partner or owner of Bidder or against any such related or affiliated entity.

This disclosure shall not apply to any person or entity who is a stockholder, owning less than 20% of the outstanding shares of a Bidder whose stock is publicly owned and traded.

The Board of County Commissioners may reject, at its sole discretion, any Bidder the Commission finds to lack, or whose present or former executive employees, officers, directors, stockholders, partners or owners are found by the Commission to lack honesty, integrity, or moral responsibility. The Commission's finding may be based on the disclosure required herein, the County's own investigation, public records, or any other reliable source of information. The Commission may also reject any Bidder failing to make the disclosure required herein. By submitting a Bid, Bidder recognizes and accepts that the Board of County Commissioners may reject any Bid at its sole discretion and the Bidder waives any claim it might have for damages or other relief arising from the rejection of its Bid or resulting directly or indirectly from the rejection of its Bid based on these grounds or from the disclosure of any pertinent information relating to the reasons for rejection of its Bid.

15. EXECUTION OF WRITTEN CONTRACT:

The successful Bidder will be required to sign a written Contract which has been made a part of this Bid package and identified as the Contract. Said written Contract will evidence in written form the agreement between the parties pursuant to the award having been theretofore made by the County to this Bidder; said signing to be accomplished within ten (10) days after receipt of Notice of Award.

16. LICENSING REQUIREMENTS:

The following licensing requirements shall apply when the applicable Florida Statute mandates specific licensing for Contractors engaged in the type of work covered by this solicitation.

- a. Prime Contractors, to be considered for Contract award for this work shall be either "registered" or "certified" by the State of Florida, Division of Professional Regulation, Construction Industries Licensing Board and licensed by other federal, state, regional, county or municipal agencies having jurisdiction over the specified construction work.

- b. Said licenses shall be in the Bidder's name as it appears on the Official Bid Form. Bidder shall supply appropriate license numbers, with expiration dates, as part of their Bid. Failure to hold and provide proof of proper licensing, certification and registration may be grounds for rejection of the Bid.
- c. Bidder shall provide copies of all applicable licenses with their Bid Proposal.
- d. Subcontractors contracted by the Prime Contractor shall be licensed in their respective fields to obtain construction permits from the County. Said license must be in the name of the Subcontractor listed on Attachment C, Subcontractor/Supplier Page, herein.

17. SECURITY FORFEITURE:

When Bid security has been required (Section 2, Paragraph h.): If, within ten (10) days after notification by the County of the County's approval to award Contract, the successful Bidder refuses or otherwise neglects to execute the required written Contract and fails to furnish the required Performance Bond and Payment Bond, the amount of the Bidder's Bid security (Cashier's Check or Bid Bond) shall be forfeited and the same shall be retained by the County. No plea of mistake in the Bid or misunderstanding of the conditions of forfeiture shall be available to the Bidder for the recovery of his Bid security or as a defense to any action.

18. PERFORMANCE BONDS AND PAYMENT BONDS:

When the contract amount exceeds \$100,000, a Performance Bond and a Payment Bond issued in a sum equal to one hundred (100%) percent of the total estimated Contract amount for the first Contract year by a Surety company considered satisfactory by the County according to the criteria in Section 19 will be required from the successful Bidder for purposes of insuring the faithful performance of the obligations imposed by the resulting Contract and for purposes of protecting the County from lawsuits for non-payment of debts as might be incurred during the successful Bidder's performance under such Contract. The Performance Bond and the Payment Bond forms will be included in the Contract Documents and said forms must be properly executed by the Surety company and successful Bidder within ten (10) days after receipt of notification from the County of its award of the Contract. Within (10) ten days after the exercise of an option period, the Contractor shall provide Consent of Surety to renewal of the option period at the option period prices accompanied by a power of attorney according to the criteria in Section 19.

The Contractor shall record bonds in Orange County public records as required by Florida Statutes, Chapter 255.05. Before commencing the work the Contractor shall provide to the Manager of the Procurement Division a certified copy of the recorded bond. No payment will be made to the contractor until the contractor has provided the copy of the recorded bond.

19. QUALIFICATIONS OF SURETY COMPANIES:

In order to be acceptable to the County, a Surety company issuing **the Bid Bond, the Performance Bond and the Payment Bond**, if called for in these Specifications, shall meet and comply with the following minimum standards:

- a. Surety must be admitted to do business in the State of Florida and shall comply with the provisions of Florida Statute 255.05.
- b. Surety must be listed on the U.S. Department of Treasury Fiscal Service, Bureau of Government financial Operations, Federal Register, Part V, latest revision, entitled: "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies".
- c. All bonds shall be originals and issued or countersigned by a producing agent with satisfactory evidence of the authority of the person or persons executing such bond shall be submitted with the bond. Attorneys-in-fact who sign Bid bonds or performance/payment bonds must file with such bond a signed, certified copy of their power of attorney to sign such bond. **Agents of Surety companies must list their name, address and telephone number on all Bonds.**
- d. The life of the bonds shall extend twelve (12) months beyond the end of the Contract term and shall contain a waiver of alteration to the terms of the Contract, extensions of time and/or forbearance on the part of the County.
- e. **Surety must have financial standing having a rating from A.M. Best Company (or other equivalent rating company) equal to or better than A- Class VI.**
- f. Should the Bid, Payment and Performance Bonds be issued by co-sureties, each surety listed on the bond shall meet the requirements in paragraphs a. – e. above. In addition, each surety shall submit a power of attorney and all signatures of the co-sureties representatives shall be notarized. The "lead" surety shall be identified for the purposes of underwriting and claims management.

FAILURE TO MEET ANY OF THE REQUIREMENTS CONTAINED ABOVE SHALL RESULT IN REJECTION OF THE BID.

20. TRENCH SAFETY ACT:

Pursuant to Chapter 90-96 (CS/SB 2626), Laws of Florida, "Trench Safety Act", any person submitting a Bid/proposal is required to complete the form entitled: **COMPLIANCE WITH FLORIDA TRENCH SAFETY ACT (90-96, LAWS OF FLORIDA)**, if applicable, and return the form with the Official Bid Form, (Part D, Attachment D)

This is not a pay item. The purpose of this form is to gather information on the costs associated with trench safety measures and to insure that the Bidder has considered these costs and included them in the Base Bid. Failure to complete this form may result in the Bid being declared non-responsive.

21. DRUG-FREE WORKPLACE FORM:

The Drug-Free Workplace Form is attached in Part E and shall be completed and submitted with your bid.

22. BID TABULATION:

Bid files may be examined during normal working hours, thirty (30) days after bid opening, or upon recommendation for award, whichever occurs first. Bidders desiring to view these documents are urged to schedule an appointment. For information concerning this bid, please contact the Procurement Division at the address listed above or by calling (407) 836-5635. Please specify the bid number for which you are inquiring. Bid opening results will be available at <http://apps.ocfl.net/orangebids/bidresults/results.asp> the day following the Bid opening. Unsuccessful Bidders will not be notified, unless a request is submitted in accordance with this paragraph.

23. INDEMNIFICATION FOR TORT ACTIONS/LIMITATION OF LIABILITY:

The provisions of Florida Statute 768.28 applicable to Orange County, Florida apply in full to this Contract. Any legal actions to recover monetary damages in tort for injury or loss of property, personal injury, or death caused by the negligent or wrongful act or omission of any employee of the County acting within the scope of his/her office or employment are subject to the limitations specified in this statute.

No officer, employee or agent of the County acting within the scope of his/her employment or function shall be held personally liable in tort or named as a defendant in any action for any or damage suffered as a result of any act, event, or failure to act.

The County shall not be liable in tort for the acts or omissions of an officer, employee, or agent committed while acting outside the course and scope of his/her employment. This exclusion includes actions committed in bad faith or with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

24. OCCUPATIONAL SAFETY AND HEALTH ACT (O.S.H.A.):

All material, equipment, etc., to be incorporated into the resultant contract shall meet and conform to all as proposed and offered by Bidders must meet and conform to all O.S.H.A. requirements; the Bidder's signature upon the Bid Proposal form (Part D) being by this reference considered a certification of such fact.

25. PUBLIC ENTITY CRIME STATEMENT (FS 287.133):

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a Bid on a Contract to provide any goods or services to a public entity, may not submit a Bid on a Contract with a public entity for the construction or repair of a public building or public work, may not submit Bids on leases of real property to a public entity, may not be awarded or perform work as a Contractor, supplier, Subcontractor, or consultant under a Contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Florida State Statutes Section 287.017 for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

26. SUBCONTRACTOR/SUPPLIER INFORMATION:

If maximum M/WBE participation is desired, bidders must list all proposed Subcontractors and suppliers to be used, regardless of racial or gender grouping, to include names, addresses, phone numbers, type of work subcontracted (trade or commodity), dollar amount of work, and the M/WBE designation or Majority (Non-M/WBE) owned company. Attachment C-2 is provided for this information. Contractor shall not change any Subcontractors without just cause and approval by the County.

27. SUBCONTRACTOR'S PAST PERFORMANCE:

Bidder is responsible for verifying subcontractor's satisfactory performance on previous Orange County projects. Failure to do so may impact Bidder's responsibility determination.

28. REFERENCES:

Bidder should supply (with the bid form) a list of at least three (3) similar cold recycled bituminous base course projects successfully completed in the State of Florida **by the Bidder, as a Prime or Sub Contractor** within the last eight (8) years. Failure to provide this information may be cause for rejection of the bid. Experience with full depth reclamation (FDR) projects and cold in place base recycling (CIR) projects completed in other states may be considered acceptable as references for this contract once the Contractor confirms through the Management Plan that equipment and process methodology are consistent with the requirements for CIR as specified herein. However, the intent of this contract is for cold in place base recycling (CIR), and hence the full depth reclamation process will not be accepted as part of the scope of work for this contract.

In the event sub-contractors are to be used to provide required cold in-place base course recycling services, the prime contractor shall submit at least three similar cold in-place base recycling projects (as required in contract documents) successfully completed by the bidder (using the sub-contractor) within the past five (5) years.

The Bidder shall have completed a minimum of 100,000 square yards of cold in place recycling projects. The below elements must be demonstrated collectively among submitted projects:

1. Cold in place base recycling,
2. Resurfacing, overlay,
3. Temporary pavement markings,
4. Maintenance of traffic.

EACH SIMILAR PROJECT LISTED SHALL BE LISTED WITH COMPLETE INFORMATION AS SPECIFICALLY PROVIDED ON THE REFERENCE FORM (ATTACHMENT E). THE SPECIFIC INFORMATION ON REFERENCES MUST BE PROVIDED ON THE REFERENCE FORM. DO NOT ATTACH LISTINGS OF REFERENCE INFORMATION. FAILURE TO PROVIDE REFERENCE INFORMATION AS REQUESTED MAY RESULT IN THE REJECTION OF YOUR BID.

The determination of whether a bidder is responsible or not shall be at the sole discretion of the County. Although the County may request submission of a minimum number of similar projects for evaluation, the County's determination of a bidder's responsibility shall not be solely based on the number of similar projects submitted.

The contact person listed as a reference shall be someone who has personal knowledge of the Bidder's performance during the referenced project. Contact persons must have been informed that they are being used as a reference and that the County will be calling or emailing them.

29. UNIT PRICES:

Unless the Bid Item Schedule contained in Part D specifies otherwise, unit prices for individual line items shall include all costs, including but not limited to, mobilization, maintenance of traffic, overhead and profit.

30. EVALUATION OF OPTIONS:

The County shall evaluate Bids/offers for award purposes by adding the total price for all options to the total price of the basic period. However, the evaluation of options will not obligate the County to exercise the option(s).

31. UNBALANCED PRICING

- A. Unbalanced pricing may increase performance risk and could result in payment of unreasonably high prices.

Unbalanced pricing exists when, despite an acceptable total evaluated price, the price of one or more contract line items is significantly over or understated as indicated by the application of cost or price analysis techniques. The greatest risk associated with unbalanced pricing occur when –

1. Startup work and mobilization are separate line items;

2. Base year quantities and option year quantities are separate line items ; or
 3. The evaluated price is the aggregate of estimated quantities to be ordered under separate line items of an indefinite-delivery contract.
- B. All offers with separately priced line items or subline items shall be analyzed to determine if the prices are unbalanced. If cost or price analysis techniques indicate that an offer is unbalanced, the Manager Procurement Division shall:
1. Consider the risks to the County associated with the unbalanced pricing in determining the competitive range and in making the award decision; and
 2. Consider whether award of the contract will result in paying unreasonably high prices for contract performance.
 3. An offer may be rejected if the manager determines that the lack of balance poses an unacceptable risk to the County

32. BID AND RELATED COSTS:

By submission of a Bid, the Bidder agrees that all costs associated with the preparation of his/her Bid will be the sole responsibility of the Bidder. The Bidder also agrees that the County bears no responsibility for any costs associated with the preparation of the Bid and/or any administrative or judicial proceedings resulting from the solicitation process.

33. SOLICITATION CANCELLATIONS

Orange County reserves the right, and the Manager of Procurement Division has absolute and sole discretion to cancel a solicitation at any time prior to approval of the award by the Board of County Commissioners when such approval is required. The decision to cancel a solicitation cannot be the basis for a protest pursuant to the Orange County Code.

34. LICENSES/PERMITS/FEES:

A. In compliance with the Public Bid Disclosure Act, Section 218.80, Florida Statutes, each permit, license, and/or fee applicable to this work/project (before and during construction) that will either be paid by the Contractor or by the Orange County Board of County Commissioner as specified below:

Orange County will be responsible for paying for any and all permits, licenses, and fees imposed on the Work by agencies of the Orange County Board of County Commissioners. This does not alleviate the Contractor from obtaining the permits.

B. Permits and Fees for Agencies other than Orange County Board of County Commissioners:

The Contractor shall procure and pay for all permits and licenses, charges and fees and give all notices necessary and incidental to the due and lawful prosecution of the work. The cost of all permits, fees, etc; shall be included in the bid price except where noted otherwise in the specifications or other bid documents.

C. The Orange County Government Fee Directory, incorporated herein by reference, contains a list of licenses, permits and fees that may apply to this project.

The fee directory link "Fees" is available at:

<http://www.orangecountyfl.net/portals/0/resource%20library/open%20government/FeeDirectory.pdf>

Bidders shall review all applicable licenses, permits and fees and contact the applicable agency if there are any questions.

35. BID ACCEPTANCE PERIOD:

Any Bid submitted in response to this Invitation of Bids shall remain in effect for a period of 90 days after Bid opening. Upon request of the County, the Bidder at its sole option may extend this period.

36. EQUAL OPPORTUNITY

It is hereby declared that equal opportunity and nondiscrimination shall be the County's policy intended to assure equal opportunities to every person, regardless of race, religion, sex, sexual orientation and gender expression/identity, color, age, disability or national origin, in securing or holding employment in a field of work or labor for which the person is qualified, as provided by Section 17-314 of the Orange County Code and the County Administrative Regulations.

Further, the awarded Contractor shall abide by the following provisions:

- (a) The awarded Contractor shall represent that awarded Contractor has adopted and maintains a policy of nondiscrimination as defined by applicable County ordinance throughout the term of this contract.
- (b) The awarded Contractor shall allow reasonable access to all business and employment records for the purpose of ascertaining compliance with the nondiscrimination provision of the contract.
- (c) The provisions of the prime contract shall be incorporated by the awarded Contractor into the contracts of any applicable subcontractors.

37. ETHICS COMPLIANCE

The following forms are included in this solicitation and shall be completed and submitted as indicated below:

Orange County Specific Project Expenditure Report -The purpose of this form is to document any expenses incurred by a lobbyist for the purposes described in Section 2-351, Orange County Code. This form shall be completed and submitted with any bid, proposal or other response to an Orange County solicitation. The bidder, proposer or responder to the solicitation shall not be awarded a contract unless this form has been completed and submitted. Any questions concerning this form shall be addressed to the purchasing agent or contract administrator identified in the applicable solicitation. Also, a listing of the most frequently asked questions concerning this form is attached for your information.

Relationship Disclosure Form – The purpose of this form is to document any relationships between a bidder, proposer or responder to an Orange County solicitation and the Mayor or any other member of the Orange County Board of County Commissioners.

This form shall be completed and submitted with the applicable bid, proposal or response to an Orange County solicitation. No contract award will be made unless this form has been completed and submitted.

Any questions concerning this form shall be addressed to the purchasing agent or contract administrator identified in the applicable solicitation. Also, a listing of the most frequently asked questions concerning this form is attached for your information.

38. TOBACCO FREE CAMPUS

All Orange County operations under the Board of County Commissioners shall be tobacco free. This policy applies to parking lots, parks, break areas and worksites. It is also applicable to contractors and their personnel during contract performance on county-owned property. Tobacco is defined as tobacco products including, but not limited to, cigars, cigarettes, e-cigarettes, pipes, chewing tobacco and snuff. Failure to abide by this policy may result in civil penalties levied under Chapter 386, Florida Statutes and/or contract enforcement remedies.

39. VERIFICATION OF EMPLOYMENT STATUS

Prior to the employment of any person under this contract, 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 contract term, and an express requirement that Contractors include in such subcontracts the requirement that subcontractors performing work or providing

services pursuant to the state contract utilize the E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

For more information on this process, please refer to United States Citizenship and Immigration Service site at:

<http://www.uscis.gov/portal/site/uscis>.

Only those employees determined eligible to work within the United States shall be employed under this contract.

By submission of a bid in response to this solicitation, the Contractor affirms that all employees in the above categories shall undergo e-verification before placement on this contract. The Contractor shall commit to comply with this requirement by completing the E-Verification certification, attached to this solicitation.

40. PROPRIETARY INFORMATION

In accordance with Chapter 119 of the Florida Statutes (Public Records Law), and except as may be provided by other applicable State or Federal Law, all proposers should be aware that Request for Proposals or Invitation for Bids and the responses thereto are in the public domain. Proposers must identify specifically any information contained in their response which they consider confidential and/or proprietary and which they believe to be exempt from disclosure, citing specifically the applicable exempting law.

OFFICIAL BID FORM
TERM CONTRACT FOR
COLD IN-PLACE BITUMINOUS BASE RECYCLING WITH ASPHALT
RESURFACING

Mail or Hand Deliver By 2:00 PM, November 3, 2015

ORIGINAL BID FORM AND THREE (3) COMPLETE COPIES

To:

BOARD OF COUNTY COMMISSIONERS
ORANGE COUNTY, FLORIDA
INTERNAL OPERATIONS CENTRE II
PROCUREMENT DIVISION
400 E. SOUTH STREET – 2nd FLOOR
ORLANDO, FLORIDA 32801

Bid Opening:

November 3, 2015, - 2:00 PM

COMPANY NAME

COMPLETE MAILING ADDRESS

CITY, COUNTY, STATE, ZIP CODE

TELEPHONE NUMBER FAX NUMBER

CONTACT PERSON E-MAIL ADDRESS

TIN#: _____

NOTE: COMPANY NAME MUST MATCH LEGAL NAME ASSIGNED TO TIN
NUMBER. CURRENT W9 MUST BE SUBMITTED WITH BID/PROPOSAL

PART D

**To the Board of County Commissioners
Orange County, Florida**

The bidder understands that he/she is bidding for a term Contract for which no specific projects have been identified in the Invitation for Bids. The Bidder further acknowledges to the following:

- a. The sites for the work that may be performed under this Contract may be anywhere within Orange County.
- b. Countywide local conditions that may impact the work have been considered.
- c. The Contract Form, General Conditions, Supplementary Conditions, and other Contract documents have been thoroughly examined.
- d. The resultant Contract will contain estimated quantities, unit prices, extended totals and a total estimated contract amount to furnish all labor, materials, plant, equipment, manpower and other resources, including overhead and profit. These costs shall be the means to price any and all Delivery Orders issued thereunder.
- e. Each specific site for work under this Contract shall be issued to the Contractor via Delivery Order per Articles 4, 24, 28, 29 of the General Conditions and other applicable provisions.
- f. This is a unit price Term Contract and the total Estimated Bid is the sum of all pay items total from the Bid Item Schedule, Page D-3.
- g. No specifications or drawings are applicable to the Contract. However, if required, specifications and drawings will apply to individual projects issued under specified Deliver Orders.

**TOTAL ESTIMATED BID:
(BASIC YEAR PLUS OPTION YEARS 1&2)**

_____ **DOLLARS**

(\$ _____)

In the event the Contract is awarded to this Bidder, he/she will enter into a formal written agreement with the County in accordance with the accepted Bid within ten (10) calendar days after said Contract is submitted to him/her. The Bidder further agrees that in the event of the Bidder's default or breach of any of the agreements of this proposal, the said bid deposit shall be forfeited as liquidated damages.

Failure of the Bidder to provide pricing for all unit priced items and/or the Base Bid and ALL requested additive/deductive bid items, or alternate bids shall be cause for rejection of the bid as non-responsive.

Y16-138-J2 BID ITEM SCHEDULE

Base Year					
Item No.	Description	Estimated Quantity	Unit	Unit Price	Total Price
1	Cold Recycled Bituminous Base Course	150,000	SY		
2	Emulsified Asphalt	300,000	GAL		
3	SP 12.5 in place, 1.5" (compacted)	125,000	SY		
4	SP 12.5 in place, 2" (compacted)	50,000	SY		
5	Pavement Markings 6" (Temporary paint, yellow/white)	100,000	SY		
6	Pavement Markings (Temporary paint, messages and arrows)	100	EA		
7	Indemnification	1	LS	\$100.00	\$100.00
Total Bid, Base Year				\$ _____	
Option Year #1					
Item No.	Description	Estimated Quantity	Unit	Unit Price	Total Price
8	Cold Recycled Bituminous Base Course	100,000	SY		
9	Emulsified Asphalt	200,000	GAL		
10	SP 12.5 in place, 1.5" (compacted)	100,000	SY		
11	SP 12.5 in place, 2" (compacted)	10,000	SY		
12	Pavement Markings 6" (Temporary paint, yellow/white)	100,000	LF		
13	Pavement Markings (Temporary paint, messages and arrows)	50	EA		
Total Bid, Option Year #1				\$ _____	
Option Year #2					
Item No.	Description	Estimated Quantity	Unit	Unit Price	Total Price
12	Cold Recycled Bituminous Base Course	100,000	SY		
13	Emulsified Asphalt	200,000	GAL		
14	SP 12.5 in place, 1.5" (compacted)	100,000	SY		
15	SP 12.5 in place, 2" (compacted)	10,000	SY		
15	Pavement Markings 6" (Temporary paint, yellow/white)	100,000	LF		
16	Pavement Markings (Temporary paint, messages and arrows)	50	EA		
Total Bid, Option Year #2				\$ _____	
Total Estimated Bid (Base Year plus Option Years 1 and 2)				\$ _____	

The Bidder hereby agrees that there is attached a:

- | | | | |
|-----|--|------------|--------------------|
| 1. | Non-Collusion Affidavit | Yes | ___ |
| 2. | Required Disclosure | Yes | ___ |
| 3. | M/WBE Forms | | |
| | Employment Data | Yes | ___ |
| | Subcontractor/Supplier Page | Yes | ___ |
| | M/WBE Survey | Yes | ___ |
| 4. | Trench Safety Act Form | Yes | ___ N/A ___ |
| 5. | Drug-Free Workplace Form | Yes | ___ |
| 6. | Good Faith Effort Documentation
(If Goals have not been met) | Yes | ___ No ___ N/A ___ |
| 7. | Three (3) Complete <u>copies</u> of this Bid Form
with <u>all</u> attachments | Yes | ___ |
| 8. | References | Yes | ___ N/A ___ |
| 9. | Bid Bond on Form in Exhibit 1 (10% of Total Estimated
Contract Amount for First Contract Year) | Yes | ___ N/A ___ |
| 10. | Licenses | Yes | ___ N/A ___ |
| 11. | Current W9 | Yes | ___ |
| 12. | Project Expenditure Report, Attachment F | Yes | ___ |
| 13. | Relationship Disclosure Form, Attachment G | Yes | ___ |
| 14. | Verification of Employment Status, Attachment H | Yes | ___ |
| 15. | FDOT PRE-QUALIFICATION (See Page G-5) | Yes | ___ |

ACKNOWLEDGEMENT OF ADDENDA

The Bidder shall acknowledge receipt of any addenda issued to the solicitation by completing the blocks below or by completion of the applicable information on the addendum and returning it not later than the date and time for receipt of the Bid. Failure to acknowledge an addendum that has a material impact on the solicitation may negatively impact the responsiveness of your Bid. Material impacts include but are not limited to changes to specifications, delivery time, performance period, quantities, bonds, letters of credit, insurance, qualifications, etc.

Addendum No. _____ Dated _____ Addendum No. _____ Dated _____

Addendum No. _____ Dated _____ Addendum No. _____ Dated _____

If awarded this construction Contract, the Bidder agrees to complete the work covered by this Contract as specified on each Delivery Order.

The Bidder hereby agrees that the County reserves the right to waive informalities in any Bid and to reject any or all Bids, or to accept any Bid that in its judgement will be for the best interest of the County.

FLORIDA CONSTRUCTION INDUSTRIES LICENSING BOARD CERTIFICATION:

(NAME OF HOLDER) (CERTIFICATION NO.)

(SIGNATURE OF BIDDER) (CERTIFICATE EXPIRATION DATE)

(NAME TYPED)

IDENTIFICATION OF BUSINESS ORGANIZATION

Complete and submit the following information:

Type of Organization

Sole Proprietorship Partnership

Joint Venture Corporation

State of Incorporation: _____

Principal Place of Business (Florida Statute Chapter 607):

City/County/State

THE PRINCIPAL PLACE OF BUSINESS SHALL BE THE ADDRESS OF THE BIDDER'S PRINCIPAL OFFICE AS IDENTIFIED BY THE FLORIDA DIVISION OF CORPORATIONS

AUTHORIZED SIGNATORIES/NEGOTIATORS

The bidder or proposer represents that the following principals are authorized to sign and/or negotiate Contracts and related documents to which the bidder or proposer will be duly bound. Principal is defined as an employee, officer or other technical or professional in a position capable of substantially influencing the development or outcome of an activity required to perform the covered transaction.

Name _____ Title _____ Telephone Number _____ E-Mail Address _____

IN WITNESS WHEREOF, THE BIDDER HAS HEREUNTO SET HIS SIGNATURE AND AFFIXED HIS SEAL THIS _____ DAY OF _____, A.D. 20__.

BY: _____ (SEAL)

TITLE: _____

PRINT NAME AND TITLE

FEDERAL I.D.# _____

NON-COLLUSION AFFIDAVIT

The undersigned being first duly sworn as provided by law, deposes and says:

1. This Affidavit is made with the knowledge and intent that it is to be filed with the Board of County Commissioners, Orange County, Florida and that it will be relied upon by said County, in any consideration which may give to and any action which it may take with respect to this Proposal.

2. The undersigned is authorized to make this Affidavit on behalf of,

(Name of Corporation, Partnership, Individual, etc.)

A _____, formed under the laws of _____

of which he is _____

(Sole Owner, partner, president, etc.)

3. Neither the undersigned nor any other person, firm or corporation named in above Paragraph 2, nor anyone else to the knowledge of the undersigned, have themselves solicited or employed anyone else to solicit favorable action for this Proposal by the County, also that no head of any department or employee therein, or any officer of Orange County, Florida is directly interested therein.

4. This Proposal is genuine and not collusive or a sham; the person, firm or corporation named above in Paragraph 2 has not colluded, conspired, connived or agreed directly indirectly with any Bidder or person, firm or corporation, to put in a sham Proposal, or that such other person, firm or corporation, shall refrain from Bidding, and has not in any manner, directly or indirectly, sought by agreement or collusion, or communication or conference with any person, firm or corporation, to fix the prices of said proposal or proposals of any other Bidder; and all statements contained in the proposal or proposals described above are true; and further, neither the undersigned, nor the person, firm or corporation named above in Paragraph 3, has directly or indirectly submitted said proposal or the contents thereof, or divulged information or data relative thereto, to any association or to any member or agent thereof.

(AFFIANT)

TAKEN, SWORN AND SUBSCRIBED TO BEFORE ME this _____ day of _____, 20__.

Notary Public _____

(SEAL)

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

Personally Known _____ **or Produced Identification** _____

Type of Identification: _____

REQUIRED DISCLOSURE

The following Disclosure is of all material facts pertaining to any felony or civil conviction or any pending felony or civil charges in the last three (3) years in this State or any other State of the United States against 1) Bidder, 2) any business entity related to or affiliated with Bidder, or 3) any present or former executive employee, officer, director, stockholder, partner or owner of Bidder or of any such related or affiliated entity. This Disclosure shall not apply to any person or entity which is only a stockholder, which person or entity owns twenty percent (20) or less of the outstanding shares of a Bidder whose stock is publicly owned and traded.

BIDDER

IFB/RFP Number & Title: _____

EMPLOYMENT DATA, SCHEDULE OF MINORITIES AND WOMEN (Rev. 1/99)

Please provide the following data pertaining to your workforce. If you have an Orange County workforce, it should be shown. If you do not have an Orange county workforce, total permanent workforce should be shown. If this is a Joint Venture, employment data shall be furnished for each firm composing the joint venture. It is mandatory that you provide workforce data. Failure to provide this form with your bid/proposals may be cause for rejection of your bid/proposal.

JOB CATEGORIES	MAJORITY		MINORITY MALES				MINORITY FEMALES				TOTAL
	White Male	White Female	Black	Hispanic	American Indian	Asian American	Black	Hispanic	American Indian	Asian American	
Officials, Mgrs. Supervisors											
Professionals											
Technicians											
Sales Workers											
Office and Clerical											
Craftsman (Skilled)											
Operatives (Semi-Skilled)											
Laborers (Unskilled)											
Service Workers											
Apprentices											
Interns/Co-Ops											
Wages to Work Employees											
TOTAL											
Changes Since Last Report											

The above reflects (Check One): Orange County Workforce Total Permanent Workforce (Outside Orange County)
For Construction Projects Only: Do you intend to hire new employees for the project? Yes No If yes, how many approximately? _____

Name of Firm _____ Period of Report _____ No. of Years in Business in Orange County _____

Form Completed by _____
 Name/Title (Printed or Typed) _____ Signature _____

Form Approved by _____
 Name/Title (Printed or Typed) _____ Signature _____

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PRIME CONTRACTOR/SUBCONTRACTOR/SUPPLIER INFORMATION

If maximum M/WBE participation is desired, bidders must list **all** proposed Subcontractors **and suppliers** to be used. Provide company names; contacts, addresses, phone numbers; work to be performed with the Contractor’s own workforce, including estimated dollar amount allocated for that work (work that is consistently and historically performed in-house); total amount to be paid to this sub/supplier (do not discount supply dollars); and M/WBE designation or if non-M/WBE (Majority). See Instructions to Bidders, Part C, for complete M/WBE requirements. Provide **all** information requested. Use additional sheets if necessary. Failure to provide all of the information requested may negatively impact the M/WBE evaluation.

1. What is the estimated percent of work that the Prime Contractor will self-perform? _____%
 List these areas below with approximate dollar amounts to be allocated for the work.

2. Is all work (whether to be subbed or self-performed) listed below? Yes ____ No ____
 Are all material suppliers listed? Yes ____ No ____
 If no, please explain. _____

3. Is your firm certified through Orange County as an M/WBE? Yes ____ No ____
 (See Part C for specific requirements for certified M/WBE firms)

4. Is your firm registered through Orange County as a Service Disabled-Veteran (SDV)? Yes ____ No ____

5. Did you include any M/WBE credits- First Time Utilization (FTU) or Non-County Utilization (NC) with this bid? (If so, insert copy of credit Yes ____ No ____
 (If so, insert copy of credit and specify credit type below)

	<u>COMPANY NAME, CONTACT ADDRESS, PHONE NUMBER</u>	<u>WORK TO BE PERFORMED (TRADE) OR COMMODITY TO BE SUPPLIED</u>	<u>DOLLAR AMOUNT</u>	O.C. CERTIFIED
				M/WBE or Non-M/WBE; Or SDV; or Type of M/WBE Credit –FTU or NC
1	_____	<u>Sub/Supplier/In-house (Circle One)</u> _____	_____	_____
	_____	_____	_____	_____
	_____	_____	_____	_____
2	_____	<u>Sub/Supplier/In-house (Circle One)</u> _____	_____	_____
	_____	_____	_____	_____
	_____	_____	_____	_____
3	_____	<u>Sub/Supplier/In-house (Circle One)</u> _____	_____	_____
	_____	_____	_____	_____
	_____	_____	_____	_____

Signature of Bidder

Title

PRIME CONTRACTOR/SUBCONTRACTOR/SUPPLIER INFORMATION

<u>COMPANY NAME, CONTACT ADDRESS, PHONE NUMBER</u>	<u>WORK TO BE PERFORMED (TRADE) OR COMMODITY TO BE SUPPLIED</u>	<u>DOLLAR AMOUNT</u>	<u>O.C. CERTIFIED M/WBE or Non-M/WBE; Or SDV; or Type of M/WBE Credit –FTU or NC</u>
4 _____ _____ _____	<u>Sub/Supplier/In-house (Circle One)</u> _____ _____ _____	_____	_____
5 _____ _____ _____	<u>Sub/Supplier/In-house (Circle One)</u> _____ _____ _____	_____	_____
6 _____ _____ _____	<u>Sub/Supplier/In-house (Circle One)</u> _____ _____ _____	_____	_____
7 _____ _____ _____	<u>Sub/Supplier/In-house (Circle One)</u> _____ _____ _____	_____	_____
8 _____ _____ _____	<u>Sub/Supplier/In-house (Circle One)</u> _____ _____ _____	_____	_____
9 _____ _____ _____	<u>Sub/Supplier/In-house (Circle One)</u> _____ _____ _____	_____	_____
10 _____ _____ _____	<u>Sub/Supplier/In-house (Circle One)</u> _____ _____ _____	_____	_____
11 _____ _____ _____	<u>Sub/Supplier/In-house (Circle One)</u> _____ _____ _____	_____	_____

Signature of Bidder

Title

INSTRUCTIONS Contractor shall place the following on their letterhead, executed by their authorized agent. Letter is to be submitted **before 5:00 PM on the second business day (i.e., if bid opens on Thursday, due on Monday before 5:00 PM)** after bid opening to: Orange County Business Development Division; 400 E. South Street; 2nd Floor, Orlando, FL 32801; Fax Number (407) 836-5477. A Letter of Intent is to be executed with all M/WBE Subcontractors and suppliers listed by the Contractor on the Subcontractor/Supplier page submitted with this bid. Any M/WBE's not listed on Subcontractor/Supplier page for this bid will not be accepted. Dollar amounts listed for each Subcontractor shall represent estimated totals for the entire contract, including all Option Years. Failure to submit this form within the required time frame may result in the bid being found non-responsive.

**LETTER OF INTENT
(VERIFICATION M/WBE UTILIZATION)**

IFB # _____ PROJECT TITLE: _____

I, _____, (Prime Contractor) have entered into an agreement with the following Minority/Women-owned Business Enterprise to do the work shown on Attachment C-2 of the Bid Form and shown below. I understand that prior to execution of the prime Contract by Orange County, a subcontract and/or purchase order will be executed with this firm and a copy of the agreement will be sent to the Orange County Business Development Division.

SUBCONTRACTOR/SUPPLIER

SPECIFIC SCOPES OF WORK/COMMODITY

SUBCONTRACT/PURCHASE ORDER PRICE

I understand that I shall not be allowed to substitute or change Subcontractors, without the express prior approval of Orange County's Project Manager and the Business Development Division. Such approval shall in no way relieve my obligations pursuant to Orange County's M/WBE requirements and goals contained in the Orange County Minority/Women Business Enterprise Ordinance, Orange County Code, Chapter 17, Article III, Division 4.

Under penalty of perjury, I declare that I have read the foregoing and the facts stated in it are true. False statements may result in criminal prosecution for a felony of the third degree as provided for in Section 92.525(3), Florida Statutes.

Authorized Agent of Prime Contractor

Authorized Agent, Subcontractor/Supplier

Printed Name & Title

Printed Name & Title

Date: _____

Date: _____

Phone Number

Fax Number

INSTRUCTIONS Contractor shall place the following on their letterhead, executed by their authorized agent. Letter is to be submitted **before 5:00 PM on the second business day (i.e., if bid opens on Thursday , due on Monday before 5:00 PM)** after bid opening to: Orange County Business Development Division; 400 E. South Street; 2nd Floor, Orlando, FL 32801; Fax Number (407) 836-5477. A Letter of Intent is to be executed with all **SDV** Subcontractors and suppliers listed by the Contractor on the Subcontractor/Supplier page submitted with this bid. Any **SDV's** not listed on Subcontractor/Supplier page for this bid will not be accepted. Failure to submit this form within the required time frame may result in the bid being found non-responsive.

**LETTER OF INTENT
(VERIFICATION OF SERVICE-DISABLED VETERAN UTILIZATION)**

IFB # _____ **PROJECT TITLE** _____

I, _____, (Prime Contractor) have entered into an agreement with the following Service-Disabled Veteran Business to do the work shown on Attachment C-2 of the Bid Form and shown below (contingent upon award of the prime contract to our company). I understand that prior to execution of the prime Contract by Orange County, a subcontract and/or purchase order will be executed with this firm and a copy of the agreement will be sent to the Orange County Business Development Division.

SDV SUBCONTRACTOR/SUPPLIER

SPECIFIC SCOPES OF WORK/COMMODITY

SUBCONTRACT/PURCHASE ORDER PRICE

I understand that I shall not be allowed to substitute or change Subcontractors, without the express prior approval of Orange County's Project Manager and the Business Development Division. Such approval shall in no way relieve my obligations pursuant to Orange County's Service-Disable Veteran Business Program requirements contained in the Orange County Ordinance, Orange County Code, Chapter 17, Article III, Division 5.

Under penalty of perjury, I declare that I have read the foregoing and the facts stated in it are true. False statements may result in criminal prosecution for a felony of the third degree as provided for in Section 92.525(3), Florida Statutes.

Authorized Agent of Prime Contractor

Authorized Agent, Subcontractor/Supplier

Printed Name & Title

Printed Name & Title

Date: _____

Date: _____

Phone Number

Fax Number

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M/WBE Survey

Company _____ Contact Name: _____

Contact's Phone Number: _____ IFB #: _____

Please answer the following questions regarding Orange County's M/WBE Program:

1. If you failed to meet the County's M/WBE goal for this solicitation, please check reasons below:

- No M/WBE contractors/suppliers available
- Self-performing more than 75% of the work
- Self-performing 100% of the work
- Prices from M/WBE contractors/suppliers too high
- Other (please explain)

2. If checked "self performing work" in question #1, explain in detail why you propose to self perform the work and list any subcontractors you intend to use. Also, provide a detailed listing of the suppliers, items to be purchased and costs thereof:

3. When you submitted your bid without the desired M/WBE participation, were you concerned that this deficiency would cause rejection of your bid?

Yes No

If no, why not?

4. What steps do you recommend the County take to ensure that the M/WBE goal is achieved on projects of this nature?

5. Do you support the County's M/WBE program?

Yes No

If no, why not?

6. Do you believe you can remain competitive if you fully complied with the County's M/WBE program?

Yes No If no, why not?

7. Do you have any type of working relationship with M/WBE subcontractors?

Yes No

If yes, is it (check all that apply):

Routine business only

Only during bid solicitation

Other (please explain)

8. Do you desire to establish a working relationship with M/WBE subcontractors?

Yes No

9. Are you aware that you could call the Business Development Division for information or additional assistance with M/WBE participation in bid solicitations?

Yes No

10. Please provide any additional comments:

Please note that failure to provide this information with your Bid Proposal may delay the award of the contract. Therefore, a timely response is requested. You may be contacted by staff from the Business Development Division in the near future.

**GOOD FAITH EFFORT M/WBE CONTRACT LOG (See Part C, SECTION 3, Paragraph E-iii)
 (Required only if Good Faith Effort Documentation is being provided as part of this Bid)**

IFB No/ Project Name

Firm's Name/Address	Contact Info: E-mail, Phone and /or fax	Scope of Work (Work to be performed/Trade/or Commodity Supplied)	Date	Name of Person Contacting Firms	Firm to Bid (Y or N)	Date & Time Quote Received	Notes

Under penalty of perjury, I declare that I have read the foregoing and the facts stated in it are true. False statements may result in criminal prosecution for a felony of the third degree as provided for in Section 92.525 (3), Florida Statutes. I, _____, (Signature off Authorized Agent),
 _____ / _____ / _____ (Printed Name, Title, and Date)

COMPLIANCE WITH FLORIDA TRENCH SAFETY ACT (90-96, LAWS OF FLORIDA)

Bidder hereby acknowledges that all costs for complying with the Florida Trench Safety Act are included in the various items of the Bid Schedule or Lump Sum Bid. For informational purposes only, the Bidder is required to further identify these costs in the summary below.

TRENCH SAFETY MEASURE (DESCRIPTION)	UNIT OF MEASURE (LF, SY)	UNIT (QUANTITY)	UNIT COST	EXTENDED COST
A) _____	_____	_____	\$_____	\$_____
B) _____	_____	_____	\$_____	\$_____
C) _____	_____	_____	\$_____	\$_____
D) _____	_____	_____	\$_____	\$_____
			TOTAL	\$_____

SIGNED: _____

TITLE: _____

THIS IS NOT A PAY ITEM: The purpose of this form is to gather information on the costs associated with trench safety measures and to insure that the Bidder has considered these costs and included them in the Bid Schedule or Lump Sum Bid. Contractor will not receive additional payment if actual quantities differ from those estimated or if the Contractor uses a safety measure different than those listed.

(Failure to complete this form may result in the Bid being declared non-responsive.)

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REFERENCES:

Bidder should supply (with the bid form) a list of at least three (3) similar cold recycled bituminous base course projects successfully completed in the State of Florida **by the Bidder, as a Prime or Sub Contractor** within the last eight (8) years. Failure to provide this information may be cause for rejection of the bid. Experience with full depth reclamation (FDR) projects and cold in place base recycling (CIR) projects completed in other states may be considered acceptable as references for this contract once the Contractor confirms through the Management Plan that equipment and process methodology are consistent with the requirements for CIR as specified herein. However, the intent of this contract is for cold in place base recycling (CIR), and hence the full depth reclamation process will not be accepted as part of the scope of work for this contract.

In the event sub-contractors are to be used to provide required cold in-place base course recycling services, the prime contractor shall submit at least three similar cold in-place base recycling projects (as required in contract documents) successfully completed by the bidder (using the sub-contractor) within the past five (5) years.

The Bidder shall have completed a minimum of 100,000 square yards of cold in place recycling projects. The below elements must be demonstrated collectively among submitted projects:

1. Cold in place base recycling,
2. Resurfacing, overlay,
3. Temporary pavement markings,
4. Maintenance of traffic.

FDOT PRE-QUALIFICATION – The Contractor and/or applicable sub-contractor must currently be Florida Department of Transportation pre-qualified in the area of Flexible Paving. **This certification shall be submitted with the bid.**

The determination of whether a bidder is responsible or not shall be at the sole discretion of the County. Although the County may request submission of a minimum number of similar projects for evaluation, the County's determination of a bidder's responsibility shall not be solely based on the number of similar projects submitted.

The contact person listed as a reference shall be someone who has personal knowledge of the Bidder's performance during the referenced project. Contact persons must have been informed that they are being used as a reference and that the County will be calling or emailing them.

1. Project Name _____
Owner _____
Contact _____
Address _____

Telephone Number/Email Address _____
Contract Number and Amount # _____ \$ _____
Change Orders \$ _____
Final Contract \$ _____
Completed on Schedule? _____ Date: _____
Project Description _____

2. Project Name _____
Owner _____
Contact _____
Address _____

Telephone Number/Email Address _____
Contract Number and Amount # _____ \$ _____
Change Orders \$ _____
Final Contract \$ _____
Completed on Schedule? _____ Date: _____
Project Description _____

3. Project Name _____

Owner _____

Contact _____

Address _____

Telephone Number/Email Address _____

Contract Number and Amount # _____ \$ _____

Change Orders \$ _____

Final Contract \$ _____

Completed on Schedule? _____ Date: _____

Project Description _____

4. Project Name _____

Owner _____

Contact _____

Address _____

Telephone Number/Email Address _____

Contract Number and Amount # _____ \$ _____

Change Orders \$ _____

Final Contract \$ _____

Completed on Schedule? _____ Date: _____

Project Description _____

ATTACHMENT E

5. Project Name _____
Owner _____
Contact _____
Address _____

Telephone Number/Email Address _____

Contract Number and Amount # _____ \$ _____

Change Orders \$ _____

Final Contract \$ _____

Completed on Schedule? _____ Date: _____

Project Description _____

6. Project Name _____
Owner _____
Contact _____
Address _____

Telephone Number/Email Address _____

Contract Number and Amount # _____ \$ _____

Change Orders \$ _____

Final Contract \$ _____

Completed on Schedule? _____ Date: _____

Project Description _____

ATTACHMENT E

For Staff Use Only:

Specific Project Expenditure Report (Revised November 5, 2010)

Initially submitted on _____

For use as of March 1, 2011

Updated On _____

COLD IN-PLACE BITUMINOUS BASE RECYCLING WITH ASPHALT RESURFACING

Case or Bid No. **Y16-138 -J2**

ORANGE COUNTY SPECIFIC PROJECT EXPENDITURE REPORT

This lobbying expenditure form shall be completed in full and filed with all application submittals. This form shall remain cumulative and shall be filed with the department processing your application. Forms signed by a principal's authorized agent shall include an executed Agent Authorization Form.

This is the initial Form: _____

This is a Subsequent Form: _____

Part I

Please complete all of the following:

Name and Address of Principal (legal name of entity or owner per Orange County tax rolls): _____

Name and Address of Principal's Authorized Agent, if applicable: _____

List the name and address of all lobbyists, consultants, contractors, subcontractors, individuals or business entities who will assist with obtaining approval for this project. (Additional forms may be used as necessary.)

1. Name and address of individual or business entity: _____
Are they registered Lobbyist? Yes ___ or No___
2. Name and address of individual or business entity: _____
Are they registered Lobbyist? Yes ___ or No___
3. Name and address of individual or business entity: _____
Are they registered Lobbyist? Yes ___ or No___
4. Name and address of individual or business entity: _____
Are they registered Lobbyist? Yes ___ or No___
5. Name and address of individual or business entity: _____
Are they registered Lobbyist? Yes ___ or No___
6. Name and address of individual or business entity: _____
Are they registered Lobbyist? Yes ___ or No___
7. Name and address of individual or business entity: _____
Are they registered Lobbyist? Yes ___ or No___
8. Name and address of individual or business entity: _____
Are they registered Lobbyist? Yes ___ or No___

For Staff Use Only:

Specific Project Expenditure Report (Revised November 5, 2010)

Initially submitted on _____

For use as of March 1, 2011

Updated On _____

COLD IN-PLACE BITUMINOUS BASE RECYCLING WITH ASPHALT RESURFACING

Case or Bid No. **Y16-138 -J2**

Company Name: _____

Part II

Expenditures:

For this report, an "expenditure" means money or anything of value given by the principal and/or his/her lobbyist for the purpose of lobbying, as defined in section 2-351, Orange County Code. This may include public relations expenditures including, but not limited to, petitions, fliers, purchase of media time, cost of print and distribution of publications. However, the term "expenditure" **does not** include:

- Contributions or expenditures reported pursuant to chapter 106, Florida Statutes;
- Federal election law, campaign-related personal services provided without compensation by individuals volunteering their time;
- Any other contribution or expenditure made by or to a political party;
- Any other contribution or expenditure made by an organization that is exempt from taxation under 26 U.S.C. s. 527 or s. 501(c)(4), in accordance with s.112.3215, Florida Statutes; and/or
- Professional fees paid to registered lobbyists associated with the project or item.

The following is a complete list of all lobbying expenditures and activities (including those of lobbyists, contractors, consultants, etc.) incurred by the principal or his/her authorized agent and expended in connection with the above-referenced project or issue. **You need not include de minimus costs (under \$50) for producing or reproducing graphics, aerial photographs, photocopies, surveys, studies or other documents related to this project.**

Date of Expenditure	Name of Party Incurring Expenditure	Description of Activity	Amount Paid
TOTAL EXPENDED THIS REPORT			\$

For Staff Use Only:

Specific Project Expenditure Report (Revised November 5, 2010)

Initially submitted on _____

For use as of March 1, 2011

Updated On _____

COLD IN-PLACE BITUMINOUS BASE RECYCLING WITH ASPHALT RESURFACING

Case or Bid No. **Y16-138 -J2**

Company Name: _____

Part III

ORIGINAL SIGNATURE AND NOTARIZATION REQUIRED

I hereby certify that information provided in this specific project expenditure report is true and correct based on my knowledge and belief. I acknowledge and agree to comply with the requirement of section 2-354, of the Orange County code, to amend this specific project expenditure report for any additional expenditure(s) incurred relating to this project prior to the scheduled Board of County Commissioner meeting. I further acknowledge and agree that failure to comply with these requirements to file the specific expenditure report and all associated amendments may result in the delay of approval by the Board of County Commissioners for my project or item, any associated costs for which I shall be held responsible. In accordance with s. 837.06, Florida Statutes, I understand and acknowledge that whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor in the second degree, punishable as provided in s. 775.082 or s. 775.083, Florida Statutes.

Date: _____

Signature of Principal or Principal's Authorized Agent
(check appropriate box)

PRINT NAME AND TITLE: _____

STATE OF _____ :

COUNTY OF _____ :

I certify that the foregoing instrument was acknowledged before me this ____ day of _____, 20__ by _____ He/she is personally known to me or has produced _____ as identification and did/did not take an oath.

Witness my hand and official seal in the county and state stated above on the ____ day of _____, in the year _____.

(Notary Seal)

Signature of Notary Public
Notary Public for the State of _____
My Commission Expires: _____

Staff signature and date of receipt of form _____

Staff reviews as to form and does not attest to the accuracy or veracity of the information provided herein.

For Staff Use Only:

Initially submitted on _____

Updated On _____

**COLD IN-PLACE BITUMINOUS BASE RECYCLING WITH ASPHALT
RESURFACING**

Case or Bid No. **Y16-138 -J2**

**FREQUENTLY ASKED QUESTIONS (FAQ) ABOUT THE SPECIFIC PROJECT
EXPENDITURE REPORT**

Updated 3-1-11

WHAT IS A SPECIFIC PROJECT EXPENDITURE REPORT (SPR)?

A Specific Project Expenditure Report (SPR) is a report required under Section 2-354(b) of the Orange County Lobbying Ordinance, codified at Article X of Chapter 2 of the Orange County Code, reflecting all lobbying expenditures incurred by a principal and his/her authorized agent(s) and the principal's lobbyist(s), contractor(s), subcontractor(s), and consultant(s), if applicable, for certain projects or issues that will ultimately be decided by the Board of County Commissioners (BCC).

Matters specifically exempt from the SPR requirement are ministerial items, resolutions, agreements in settlement of litigation matters in which the County is a party, ordinances initiated by County staff, and some procurement items, as more fully described in 2.20 of the Administrative Regulations.

Professional fees paid by the principal to his/her lobbyist for the purpose of lobbying need not be disclosed on this form. (See Section 2-354(b), Orange County Code.)

WHO NEEDS TO FILE THE SPR?

The principal or his/her authorized agent needs to complete and sign the SPR and warrant that the information provided on the SPR is true and correct.

A principal that is a governmental entity does not need to file an SPR.

HOW ARE THE KEY RELEVANT TERMS DEFINED?

Expenditure means "a payment, distribution, loan, advance, reimbursement, deposit, or anything of value made by a lobbyist or principal for the purpose of lobbying. This may include public relations expenditures (including but not limited to petitions, flyers, purchase of media time, cost of print and distribution of publications) but does not include contributions or expenditures reported pursuant to Chapter 106, Florida Statutes, or federal election law, campaign-related personal services provided without compensation by individuals volunteering their time, any other contribution or expenditure made by or to a political party, or any other contribution or expenditure made by an organization that is exempt from taxation under 26 U.S.C. s. 527 or s. 501(c)(4)." (See Section 112.3215, Florida Statutes.) Professional fees paid by the principal to his/her lobbyist for the purpose of lobbying are not deemed to be "expenditures." (See Section 2-354, Orange County Code.)

Lobbying means seeking "to encourage the approval, disapproval, adoption, repeal, rescission, passage, defeat or modification of any ordinance, resolution, agreement, development permit, other type of permit, franchise, vendor, consultant, contractor, recommendation, decision or other foreseeable action of the [BCC]," and "include[s] all communications, regardless of whether initiated by the lobbyist or by the person being lobbied, and regardless of whether oral, written or electronic." (See Section 2-351, Orange County Code.) Furthermore, *lobbying* means communicating "directly with the

County Mayor, with any other member of the [BCC], or with any member of a procurement committee.” (See Section 2-351, Orange County Code.) *Lobbying* also means communicating “indirectly with the County Mayor or any other member of the [BCC]” by communicating with any staff member of the Mayor or any member of the BCC, the county administrator, any deputy or assistant county administrator, the county attorney, any county department director, or any county division manager. (See Section 2-351, Orange County Code.) *Lobbying* does not include the act of appearing before a Sunshine Committee, such as the Development Review Committee or the Roadway Agreement Committee other than the BCC.

Principal means “the person, partnership, joint venture, trust, association, corporation, governmental entity or other entity which has contracted for, employed, retained, or otherwise engaged the services of a lobbyist.” *Principal* may also include a person, partnership, joint venture, trust, association, corporation, limited liability corporation, or other entity where it or its employees do not qualify as a lobbyist under the definition set forth in Section 2-351 of the Orange County Code but do perform lobbying activities on behalf of a business in which it has a personal interest.

DOES THE SPR NEED TO BE UPDATED IF INFORMATION CHANGES?

Yes. It remains a continuing obligation of the principal or his/her authorized agent to update the SPR whenever any of the information provided on the initial form changes.

WHERE DO THE SPR AND ANY UPDATES NEED TO BE FILED?

The SPR needs to be filed with the County Department or County Division processing the application or matter. If and when an additional expenditure is incurred subsequent to the initial filing of the SPR, an amended SPR needs to be filed with the County Department or County Division where the original application, including the initial SPR, was filed.

WHEN DO THE SPR AND ANY UPDATES NEED TO BE FILED?

In most cases, the initial SPR needs to be filed with the other application forms. The SPR and any update must be filed with the appropriate County Department or County Division not less than seven (7) days prior to the BCC hearing date so that they may be incorporated into the BCC agenda packet. (See Section 2-354(b), Orange County Code.) When the matter is a discussion agenda item or is the subject of a public hearing, and any additional expenditure occurs less than 7 days prior to BCC meeting date or updated information is not included in the BCC agenda packet, the principal or his/her authorized agent is obligated to verbally present the updated information to the BCC when the agenda item is heard or the public hearing is held. When the matter is a consent agenda item and an update has not been made at least 7 days prior to the BCC meeting or the update is not included in the BCC agenda packet, the item will be pulled from the consent agenda to be considered at a future meeting.

WHO WILL BE MADE AWARE OF THE INFORMATION DISCLOSED ON THE SPR AND ANY UPDATES?

The information disclosed on the SPR and any updates will be a public record as defined by Chapter 119, Florida Statutes, and therefore may be inspected by any interested person. Also, the information will be made available to the Mayor and the BCC members. This information will accompany the other information for the principal's project or item.

CONCLUSION:

We hope you find this FAQ useful to your understanding of the SPR. Please be informed that in the event of a conflict or inconsistency between this FAQ and the requirements of the applicable ordinance governing specific project expenditure reports, the ordinance controls.

Also, please be informed that the County Attorney's Office is not permitted to render legal advice to a principal, his/her authorized agent, or any other outside party. Accordingly, if after reading this FAQ the principal, his/her authorized agent or an outside party has any questions, he/she is encouraged to contact his/her own legal counsel.

For Staff Use Only:

Date Submitted _____

Date Updated _____

Bid Number **Y16-138 -J2**

RELATIONSHIP DISCLOSURE FORM
FOR USE WITH PROCUREMENT ITEMS, EXCEPT THOSE WHERE THE COUNTY
IS THE PRINCIPAL OR PRIMARY APPLICANT

For procurement items that will come before the Board of County Commissioners for final approval, this form shall be completed by the bidder, offerer, quoter or respondent and shall be submitted to the Procurement Division by the bidder, offerer, quoter or respondent.

In the event any information provided on this form should change, the applicant must file an amended form on or before the date the item is considered by the appropriate board or body.

Part I

**INFORMATION ON APPLICANT (BIDDER, OFFEROR, QUOTER,
PROPOSER, OR RESPONDENT):**

Legal Name of Applicant: _____

Business Address (Street/P.O. Box, City and Zip Code): _____

Business Phone () _____

Facsimile () _____

**INFORMATION ON APPLICANT'S AUTHORIZED AGENT, IF
APPLICABLE:**

(Agent Authorization Form also required to be attached)

Name of Applicant's Authorized Agent:

Business Address (Street/P.O. Box, City and Zip Code): _____

Business Phone () _____

Facsimile () _____

OC CE FORM 2P

FOR PROCUREMENT-RELATED ITEMS (November 5, 2010)

For use after March 1, 2011

For Staff Use Only:

Date Submitted _____

Date Updated _____

Bid Number **Y16-138 -J2**

Company Name: _____

Part II

IS THE APPLICANT A RELATIVE OF THE MAYOR OR ANY MEMBER OF THE BCC?

___ YES ___ NO

IS THE MAYOR OR ANY MEMBER OF THE BCC THE APPLICANT'S EMPLOYEE?

___ YES ___ NO

IS THE APPLICANT OR ANY PERSON WITH A DIRECT BENEFICIAL INTEREST IN THE OUTCOME OF THIS MATTER A BUSINESS ASSOCIATE OF THE MAYOR OR ANY MEMBER OF THE BCC?

___ YES ___ NO

If you responded "YES" to any of the above questions, please state with whom and explain the relationship:

(Use additional sheets of paper if necessary)

For Staff Use Only:

Date Submitted _____

Date Updated _____

Bid Number **Y16-138 -J2**

Company Name: _____

Part III

ORIGINAL SIGNATURE AND NOTARIZATION REQUIRED

I hereby certify that information provided in this relationship disclosure form is true and correct based on my knowledge and belief. If any of this information changes, I further acknowledge and agree to amend this relationship disclosure form prior to any meeting at which the above-referenced project is scheduled to be heard. In accordance with s. 837.06, Florida Statutes, I understand and acknowledge that whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor in the second degree, punishable as provided in s. 775.082 or s. 775.083, Florida Statutes.

Signature of Applicant

Date: _____

Print Name and Title of Person completing this form: _____

STATE OF _____ :
COUNTY OF _____ :

I certify that the foregoing instrument was acknowledged before me this ____ day of _____, 20__ by _____. He/she is personally known to me or has produced _____ as identification and did/did not take an oath.

Witness my hand and official seal in the county and state stated above on the ____ day of _____, in the year _____.

(Notary Seal)

Signature of Notary Public
Notary Public for the State of _____
My Commission Expires:

Staff signature and date of receipt of form

Staff reviews as to form and does not attest to the accuracy or veracity of the information provided herein.

AGENT AUTHORIZATION FORM

FOR PROCUREMENTS IN ORANGE COUNTY, FLORIDA



I/WE, (PRINT BIDDER, OFFEROR, QUOTER OR RESPONDENT NAME)

_____, DO HEREBY AUTHORIZE TO ACT AS MY/OUR AGENT (PRINT AGENT'S NAME), _____, TO EXECUTE ANY PETITIONS OR OTHER DOCUMENTS NECESSARY TO AFFECT THE CONTRACT APPROVAL PROCESS MORE SPECIFICALLY DESCRIBED AS FOLLOWS, IFB NO. Y16- 138-J2, COLD IN-PLACE BITUMINOUS BASE RECYCLING WITH ASPHALT RESURFACING, AND TO APPEAR ON MY/OUR BEHALF BEFORE ANY ADMINISTRATIVE OR LEGISLATIVE BODY IN THE COUNTY CONSIDERING THIS CONTRACT AND TO ACT IN ALL RESPECTS AS OUR AGENT IN MATTERS PERTAINING TO THIS CONTRACT.

Date: _____

Signature of Bidder, Offeror, Quoter or Respondent

STATE OF _____ :
COUNTY OF _____ :

I certify that the foregoing instrument was acknowledged before me this _____ day of _____, 20__ by _____. He/she is personally known to me or has produced _____ as identification and did/did not take an oath.

Witness my hand and official seal in the county and state stated above on the _____ day of _____, in the year _____.

(Notary Seal)

Signature of Notary Public
Notary Public for the State of _____

My Commission Expires: _____

FREQUENTLY ASKED QUESTIONS (FAQ)
ABOUT THE
RELATIONSHIP DISCLOSURE FORM

Updated 6-28-11

WHAT IS THE RELATIONSHIP DISCLOSURE FORM?

The Relationship Disclosure Form (form OC CE 2D and form OC CE 2P) is a form created pursuant to the County's Local Code of Ethics, codified at Article XIII of Chapter 2 of the Orange County Code, to ensure that all development-related items and procurement items presented to or filed with the County include information as to the relationship, if any, between the applicant and the County Mayor or any member of the Board of County Commissioners (BCC). The form will be a part of the backup information for the applicant's item.

WHY ARE THERE TWO RELATIONSHIP DISCLOSURE FORMS?

Form OC CE 2D is used only for development-related items, and form OC CE 2P is used only for procurement-related items. The applicant needs to complete and file the form that is applicable to his/her case.

WHO NEEDS TO FILE THE RELATIONSHIP DISCLOSURE FORM?

Form OC CE 2D should be completed and filed by the owner of record, contract purchaser, or authorized agent. Form OC CE 2P should be completed and filed by the bidder, offeror, quoter, or respondent, and, if applicable, their authorized agent. In all cases, the person completing the form must sign the form and warrant that the information provided on the form is true and correct.

WHAT INFORMATION NEEDS TO BE DISCLOSED ON THE RELATIONSHIP DISCLOSURE FORM?

The relationship disclosure form needs to disclose pertinent background information about the applicant and the relationship, if any, between, on the one hand, the applicant and, if applicable, any person involved with the item, and on the other hand, the Mayor or any member of the BCC.

In particular, the applicant needs to disclose whether any of the following relationships exist: (1) the applicant is a business associate of the Mayor or any member of the BCC; (2) any person involved with the approval of the item has a beneficial interest in the outcome of the matter *and* is a business associate of the Mayor or any member of the BCC; (3) the applicant is a relative of the Mayor or any member of the BCC; or (4) the Mayor or any member of the BCC is an employee of the applicant. (See Section 2-454, Orange County Code.)

HOW ARE THE KEY RELEVANT TERMS DEFINED?

Applicant means, for purposes of a development-related project, the owner, and, if applicable, the contract purchaser or owner's authorized agent. *Applicant* means, for purposes of a procurement item, the bidder, offeror, quoter, respondent, and, if applicable, the authorized agent of the bidder, offeror, quoter, or respondent.

Business associate means any person or entity engaged in or carrying on a business enterprise with a public officer, public employee, or candidate as a partner, joint venture, corporate shareholder where the shares of such corporation are not listed on any national or regional stock exchange, or co-owner of property. In addition, the term includes any person or entity engaged in or carrying on a business enterprise, or otherwise engaging in common investment, with a public officer, public employee, or candidate as a partner, member, shareholder, owner, co-owner, joint venture partner, or other investor, whether directly or indirectly, whether through a Business Entity or through interlocking Parent Entities, Subsidiary Entities, or other business or investment scheme, structure, or venture of any nature. (See Section 112.312(4), Florida Statutes, and Section 2-452(b), Orange County Code.)

Employee means any person who receives remuneration from an employer for the performance of any work or service while engaged in any employment under any appointment or contract for hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed, and includes, but is not limited to, aliens and minors. (See Section 440.02(15), Florida Statutes.)

Relative means an individual who is related to a public officer or employee as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, grandparent, great grandparent, grandchild, great grandchild, step grandparent, step great grandparent, step grandchild, step great grandchild, person who is engaged to be married to the public officer or employee or who otherwise holds himself or herself out as or is generally known as the person whom the public officer or employee intends to marry or with whom the public officer or employee intends to form a household, or any other natural person having the same legal residence as the public officer or employee. (See Section 112.312(21), Florida Statutes.)

DOES THE RELATIONSHIP DISCLOSURE FORM NEED TO BE UPDATED IF INFORMATION CHANGES?

Yes. It remains a continuing obligation of the applicant to update this form whenever any of the information provided on the initial form changes.

WHERE DO THE RELATIONSHIP DISCLOSURE FORM AND ANY SUBSEQUENT UPDATES NEED TO BE FILED?

For a development-related item, the Relationship Disclosure Form and any update need to be filed with the County Department or County Division where the applicant filed the application. For a procurement item, the Relationship Disclosure Form and any update need to be filed with the Procurement Division.

WHEN DO THE RELATIONSHIP DISCLOSURE FORM AND ANY UPDATES NEED TO BE FILED?

In most cases, the initial form needs to be filed when the applicant files the initial development-related project application or initial procurement-related forms. However, with respect to a procurement item, a response to a bid will not be deemed unresponsive if this form is not included in the initial packet submitted to the Procurement Division.

If changes are made after the initial filing, the final, cumulative Relationship Disclosure Form needs to be filed with the appropriate County Department or County Division processing the application not less than seven (7) days prior to the scheduled BCC agenda date so that it may be incorporated into the BCC agenda packet. When the matter is a discussion agenda item or is the subject of a public hearing, and an update has not been made at least 7 days prior to BCC meeting date or is not included in the BCC agenda packet, the applicant is obligated to verbally present such update to the BCC when the agenda item is heard or the public hearing is held. When the matter is a consent agenda item and an update has not been made at least 7 days prior to the BCC meeting or the update is not included in the BCC agenda packet, the item will be pulled from the consent agenda to be considered at a future meeting.

WHO WILL REVIEW THE INFORMATION DISCLOSED ON THE RELATIONSHIP DISCLOSURE FORM AND ANY UPDATES?

The information disclosed on this form and any updates will be a public record as defined by Chapter 119, Florida Statutes, and may therefore be inspected by any interested person. Also, the information will be made available to the Mayor and the BCC members. This form and any updates will accompany the information for the applicant's project or item.

However, for development-related items, if an applicant discloses the existence of one or more of the relationships described above and the matter would normally receive final consideration by the Concurrency Review Committee or the Development Review Committee, the matter will be directed to the BCC for final consideration and action following committee review.

CONCLUSION:

We hope you find this FAQ useful to your understanding of the Relationship Disclosure Form. Please be informed that if the event of a conflict or inconsistency between this FAQ and the requirements of the applicable ordinance or law governing relationship disclosures, the ordinance or law controls.

Also, please be informed that the County Attorney's Office is not permitted to render legal advice to an applicant or any other outside party. Accordingly, if the applicant or an outside party has any questions after reading this FAQ, he/she is encouraged to contact his/her own legal counsel.

E VERIFICATION CERTIFICATION

IFB NO. Y16-138-J2

NAME OF CONTRACTOR: _____ (referred to herein as “Contractor”)

ADDRESS OF CONTRACTOR:

The undersigned does hereby certify that the above named contractor:

- 1. Is registered and is using the E-Verify system; or
- 2. Does not have any employees and does not intend to hire any new employees during the period of time that the contractor will be providing services under the contract and consequently is unable to register to use the E-Verify system; or
- 3. Employs individuals that were hired prior to the commencement of providing labor on the contract and does not intend to hire any new employees during the period of time that the contractor will be providing labor under the contract, and consequently is unable to use the E-Verify system.

The undersigned acknowledges the use of the E-Verify system for newly hired employees is an ongoing obligation for so long as the contractor provides labor under the contract and that the workforce eligibility of all newly hired employees will be properly verified using the E-Verify system.

In accordance with Section 837.06, Florida Statutes, Contractor acknowledges that whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duties shall be guilty of a misdemeanor in the second degree, punishable as provided in Section 775.082 or Section 775.083, Florida Statutes.

AUTHORIZED SIGNATURE: _____

NAME: _____

TITLE: _____

DATE: _____

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BID BOND

BOND NUMBER _____

STATE OF FLORIDA)

SS

COUNTY OF ORANGE)

KNOW ALL MEN BY THESE PRESENTS, that we, _____, as Principal, and _____, as Surety, are held firmly bound unto Orange County, Florida, in the penal sum of: \$ _____ Dollars, **(Ten percent {10%} of base bid if no amount entered) (Total Sum Written in Words)**

lawful money of the United States, for the payment of which sum well and truly to be made, we bound ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal has submitted the attached Bid, dated the _____ day of _____, **20**__, for a Contract entitled: **COLD IN-PLACE BITUMINOUS BASE RECYCLING WITH ASPHALT RESURFACING, IFB Y16-138-J2**.

NOW THEREFORE, if the Principal shall withdraw said Bid prior to the date of opening the same, or shall within ten (10) days after the prescribed forms are presented to him for signature, enter in a written Contract with Orange County, Florida, in accordance with the Bid as accepted, and give a Performance Bond and a Payment Bond with good and sufficient Surety or sureties as may be required, for the faithful performance and proper fulfillment of such Contract and for prompt payment of all persons furnishing labor or materials in connection therewith, or in the event of the failure to enter into such Contract and give such Bonds within the time specified, if the Principal shall pay the County the difference between the amount specified in said Bid and the amount for which the County may procure the required work and/or supplies, provided the latter amount to be in excess of the former, then the above obligations shall be void and of no effect; otherwise to remain in full force and virtue.

IN WITNESS WHEREOF, the above written parties have executed this instrument under their several seals this the _____ day of _____, **20**__, the name and corporate seal of each corporate party being affixed and these presents duly signed by its undersigned, pursuant to authority of its governing body.

CONTRACTOR-PRINCIPAL:

SURETY:

NAME OF BUSINESS ENTITY

NAME OF SURETY

SIGNATURE

SIGNATURE: SURETY AGENT

(SEAL)

(SEAL)

TYPE NAME AND TITLE

TYPE NAME AND TITLE

BUSINESS ADDRESS

BUSINESS ADDRESS

TELEPHONE

TELEPHONE

NAIC NUMBER: _____

Licensed Florida Insurance Agent? Yes _____ No _____

License Number: _____

STATE OF _____)

COUNTY OF _____) SS

CITY OF _____)

Before me, a Notary Public duly commissioned, qualified and acting personally, appeared:

to me well known, who being by me first duly sworn upon oath says that he is Attorney-in-Fact for

as Surety, and that he has been authorized by said Surety to execute the foregoing Bid Bond on behalf of the Principal (CONTRACTOR) named therein in favor of the owner.

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

Notary Public

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

Personally Known _____ or Produced Identification _____

Type of Identification: _____

In accordance with Part C, Section 19 and Part F Article 8 of the Invitation for Bids, if applicable, list the Lead Surety.

LEAD SURETY AGENT FOR SURETY _____

Signature _____

BY: _____ AGENCY ADDRESS: _____

SURETY ADDRESS: _____

PHONE _____

**BOARD OF COUNTY COMMISSIONERS
ORANGE COUNTY, FLORIDA
CONSTRUCTION TERM CONTRACT**

CONTRACT:

Made between the Board of County Commissioners, Orange County, Florida (hereinafter called COUNTY), represented by the Manager of the Procurement Division executing this Contract, and:

>

Federal Identification Number: >

The CONTRACTOR shall perform all the Work required by the Contract Documents for the proper execution and completion of **COLD IN-PLACE BITUMINOUS BASE RECYCLING WITH ASPHALT RESURFACING** in full accordance with the drawings and as elaborated in the specifications of **Invitation for Bids No. Y16-138-J2** (hereinafter referred to as IFB) which is made a part of this Contract as completely as if set forth herein.

I

AMOUNT OF CONTRACT:

The County shall pay the Contractor in current funds, and in accordance with the progress payment schedule as stated herein, for the performance of the work, subject to additions and deductions by Change Order as provided in the Contract Documents, the estimated amount of > Dollars (\$>).

II

ASBESTOS FREE MATERIALS:

All work under this Contract will be constructed with asbestos free materials. A written, notarized statement on company letterhead is to be submitted with the executed Contract certifying this fact. All payments shall be withheld until such statement is submitted.

Contractor shall agree that if materials containing asbestos are subsequently discovered at any future time to have been included in the construction done by the Contractor or any of its Subcontractors or agents and were not specified in the design or required by the Contract document, Contractor shall be liable for all costs related to the abatement of such asbestos and damages or claims against the County.

III

ADMINISTRATIVE DATA:

Payments: Based upon invoices submitted to the Project Manager by the Contractor and Delivery Orders issued by the Project Manager, the County shall make payments against the Contract to the Contractor as provided in the Contract Documents.

Should the Contractor fail to complete all Work on or before the date stipulated for completion on a Delivery Order, or such later date as may result from an extension granted by the County, he shall pay and/or the County may retain from the compensation otherwise to be paid to the Contractor, as liquidated damages, the sum of **\$200.00** for each consecutive calendar day after the date allowed by the Delivery Order until the entire work is complete, which sum is agreed upon as a reasonable and proper measure of damages which County will sustain per diem by failure of Contractor to complete the Work within time as stipulated; it being recognized by County and Contractor that the injury to County which could result from a failure of Contractor to complete on schedule is uncertain and cannot be computed exactly. In no way shall costs for liquidated damages be construed as a penalty on the Contractor.

IV **CONTRACT DOCUMENTS:**

This Contract entered into this date by the Board of County Commissioners hereinafter called the County, represented by the Manager of the Procurement Division executing this Contract and the individual, partnership or corporation named above, hereinafter called the Contractor. Witnesseth that the parties hereto do mutually agree as follows:

- A. The Contractor shall furnish all labor, equipment and materials and perform the Work described for the amount specified in individual Delivery Order in strict accordance with the General Conditions, Supplementary Conditions/Special Provisions, Plans and Specifications and other Contract Documents, all of which are made a part hereof and designated as follows:
1. Orange County Invitation for Bids/Project Manual, **IFB No. Y16-138-J2**, dated **September 30, 2015**; (which contains the Invitation for Bids, Notice, Instruction to Bidders, Bid Form and Attachments, this Contract, required Bonds and insurance certificates, General Conditions, Supplementary Conditions/Special Provisions, and Specifications);
 2. Addendum No. >; dated>;
 3. >'s Bid Proposal dated **November 3, 2015**;
 4. Certificates of Insurance;
 5. Payment/Performance Bonds;

B. The order of precedence of items and documents is as follows:

Construction Contract
Permits
Supplemental Conditions/Special Provisions
General Conditions
Specifications/Technical Provisions
Drawings/Plans
Road Design, Structures, and Traffic Operations Standards (If applicable)
Florida Department of Transportation Standard Specifications for Road
and Bridge Construction (If applicable)
Bid Proposal
Instructions to Bidders

C. Contract Type:

This is a Requirements Contract and the County's intent is to order from the Contractor all of the goods or services specified in the contract's price schedule that are required to be purchased by the County. If the County urgently requires delivery of goods or services before the earliest date that delivery may be required under this contract, and if the contractor will not accept an order providing for accelerated delivery, the County may acquire the goods or services from another source.

The County's requirements in this contract are estimated and there is no commitment by the County to order any specified amount. Also, if the estimated quantities are not achieved, this shall not be the basis for an equitable adjustment.

Moreover, if the Manager of the Procurement Division determines that the Contractor's performance is less than satisfactory, the County may order the goods or services from other sources until the deficient performance has been cured or the contract terminated.

ORDER LIMITATIONS

a. Minimum Order - When the County requires goods or services covered by this contract in an amount less than **\$5,000.**, the County is not obligated to purchase, nor is the Contractor obligated to provide these goods or services under the contract.

b. Maximum Order – The Contractor is not obligated to honor any order for goods or services in excess of **\$500,000.**

D. Delivery Orders shall not exceed \$500,000 without the express written authority of the Manager, Procurement Division.

E. This Contract is effective >, 20__ and shall remain effective through >, 20__.

- F. This Contract may be unilaterally renewed as provided in the Contract Documents, Part F, Article 26, "Option to Extend the Term of the Contract". Any amendments to this Contract must be in writing.
- G. This Contract may be cancelled or terminated as provided for in the Invitation for Bids.
- H. Ordering against the Contract:
 - 1. Unless otherwise specified in the Contract, the County will place orders by issuance of a numbered Delivery Order against this Contract. Each Delivery Order will specify the locations, description and completion time of the work.
 - 2. The obligations of Orange County under this Contract are subject to need and availability of funds lawfully appropriated for its purpose by the Board of County Commissioners, or other specified funding source for this contract.

I. Taxes:

The County has the following tax exemption certificates assigned:

- 1. Certificate of Registry No. 59-70-004K for tax free transactions under Chapter 32, Internal Revenue Code;
- 2. Florida Sales and Use Tax Exemption Certificate No. 58-12-090729-53C.

J. Invoicing:

- 1. Invoices must be submitted, in duplicate, referencing this Contract number and the Delivery Order number to:

Public Works Department / Roads & Drainage Division
 4200 S. John Young Parkway
 Orlando, Florida 32839

- 2. Invoices against this Contract are authorized only at the prices stated in your Bid response, unless otherwise provided in the Invitation for Bid.

V

TIME OF COMMENCEMENT AND FINAL COMPLETION:

Work to be completed within period specified on individual Delivery Orders, unless amended by written Change Order executed by both parties to this Contract.

VI

COMPLIANCE WITH M/WBE CONTRACT REQUIREMENTS:

By entering into this Contract, the Contractor affirmatively commits to comply with the M/WBE subcontracting requirements submitted with his/her bid. The failure of the Contractor to comply with this commitment during the Contract's performance period may

be considered a breach of Contract.

The County may take action up to and including termination for default if this condition is not remedied within the time period specified by the Manager, Procurement Division.

VII
MISCELLANEOUS PROVISIONS:

- A. Terms used in this Contract which are defined in the General Conditions shall have the meanings designated in those conditions.
- B. No price adjustments shall be made on this contract to the bid price of any products or materials including but not limited to gasoline, diesel or other fuels, and bituminous materials, including asphalt, due to fluctuations in market prices, changes in suppliers or any other reason.
- C. County and Contractor each binds himself, his partners, successors, assigns and legal representatives to the other party hereto, his partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

D. This Contract shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the provisions of this Contract will be held in Orange County, Florida. Venue for any litigation involving this Contract shall be the Ninth Circuit Court in and for Orange County, Florida.

BOARD OF COUNTY COMMISSIONERS >
ORANGE COUNTY, FLORIDA

BY: _____
Johnny Richardson, CPPO, CFCM
Manager, Procurement Division_____

BY: _____
Signature

Type or Print Name

DATE: _____
(for County use only)

P E R F O R M A N C E B O N D

BOND NUMBER _____

KNOW ALL MEN BY THESE PRESENTS that

Name of Contractor _____

Address _____

Phone Number _____

Corporation, Partnership or Individual _____

hereinafter referred to as the Contractor, as Principal, and

Name of Surety _____

Address _____

Phone Number _____

hereinafter called SURETY, as SURETY, are held and firmly bound unto Orange County, 400 East South Street, Orlando, FL 32801, (407)836-5635 a Political Subdivision of the State of Florida as Obligee, hereinafter referred to as Owner, in the full and just sum of \$_____, lawful money of the United States of America, to the payment of which sum, well and truly to be made, the Contractor and SURETY bind themselves, their representatives, and each of their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Contractor has entered into **Contract No. Y16-138** with the "County", also referred to herein as the OWNER, for the project entitled: **COLD IN-PLACE BITUMINOUS BASE RECYCLING WITH ASPHALT RESURFACING, any location within Orange County, Florida**, with conditions and provisions as are further described in the aforementioned Contract, which Contract is by reference made a part hereof for the purpose of explaining this bond.

General description of the Work: In-place construction of a Cold Recycled Bituminous Base Course (Cold in Place Recycling (CIR)), using either reclaimed asphalt pavement (RAP) material and/or reclaimed aggregate material (RAM), combined with virgin aggregates and/or bituminous material.

NOW, THEREFORE, the condition of this obligation is such that if Contractor shall fully, promptly and faithfully perform said Contract and all obligations thereunder, including all obligations imposed by the Contract documents (which includes the Notice to Bidders, Instruction to Bidders, Proposal and Bid Form, General and Supplementary Conditions, Detail Specifications, Form(s) of Contract Bond(s), Plans and Specifications and such amendments thereof as may be made as provided for therein), then this obligation shall be void; otherwise it shall remain in full force and effect.

1. The undersigned shall indemnify and save harmless said Owner against and from all costs, expenses and damages, including litigation costs and attorney's fees arising out of, or in connection with the neglect, default or want of care or skill, including patent infringement on the part of said Contractor, his agents, servants or employees in the execution or performance of said Contract.

The applicable provisions of Section 255.05 and 713.01 Florida Statutes apply to this bond.

2. Whenever Contractor shall be, and declared by Owner to be in default under the Contract, the Owner having performed Owner's obligations thereunder, the SURETY may promptly remedy the default or shall promptly:
 - A. Complete the Contract in accordance with its terms and conditions; or
 - B. Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by SURETY of the lowest responsible bidder, or, if the Owner elects, upon determination by the Owner and the SURETY jointly of the lowest responsible bidder, arrange for a Contract between such bidder and the Owner. SURETY shall make available as the work progresses (even though there should be a default or a succession of defaults under the Contract or Contracts of completion arranged under this Paragraph) sufficient funds to pay the costs of completion, including other costs and damages for which the SURETY may be liable hereunder, the amount set forth in the first paragraph hereof.
3. Any changes in or under the Contract Documents and compliance or noncompliance with any formalities connected with the Contract or the changes shall not affect SURETY'S obligation under this bond. Any increase in the total Contract amount as authorized by the Owner shall accordingly increase the SURETY'S obligation by the same dollar amount of said increase. The Principal shall be responsible for notification to SURETY of all such changes.
4. The undersigned expressly acknowledges its obligations and liabilities for liquidated damages suffered by the Owner under the provisions of the Contract Documents.
5. The undersigned, covenant and agree that no change, extension of time, exercise of options for Contract renewals, changes to Contract amounts, alterations or additions to the terms of the Contract or the work to be performed thereunder, or the specifications accompanying the same shall in any way affect their obligation on this bond, and the SURETY does hereby expressly waive notice of any such change, extension of time, change to Contract amount, alteration, or addition. Moreover, no alterations or additions to this bond form shall be binding unless specifically agreed to in writing by the parties.
6. The Contractor shall save the Owner harmless from any and all damages, expenses and costs which may arise by virtue of any defects in said work or materials within a period of one (1) year from the date of Final Completion of the Project.

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

CONTRACTOR, AS PRINCIPAL

WITNESS:

_____ _____ _____	_____ Firm Name BY: _____ Signature _____ Type Name and Title
---------------------------------	--

SURETY

NAIC Number: _____

BY: _____

SURETY ADDRESS: _____

AGENT FOR SURETY

Signature

AGENCY ADDRESS: _____

PHONE _____

Licensed Florida Insurance Agent? Yes _____ No _____

License Number: _____

STATE OF _____)

COUNTY OF _____) SS

CITY OF _____)

Before me, a Notary Public duly commissioned, qualified and acting personally, appeared:

to me well known, who being by me first duly sworn upon oath says that he is Attorney-in-Fact for

as Surety, and that he has been authorized by said Surety to execute the foregoing Performance Bond on behalf of the Principal (Contractor) named therein in favor of the owner.

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

Notary Public

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

Personally Known _____ or Produced Identification _____

Type of Identification: _____

In accordance with Part C, Section 19 and Part F Article 8 of the Contract, if applicable, list the Lead Surety.

LEAD SURETY AGENT FOR SURETY

Signature

BY: _____ AGENCY ADDRESS: _____

SURETY ADDRESS: _____

PHONE _____

P A Y M E N T B O N D

BOND NUMBER _____

KNOW ALL MEN BY THESE PRESENTS that

Name of Contractor _____

Address _____

Phone Number _____

Corporation, Partnership or Individual _____

Thereinafter called Contractor, as Principal, and

Name and Address of

Surety _____

hereinafter called SURETY , as SURETY, are held and firmly bound unto Orange County, 400 East South Street, Orlando, FL 32801, (407) 836-5635 a Political Subdivision of the State of Florida as Obligee, in the full and just sum of \$ _____, lawful money of the United States of America, to the payment of which sum, well and truly to be made, the Contractor and SURETY bind themselves, their representatives, and each of their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Contractor has entered into **Contract No. Y16-138** with the "County", also referred to herein as the OWNER, for the project entitled: **COLD IN-PLACE BITUMINOUS BASE RECYCLING WITH ASPHALT RESURFACING, any location within Orange County, Florida**, with conditions and provisions as are further described in the aforementioned Contract, which Contract is by reference made a part hereof for the purpose of explaining this bond.

General description of the Work: In-place construction of a Cold Recycled Bituminous Base Course (Cold in Place Recycling (CIR)), using either reclaimed asphalt pavement (RAP) material and/or reclaimed aggregate material (RAM), combined with virgin aggregates and/or bituminous material.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS such that if Contractor shall promptly make payments to all claimants for any and all labor and material used or reasonably required for use or furnished in connection with the performance of said Contract, and shall perform all other covenants and obligations of this bond, then this obligation shall be void; otherwise it shall remain in full force and effect.

1. The undersigned shall promptly make payment to all persons supplying services, labor, material or supplies used directly or indirectly by said Contractor, or any subcontractor(s) or sub-subcontractor(s), in the prosecution of the work provided for in said Contract.
2. Subject to the Owner's priority, claimants covered by Section 713.01 of the Florida Statutes shall have a direct right of action against the Principal and SURETY under this obligation, after written notice of the performance of labor or delivery of materials or supplies, and non-payment therefore. Any claimant who seeks to recover against the Principal or SURETY under this obligation must also satisfy the notice requirement and time limitations of Section 255.05 of the Florida Statutes, as amended.
3. The undersigned, covenant and agree that no change, extension of time, exercise of options for Contract renewals, change to Contract amounts, alterations or additions to terms of the Contract or the work to be performed thereunder, or the specifications accompanying the same shall in any way affect their obligation on this bond and the SURETY does hereby expressly waive notice of any such change, extension of time, exercise of options for Contract renewal, changes to Contract amount, alternations or additions. Moreover, no alterations or additions to this bond form shall be binding unless specifically agreed to in writing by the parties.

The applicable provisions of Sections 255.05 and Florida Statutes apply to this bond.

4. Any changes in or under the Contract Documents and compliance or noncompliance with any formalities connected with the Contract or the changes shall not affect SURETY'S obligation under this bond. Any increase in the total Contract amount as authorized by the Owner shall accordingly increase the SURETY'S obligation by the same dollar amount of said increase. The Principal shall be responsible for notification to SURETY of all such changes.

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

CONTRACTOR, AS PRINCIPAL:

WITNESS:

Firm Name

Signature

By: _____
Signature

Type Name and Title

SURETY:

AGENT FOR SURETY:

NAIC Number: _____

BY: _____
Signature

BY: _____

AGENCY ADDRESS: _____

SURETY ADDRESS _____

PHONE NO. _____

Licensed Florida Insurance Agent? Yes _____ No _____

License Number: _____

STATE OF _____)

COUNTY OF _____) SS

CITY OF _____)

Before me, a Notary Public duly commissioned, qualified and acting personally, appeared:

to me well known, who being by me first duly sworn upon oath says that he is Attorney-in-Fact for

as Surety, and that he has been authorized by said Surety to execute the foregoing Payment Bond on behalf of the Principal (Contractor) named therein favor of the owner.

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

Notary Public

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

Personally Known _____ or Produced Identification (Type) _____

In accordance with Part C, Section 19 and Part F Article 8 of the Contract, if applicable, list the Lead Surety.

_____	_____
LEAD SURETY AGENT FOR SURETY	
_____	_____
Signature	
BY:_____	AGENCY ADDRESS:_____
SURETY ADDRESS:_____	_____
_____	PHONE_____

(THIS FORM MUST BE UTILIZED IN ALL FINAL PAY APPLICATIONS)

FINAL RELEASE OF LIEN

KNOW ALL MEN BY THESE PRESENTS, that for and in consideration of the sum of monies, set out in the accompanying Estimate Statement No. _____, final, which quantity, the receipt of which is hereby acknowledged, is accepted as full and complete compensation for all work done, materials furnished and damages or claims arising under Orange County Contract No. Y16-138-J2, entitled: COLD IN-PLACE BITUMINOUS BASE RECYCLING WITH ASPHALT RESURFACING

By:

Contractor

(SEAL)

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before this _____ day of

_____ 20_____, by _____.

Personally Known _____ OR Produced Identification _____

Type of identification Produced _____

**CHANGE ORDER REQUEST
PURCHASE ORDER / DELIVERY ORDER / CONTRACT**

*Vendor Code: _____ *Vendor Name: _____ *Date: _____
 *Change Order Request No.: _____ *Document No.: _____ Contract No. _____
 *Department: _____ *Contact/Phone No.: _____

ACCOUNTING LINE CHANGE ONLY:

Accounting Line From: _____ Amount: _____
 Accounting Line To: _____ Amount: _____

COMMODITY LINE NUMBER ADD:

Comm. Line No.: _____ Commodity Code: _____ Quantity: _____ Unit of Measure: _____
 Unit Cost: _____ Description: _____ MA Line No. _____
 Accounting Line: _____ Amount: _____

COMMODITY LINE NUMBER INCREASE / DECREASE / DELETE:

Comm. Line No. _____ Increase Qty By: _____ Decrease Qty By: _____ Increase Unit Cost By: _____
 Decrease Unit Cost By: _____ Accounting Line: _____
 Delete: _____ (check only if you want to delete this line number).

CANCELLATION:

_____ Please cancel Purchase Order / Delivery Order Original sent to vendor: _____ Yes _____ No

***JUSTIFICATION (Required for all transactions):** _____

Enter Retainage for line number(s) _____ in the amount of _____ %

*Original PO/DO/Contract Award/Encumbrance <u>circle one</u>	Contract Amount	Encumbered/De-Encumbered Amount
	\$ _____.	\$ _____.
*Net Dollars for Previous Change Orders (Addition/Subtraction) <u>circle one</u>	\$ _____.	\$ _____.
*Net Dollars for This Change Order (Addition/Subtraction) <u>circle one</u>	\$ _____.	\$ _____.
*Total Dollars	\$ _____.	\$ _____.

By signing this agreement, the Contractor hereby releases the County, its agents, and employees from any and all liabilities under this contract for further equitable adjustments and/or claims associated with this change order.

*Vendor/Contractor Authorization: _____ Date: _____
 *Departmental Approval: _____ Date: _____
 *Purchasing & Contracts Approval: _____ Date: _____

For Purchasing Use Only Track Change Order: __ Yes __ No Change Award Amount to: \$ _____
 Add the following text to the PO/DO: _____

CHANGE ORDER REQUEST CONTINUATION SHEET Document No.: _____

PURCHASE ORDER / DELIVERY ORDER / CONTRACT

ACCOUNTING LINE CHANGE ONLY:

Accounting Line From: _____ Amount: _____

Accounting Line To: _____ Amount: _____

Accounting Line Add: _____ Amount: _____

Accounting Line From: _____ Amount: _____

Accounting Line To: _____ Amount: _____

Accounting Line Add: _____ Amount: _____

COMMODITY LINE NUMBER ADD:

Comm. Line No.: _____ Commodity Code: _____ Quantity: _____ Unit of Measure: _____

Unit Cost: _____ Description: _____ MA Line No. _____

Accounting Line: _____ Amount: _____

Comm. Line No.: _____ Commodity Code: _____ Quantity: _____ Unit of Measure: _____

Unit Cost: _____ Description: _____ MA Line No. _____

Accounting Line: _____ Amount: _____

Comm. Line No.: _____ Commodity Code: _____ Quantity: _____ Unit of Measure: _____

Unit Cost: _____ Description: _____ MA Line No. _____

Accounting Line: _____ Amount: _____

COMMODITY LINE NUMBER INCREASE / DECREASE / DELETE:

Comm. Line No. _____ Increase Qty By: _____ Decrease Qty By: _____ Increase Unit Cost By: _____

Decrease Unit Cost By: _____ Accounting Line: _____

Delete: _____ (check only if you want to delete this line number).

Comm. Line No. _____ Increase Qty By: _____ Decrease Qty By: _____ Increase Unit Cost By: _____

Decrease Unit Cost By: _____ Accounting Line: _____

Delete: _____ (check only if you want to delete this line number).

Comm. Line No. _____ Increase Qty By: _____ Decrease Qty By: _____ Increase Unit Cost By: _____

Decrease Unit Cost By: _____ Accounting Line: _____

*Departmental Approval: _____	Date: _____
Purchasing & Contracts Approval: _____	Date: _____

DRUG-FREE WORKPLACE FORM

The undersigned vendor, in accordance with Florida Statute 287.087 hereby certifies that _____ does:

Name of Business

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Informs employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, employee assistance programs and the penalties that may be imposed upon employees for drug abuse violations.
3. Gives each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in Paragraph 1.
4. In the statement specified in Paragraph 1, notifies the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days such conviction.
5. Imposes a sanction on, or requires the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
6. Makes a good faith effort to continue to maintain a drug-free workplace through implementation of Paragraphs 1 thru 5.

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

Bidder's Signature

Date

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**PART F
GENERAL CONDITIONS**

ARTICLE 1 - THE CONTRACT

The Contract Documents are identified in the Contract, Part E. Titles, Subtitles, Headings, Running Headlines, Table of Contents, and Indexes are printed in the Contract Documents merely for convenience.

ARTICLE 2 - DEFINITIONS

The words and expressions (or pronouns used in their stead) defined in this Article shall, wherever they appear in the Contract Documents, be construed as follows unless a different meaning is clear from the context.

"Addenda" shall mean any additional solicitation provisions issued in writing by the County prior to the date and time for bid openings.

"Bid Proposal" shall mean the offer of proposal of the Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

"Bidder" shall mean any person, firm or corporation submitting a Bid for the Work.

"Board of County Commissioners" shall mean the Board of County Commissioners, Orange County, Florida, or their duly authorized representative(s).

"Change Order" shall mean a written order to the Contractor, signed by the County, authorizing an addition, deletion or revision in the Work, or an adjustment in the Contract and/or Delivery Order, or the Contract Performance Period or Completion Time issued after execution of the Contract or issuance of a Delivery Order.

"Completion Time" shall mean the number of days specified on a Delivery Order for completion of the Work on that delivery order.

"Contract" shall mean the written agreement between the County and the Contractor covering the Work to be performed; the Contract will be attached to and made a part of the Contract Documents.

"Contractor" shall mean successful Bidder (and vice versa), whether a corporation, firm, individual or any combination thereof, and its (or their) successors, personal representatives, executors, administrators and assigns.

"Contract Amount" shall mean the total estimated award amount. The term "Contract Price" where used in the Contract Documents refers to the Contract Amount.

"Contract Float" shall mean the number of days that an activity or a sequence of activities does not necessarily have to start or end on the scheduled dates to maintain the schedule, or as a minimum, the number of days that an activity may be delayed from its early start date without delaying completion of the Work beyond the Contract Time for Substantial Completion or Final Acceptance.

"Contract Performance Period" shall mean the overall performance period of this Contract.

"County" shall mean the Board of County Commissioners, Orange County, Florida, or their duly authorized representative(s), for whom the Contract Work is being performed.

"Day" shall mean one calendar day when used in the Contract Documents.

"Defective Work" shall mean (a) Work that is unsatisfactory, deficient or damaged, does not conform to the Contract Documents, or does not meet the requirements of any inspection, test or approval, or (b) Work associated with punch list items that the Contractor fails to complete within a reasonable time after issuance of the punch list by the Project Manager.

"Delivery Order" shall mean any order issued against the basic Contract for construction work in accordance with its terms and conditions.

"Drawings" shall mean any drawings issued in conjunction with a Delivery Order to illustrate or further define the work.

"Final Acceptance" shall mean acceptance of the Work specified on an individual Delivery Order by the County upon the expiration of the warranty period as stated in the Contract Documents.

"Final Completion" shall mean acceptance of the Work by the County as evidenced by its signature upon final Certificate of Completion and approval thereof by the Board of County Commissioners. The final Certificate of Completion shall be signed only after the County has assured itself by tests, inspection or otherwise that all of the provisions and requirements of the Contract have been carried out to its satisfaction.

"Notice" shall mean written Notice. Notice shall be served upon the Contractor either personally or by leaving the said Notice at his residence, or place of business, or with his Agent in charge of the Work, or addressed to the Contractor at the residence or place of business given in the Bid and deposited in a postpaid wrapper in any post box regularly maintained by the United States Post Office.

"Notice of Award" shall mean the written notice of award of the Contract given by the County to the apparent successful Bidder.

"Project Manager" shall be the duly authorized representative of the County during the construction period and is named in Article 10.

"Shop Drawings" shall mean all drawings, diagrams, illustrations, brochures, schedules, and other data which are prepared by the Contractor, a Subcontractor, a manufacturer, supplier or distributor and which illustrate the equipment, material and/or some portion of the work.

"Site" shall mean the area upon or in which the Contractor's operations are carried on and such other areas adjacent thereto as may be designated as such by the Project Manager.

"Specifications" shall mean parts of the Contract Documents identified as "Specifications" and organized into Divisions. The specifications include general requirements and technical descriptions of materials, equipment, construction systems, standards and workmanship. The term "Technical Provisions" where used in the Contract Documents refers to the Specifications.

"Subcontractor" shall mean any person, firm or corporation other than employees of the Contractor who or which contracts with the Contractor to furnish, or actually furnishes labor, materials and/or equipment for the work.

"Substantial Completion" shall mean the completion of the Work by the Contractor to the point where the County may make beneficial use of the Work.

"Surety" shall mean any corporation that executes, as Surety, the Contractor's Bid Bond and/or Payment and Performance Bonds securing the performance of this Contract, if required.

"Work" shall mean any and all obligations, duties and responsibilities necessary to the successful completion of the construction assigned to or undertaken by the Contractor under the Contract documents, including the furnishing of all labor materials, equipment, and other incidentals.

ARTICLE 3 - ASSIGNMENT OF CONTRACT

The contractor may not make any assignment of the contractual agreement between the parties, in whole or in part, without prior written authorization as may be given by the County, at its sole discretion.

No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without written consent of the party sought to be bound; and specifically but without limitation, monies that may become due and monies that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

ARTICLE 4 - QUOTATIONS, DELIVERY ORDER AMOUNT, PERFORMANCE PERIOD, PRE-CONSTRUCTION CONFERENCE

The County shall issue a written Request for Quotation to the Contractor based upon a specific requirement for work that is within the scope of this Contract. The Contractor shall within seven (7) calendar days visit the site, if needed, and submit a written quotation to the County, based solely upon the unit prices contained in the Bid Item Schedule, Part D. The Contractor shall also provide with the quotation a proposed completion time (in number of days) for the project.

The Project Manager shall review the quotation, negotiate quantities and/or completion time as needed, and, upon acceptance of the quotation, issue a Delivery Order to the Contractor.

The Delivery Order shall specify the number of days to completion for the work covered by the Delivery Order.

Pre-construction (Pre-work) Conference: Within 20 days after the effective date of the Contract, but before Contractor starts the Work at any site, a conference attended by Contractor, Project Manager, other personnel as required and others as appropriate will be held to discuss such topics as may include, but not limited to; schedules, procedures for handling Shop Drawings and other submittals, processing of invoices, maintenance of traffic, initiation of coordination with affected utilities, and to establish a working understanding among the parties as to the Work.

ARTICLE 5 - INTERPRETATION AND INTENT OF THE CONTRACT DOCUMENTS

It is the intent of the Specifications and Drawings (if applicable) to describe a the work to be constructed in accordance with the Contract Documents. However, the County makes no representation or warranty of any nature whatsoever to the Contractor concerning such documents. The Contract Documents are complementary; what is called for by one is as binding as if called for by all. If the Contractor finds a conflict, error or discrepancy in the Contract Documents, he should call it to the Project Manager's attention in writing before proceeding with the work affected thereby. Any work that may reasonably be inferred from the applicable Specifications or Drawings as being required to produce the intended result shall be supplied whether or not it is specifically called for. Work, materials or equipment described in words which so applied have a well-known technical or trade meaning shall be deemed to refer to such recognized standards. In case of conflict, the more stringent requirements shall take precedence and govern.

ARTICLE 6 - REFERENCE POINTS (If Applicable)

Availability of Lands: The County will furnish, as indicated in the Contract Documents and not later than the date when needed by the Contractor, the lands upon which the Work is to be done, rights-of-way for access thereto and such other lands which are designated for the use of the Contractor. Easements for permanent structures or permanent changes in existing facilities will be obtained by the County unless otherwise specified in the Contract Documents. If the Contractor believes that any delay in the County's furnishing these lands or easements entitles him to an extension of the Contract time, he may make a claim therefore as provided in Article 13. The Contractor will provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment. The Project Manager will upon request furnish to the Contractor copies of all available boundary surveys and subsurface tests.

Unforeseen subsurface conditions: The Contractor will promptly notify the Project Manager in writing of any subsurface or latent physical conditions at any site which may differ materially from those indicated in the Contract documents. The Project Manager will promptly investigate those conditions and advise the Contractor in writing if further surveys or subsurface tests are necessary. Promptly thereafter, if needed, the Project Manager will obtain the necessary additional surveys and tests and furnish copies to the Contractor. If the Project Manager finds that the results of such surveys or tests indicate subsurface or latent physical conditions differing significantly from those indicated in the Contract documents, a change order shall be issued incorporating the necessary revisions.

Reference points: The Contractor shall be responsible for all field survey work that is needed for the execution of the work and the completion of this project as specified herein. All survey Work shall be done under the supervision of a Registered Professional Surveyor and Mapper.

The County shall furnish, one time, a set of permanent reference markers to form the basis for the above Contractor's survey.

All **section corners** and **quarter section** corners falling within the limits of this project shall be perpetuated by a Florida Registered Surveyor and Mapper.

- a. All such corners falling within or on the boundaries of this project shall have reference ties made, certified to and submitted to the County surveyor, Orange County, Florida, prior to the commencing of construction.
- b. Upon completion of construction and prior to final acceptance by the County, certified corner records shall be submitted to the department of natural resources in compliance with Florida Statutes, Chapter 177.507 and a copy of said certified corner record shall also be submitted to the Orange County surveyor. Said corner records shall reflect the corner as perpetuated and which shall meet these minimum standards:
 1. If the corner falls in asphalt or concrete construction, the corner shall be a 2 1/4" metal disc marked according to standard government practices and set in concrete no less than 18" in depth and shall be encased in an adjustable 5 1/4" diameter or larger valve box raised to the finished surface of construction.
 2. If the corner falls at any other location, it shall be a 4" x 4" concrete monument no less than 23" long with a 2 1/4" metal disc marked according to standard government practices. The top of said monument shall be set flush with the ground ($\pm 0.5'$ depending on conditions).

Any U.S.C. and G.S. monument within limits of construction are to be protected. If monuments are in danger of damage, the Contractor shall contact the Project Manager and the Orange County Surveyor prior to the commencing of construction.

Payment for all necessary survey work shall be included in the Bid as part of the Contractor's base Bid.

ARTICLE 7 - BONDS AND INSURANCE AND INDEMNIFICATION

Payment and Performance Bonds: The CONTRACTOR shall execute and deliver to the County the Payment and Performance Bonds (see Part C, 2-h) included herein as security for the faithful performance and completion of the Work and payment for all materials and labor furnished or supplied in connection with all Work included in the Contract Documents.

These Bonds shall be in amounts at least equal to the Contract Amount, shall name the County as obligee and shall be in such form and by sureties of financial standing having a rating from A.M. Best Company (or other equivalent rating company) equal to or better than A- VI and must be included on the approved list of sureties issued by the United States Department of Treasury.

Prior to execution of the Contract Documents the County may require the Contractor to furnish such other Bonds, in such form and with such sureties as it may require. If such Bonds are required by written instructions given prior to opening of Bids, the premium shall be paid by the Contractor. If the Contract Amount is increased by Change Order, it shall be the Contractor's responsibility to insure that the Payment and Performance Bonds be amended accordingly and a copy of the amendment is forwarded to the County.

The Contractor shall record bonds in Orange County public records as required by Florida Statutes, Chapter 255.05. Before commencing the work the Contractor shall provide to the Manager of the Procurement Division a certified copy of the recorded bond. No payment will be made to the contractor until the contractor has provided the copy of the recorded bond.

If the Surety on any bond furnished by Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in any State where any part of the Work is located or it ceases to meet the requirements imposed by the Contract Documents, the Contractor shall within five (5) days thereafter substitute another Bond with another Surety both of which shall be acceptable to the County.

Insurance Requirements:

Contractor agrees to maintain on a primary basis and at its sole expense, at all times throughout the duration of this Contract the following types of insurance coverage with limits and on forms (including endorsements) as described herein. These requirements, as well as the County's review or acceptance of insurance maintained by Contractor is not intended to and shall not in any manner limit or qualify the liabilities assumed by Contractor under this Contract. Contractor is required to maintain any coverage required by federal and state workers' compensation or financial responsibility laws including but not limited to Chapter 324 and 440, Florida Statutes, as may be amended from time to time. Insurance carriers providing coverage shall be authorized and/or eligible to do business in the State of Florida and shall possess a current A.M. Best's Financial Strength Rating of A- Class VIII.

The Contractor shall require and ensure that each of its subcontractors maintain insurance until the completion of their work under any contract associated with this Contract. Failure of the Contractor to maintain insurance coverage for itself or for any other persons or entities for whom it is responsible or to ensure that its subcontractors maintain coverage shall not relieve the Contractor of any contractual responsibility, obligation or liability.

If the CONTRACTOR intends to bid on this Contract as a Joint Venture then all insurance coverage required herein shall include the Joint Venture as “named insured”. If the Joint Venture has no employees then this requirement is waived for workers’ compensation. The Joint Venture shall also purchase discontinued completed operations coverage for any claims made after the dissolution of the Joint Venture. This coverage shall be for a period of two years following final completion of the project or continuing service contract.

The minimum types and amounts of insurance inclusive of any amount provided by an umbrella or excess policy, shall be as follows:

Workers’ Compensation – The Contractor shall maintain coverage for its employees with statutory workers’ compensation limits, and no less than the limits indicated in the Schedule of Limits (see below) for Employers’ Liability. Said coverage shall include a waiver of subrogation in favor of the County. The County will not accept elective exemptions. Any contractor using an employee leasing company shall complete the Leased Employee Affidavit (Exhibit A).

Required Endorsements:

Waiver of Subrogation- WC 00 03 13 or its equivalent (Exhibit G)

Commercial General Liability – The Contractor shall maintain coverage issued on an ISO form CG 00 01 or its equivalent, with a limit of liability of not less than the limits indicated in the Schedule of Limits (see below). Contractor further agrees coverage shall not contain any endorsement(s) excluding or limiting Product/Completed Operations, Independent Contractors, Contractual Liability, or Separation of Insureds. The General Aggregate limit shall either apply separately to this Contract or shall be at least twice the required occurrence limit. All projects with a Contract Amount greater than \$20,000,000 shall be written on a Designated Premises or Projects basis (Exhibit B). Commercial umbrella and excess coverage shall include liability coverage for damage to the Contractor’s completed work equivalent to that provided under ISO Form CG 00 01 04 13.

Required Endorsements:

Additional Insured- CG 20 10 04 13 and CG 20 37 04 13 or its equivalent (Exhibits E and F)

Waiver of Subrogation- CG 24 04 05 09 or its equivalent
Note: If blanket endorsements are being submitted please include the entire endorsement. The policy number to which the endorsement applies shall be indicated directly on the endorsement.

Business Automobile Liability - The Contractor shall maintain coverage for all owned; non-owned and hired vehicles issued on ISO form CA 00 01 or its equivalent, with limits of not less than the limits indicated in the Schedule of Limits (see below). In the event the Contractor does not own automobiles the Contractor shall maintain coverage for hired and non-owned auto liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

Required Endorsements:

- MCS-90- for operations governed under Sections 29 & 30 of the Motor Carrier Act of 1980

Schedule of Limits:

Contract Amount	Workers' Comp/ Employers' Liability	General Liability	Automobile Liability
Up to \$10 million	Statutory/\$500,000	\$1,000,000	\$1,000,000
\$10 - \$20 million	Statutory/\$1,000,000	\$5,000,000	\$5,000,000
Over \$20 million	To Be Determined by the County		

Pollution Legal Liability - The Contractor agrees to maintain Contractor's Pollution Legal Liability with a limit of not less than one million (\$1,000,000) per occurrence on a per-project basis.

Builders' Risk - If this Contract includes: (1) construction of a new above-ground structure or structures, (2) any addition, improvement, alteration, or repair to an existing structure or structures, or (3) the installation of machinery or equipment into an existing structure or structures, the Contractor shall maintain builders' risk insurance providing coverage to equally protect the interests of the County, the Professional, the Contractor and subcontractors of any tier. Coverage shall be written on a completed value form (Exhibit C) in an amount at least equal to 100% of the estimated completed value of the project plus any subsequent modifications of that sum.

The coverage shall be written on an "all-risk" basis and shall, at a minimum cover the perils insured under the ISO CP 10 30 Special Causes of Loss Form (Exhibit D) and shall include property in transit and property stored on or off premises, which shall become part of the project. The Contractor agrees not to maintain a wind or flood sub-limit less than 25% of the estimated completed value of the project. The Contractor agrees any flat deductible(s) shall not exceed \$25,000, and any wind percentage deductible (when applicable) shall not exceed five-percent (5%). The coverage shall not be subject to automatic termination of coverage in the event the project/building is occupied in whole or in part, or put to its intended use, or partially accepted by the County. If such restriction exists the Contractor shall request that the carrier endorse the policy to amend the automatic termination clause to only terminate coverage if the policy expires, is cancelled, the County's interest in the project ceases, or the project is accepted and insured by the County.

Professional Liability- If the construction method is “design-build” the Contractor agrees to maintain Professional Liability on a per-project basis. The Contractor agrees to provide coverage with limits and deductibles as prescribed below.

<u>Project Cost</u>	<u>Minimum Limit</u>	<u>Maximum Deductible</u>
\$0-1,000,000	50% of project cost subject to a minimum of \$100,000/occurrence	10% of project cost or \$25,000, whichever is smaller
\$1,000,000-5,000,000	\$1,000,000	\$100,000
over \$5,000,000	Determined by the County	

When a self-insured retention or deductible exceeds \$100,000 the County reserves the right to request a copy of the Contractor’s most recent annual report or audited financial statement. For policies written on a “Claims-Made” basis the Contractor agrees to maintain a retroactive date prior to or equal to the effective date of this contract. In the event the policy is canceled, non-renewed, switched to occurrence form, or any other event which triggers the right to purchase a Supplemental Extended Reporting Period (SERP) during the life of this contract the Contractor agrees to purchase the SERP with a minimum reporting period of not less than two years. Purchase of the SERP shall not relieve the Contractor of the obligation to provide replacement coverage.

The Contractor shall be responsible for all risk of loss whether insured or not until final acceptance of the project by the County. The Contractor agrees to be fully and solely responsible for any costs or expenses resulting from a coverage deductible, co-insurance penalty, or self-insured retention; including any loss not covered because of the application of said deductible, co-insurance penalty, self-insured retention, or coverage exclusion or limitation. The County has the right to request that the Contractor procure and maintain a surety bond for any deductible amounts that exceed any amount stated herein in such amount and on such form that are acceptable to the County.

The County reserves the right, but not the responsibility to periodically review any and all policies of insurance and to reasonably adjust the limits and/or types of coverage required herein, from time to time throughout the term of this Contract. In such event, the County shall provide the Contractor written notice of such adjustments and the Contractor shall comply within thirty (30) days of receipt thereof. Any request for an exception to these insurance requirements must be submitted in writing to the County for approval.

The Contractor agrees to specifically include the County as an Additional Insured on the Commercial General Liability policy with a CG 20 37 – Additional Insured - Owners, Lessees or Contractors-Completed Operations (Exhibit E) or CG 20 10 – Additional Insured-Owners, Lessees or Contractors-Scheduled Person or Organization Endorsement, or their equivalent (Exhibit F).

The Contractor shall also specifically include the County as an Additional Insured on any Commercial Umbrella or Excess policies unless the County is automatically defined under the policy as an Additional Protected Person. Additionally, the Contractor agrees to specifically include the County as an Additional Insured under the Contractor's Pollution Liability coverage (when applicable). The name of the organization identified in each Additional Insured endorsement's schedule shall read Orange County Board of County Commissioners.

The Contractor agrees by entering into this written Contract to provide a Waiver of Subrogation in favor of the County, Contractor, Professional, and sub-contractors of any tier for each required policy providing coverage during the life of this Contract. When required by the insurer, or should a policy condition not permit an endorsement, the Contractor agrees to notify the insurer and request that the policy(ies) be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or an equivalent endorsement. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition that specifically prohibits such an endorsement or voids coverage should the Contractor enter into such an agreement on a pre-loss basis.

Before execution of this Contract by the County and the start of any Work and for the duration of this Contract, the Contractor shall provide the COUNTY with current certificates of insurance evidencing all required coverage. The certificates shall clearly indicate that the Contractor has obtained insurance of the type, amount and classification as required for strict compliance with this insurance section. No material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the COUNTY. Certificates shall specifically reference the project title and contract number. The certificate holder shall read:

Orange County Board of County Commissioners
c/o Procurement Division
400 E. South Street
Orlando, Florida 32801

Prior to commencement of any Work performed by subcontractors (if any), the Contractor shall obtain certificates of insurance evidencing coverage from each of its subcontractors and shall furnish within five days, copies of said certificates upon request by the County. In addition to the certificate(s) of insurance the Contractor shall also provide a blanket or specific additional insured endorsement and all waivers of subrogation or transfer of rights of recovery endorsements for each policy.

Failure of the County to demand such certificate or other evidence of full compliance with these insurance requirements or failure of the County to identify a deficiency from evidence provided will not be construed as a waiver of the Contractor's obligation to maintain such insurance.

Indemnification:

Subject to the limitations in the third paragraph under this heading, the Contractor will defend, indemnify and hold harmless the County, its agents and employees from and against all liabilities, claims, damages, losses, costs and expenses (including attorney's fees) arising out of or resulting from the performance of the Work, provided that any such liability, claim, damage, loss, cost or expense:

- is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting there from and,
- is caused in whole or in part by any act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in whole or in part by a party indemnified hereunder.

The Contractor hereby acknowledges receipt of One Hundred Dollars (\$100) and other good and valuable consideration from the County as consideration for the indemnification provisions in this Contract.

In any and all claims against the County, its agents or employees; employees of the Contractor and subcontractor; all persons directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under the previous paragraph shall not be limited in any way as to the amount or type of damages, compensation or benefits payable by or for the Contractor or any subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

The indemnification obligations of the Contractor under this section shall not extend to the liability of the Professional and its agents or employees arising out of the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs or specifications, or the giving or the failure to give requested interpretations by the Professional and their agents or employees, provided such giving or failure to give is the primary cause of injury or damage.

The Contractor will defend, indemnify and hold harmless the County and anyone directly or indirectly employed by it from and against all claims, damages, losses and expenses (including attorney's fees) arising out of any infringement of patent rights or copyrights held by others during or after completion of the Work, and shall defend all such claims in connection with any alleged infringement of such rights.

Provided however, if this Contract is deemed by a court of competent jurisdiction to be a construction contract under Section 725.06, Florida Statutes, any obligation of the Contractor to defend, indemnify or hold harmless the County, its officers and employees shall be limited to an obligation to indemnify and hold harmless to the extent caused by the negligence, recklessness or intentionally wrongful conduct of the Contractor and persons employed or utilized by the Contractor in the performance of the Contract.

The indemnification provisions contained herein shall survive the termination of this Contract.

ARTICLE 8 - CONTRACTOR'S RESPONSIBILITIES

Supervision and Superintendence - The Contractor will supervise and direct the work efficiently and with his best skill and attention. He will be solely responsible for the means, methods, techniques, sequences and procedure of construction, unless otherwise specified. The Contractor will be responsible to see that the finished Work complies accurately and completely with the Contract Documents.

The Contractor will keep on the site at all times during its work a competent superintendent who shall not be replaced without written notice to the Project Manager. The superintendent will be the Contractor's representative at the site and shall have authority to act on behalf of the Contractor. All communications given to the superintendent shall be as binding as if given to the Contractor.

The Project Manager may require in writing that the Contractor remove from the Work any of Contractor's personnel that the Project Manager determines to be incompetent, careless or otherwise objectionable. No claims for an increase in Contract Amount or Contract Time based on the Project Manager's use of this provision will be valid. Contractor shall indemnify and hold the County harmless from and against any claim by Contractor's personnel on account of the use of this provision.

Labor, Materials and Equipment - The Contractor will provide competent, suitable, qualified personnel to lay out the Work and perform construction as required by the Contract Documents. He will at all times maintain good discipline and order at the site.

The Contractor will furnish all materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water and sanitary facilities and incidentals necessary for the execution, testing, initial operation and completion of the Work.

All materials and equipment will be new except as otherwise provided in the Contract Documents. If required by the Project Manager, the Contractor will furnish satisfactory evidence as to the kind and quality of materials and equipment furnished. All materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable manufacturer, fabricator or processors except as otherwise provided in the Contract Documents.

Emergencies - In emergencies affecting the safety of persons, the Work or property at the site or adjacent thereto, the Contractor, without special instruction or authorization from the Project Manager, is obligated to act at his discretion to prevent threatened damage, injury or loss. He will give the Project Manager prompt written notice of any significant changes in the Work covered by a Delivery Order, or deviations from the Contract Documents caused thereby, and a Change Order shall thereupon be issued covering the changes and deviations involved. If the Contractor believes that additional Work done by him in an emergency which arose from causes beyond his control entitles him to an increase in the Contract price or an extension of the Contract Time, he may make a claim therefore.

Shop Drawing And Samples - After checking and verifying all field measurements, the Contractor will submit to the Project Manager for acceptance in accordance with the accepted schedule of Shop Drawing submission - five copies (or at the Project Manager's option, one reproducible copy) of all Shop Drawings, which shall have been checked by and stamped with the approval of the Contractor and identified as the Project Manager may require. The data shown on the Shop Drawings will be complete with respect to dimensions, design criteria, materials of construction and the like to enable the Project Manager to review the information as required.

Substitute Materials or Equipment - If it is indicated in the Specifications that the Contractor may furnish or use a substitute that is equal to any material or equipment specified, and if the Contractor wishes to furnish or use a proposed substitute, he will within fifteen (15) days after the award of the Contract make written application to the Project Manager for acceptance of such a substitute, certifying in writing that the proposed substitute will perform adequately the duties imposed by the general design, be similar and of equal substance to that specified and be suited to the same use and capable of performing the same function as the specified. **The application will include sufficient information to allow the Project Manager to evaluate the substitutions. The application will state the extent, if any, to which the review, acceptance, furnishing and installation of the proposed substitute will prejudice Contractor's completion of the Work within the Contract Time(s). If the cost of the review of the substitution is greater than that of the originally specified item, the Contractor will reimburse the County for all costs. County may require Contractor to furnish at Contractor's expense a special performance guarantee or other Surety with respect to any substitute.** The benefit of lower cost items shall be shared between the County and Contractor as specified in the Instructions to Bidders. No substitute shall be ordered or installed without the written acceptance of the Project Manager who shall be the sole judge of acceptability.

Concerning Subcontractors - The Contractor will not employ any Subcontractor, other person or organization against whom the County or the Project Manager may have reasonable objections, nor will the Contractor be required to employ any Subcontractor against whom he has reasonable objection. The Contractor will not make any substitution for any Subcontractor who has been accepted by the Project Manager, unless the County and the Project Manager determine that there is good caused for doing so.

The Contractor will be fully responsible for all acts and omissions of his Subcontractors and of persons directly or indirectly employed by them and of persons for whose acts any of them may be liable to the same extent that they are employed by him. Nothing in the Contract documents shall create, nor shall it be interpreted to create, privity or any other contractual relationship whatsoever between any Subcontractor and the County, or any person or business entity except the Contractor, or any obligation on the part of the County to pay or to see to the payment of any monies due any Subcontractor, except as may otherwise be required by law. The County may furnish to any Subcontractor, to the extent practicable, evidence of amounts paid to the Contractor on account of specific Work done.

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

The Contractor agrees to bind specifically every Subcontractor to the applicable terms and conditions of the Contract documents for the benefit of the County.

All Work performed for the Contractor by the Subcontractor shall be pursuant to an appropriate agreement between the Contractor and the Subcontractor which shall contain provisions that waive all rights the contracting parties may have against one another for damages caused by fire or other perils covered by insurance held by the County as trustee. The Contractor will pay each Subcontractor a share of any insurance monies received by the Contractor under this insurance.

Patent Fees And Royalties - The Contractor will pay all license fees and royalties and assume all costs incident to the use of any invention, design, process or device which is the subject of patent rights or copyrights held by others.

Permits - The Contractor will secure and pay for all construction permits and licenses and will pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of submittal of a quotation. The Contractor will also pay all public utility charges except as provided for in the Contract documents.

Laws And Regulations - The Contractor will give all notices and comply with all laws, ordinances, rules and regulations applicable to the Work. If the Contractor observes that the Specifications or Drawings are at variance therewith, he will give the Project Manager prompt written notice thereof, and any necessary changes shall be adjusted by an appropriate modification. If the Contractor performs any Work knowing it to be contrary to such laws, ordinances, rules and regulations and without such notice to the Project Manager, he will bear all costs arising therefrom; however, it shall not be his primary responsibility to make certain that the Drawing and Specifications are in accordance with such laws, ordinances, rules and regulations.

Use Of Premises - The Contractor will confine his equipment, the storage of materials and equipment, and the operations of his workmen to the areas permitted by law, ordinances, permits or the requirements of the Contract Documents and shall not unreasonably encumber the premises with materials or equipment.

The Contractor shall confine the operation of workmen and equipment, and the storage of materials and equipment to the County's property at the project site. In the event the Contractor desires to have access to the project site, or perform work or operations pertaining to the Contract on, over or from non-County property adjacent to the project site, the Contractor shall obtain written authorization to do so from the respective adjacent property owner(s) prior to using such property. Such written authorization shall include a provision whereby the property owner agrees to hold the County harmless, and to defend the County, in the event of any liability, loss, injury, or claim incurred as a result of the Contractors work or operations involving the use of the adjacent non-County property. The County shall be provided with a notarized, certified copy of such written authorization(s) before the Contractor commences work or operations or use of such property in connection with work or operations pursuant to this Contract.

Safety And Protection - The Contractor will be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. He will take all necessary precautions for the safety of and will provide the necessary protection to prevent damage, injury or loss to:

- A. All employees on the site and other persons who may be affected thereby;
- B. All the Work and all materials or equipment to be incorporated therein, whether in storage on or off the site; and
- C. Other property at the site or adjacent thereto including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

The Contractor will comply with all applicable laws, ordinances, rules, regulations and orders of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. He will erect and maintain, as required by the conditions and the progress of the Work, all necessary safeguards for safety and protection and, in addition, he will comply with all applicable recommendations of the Manual of Accident Prevention in Construction of the Associated General Contractors of America, Inc., and the Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD) and subsequent revisions and addenda as published by the U.S. Department of Transportation, Federal Highway Administration and adopted by the Florida Department of Transportation. He will notify owners of adjacent utilities when prosecution of the Work may affect them. All damage, injury or loss to any property or all damage, disruption, discontinuance or other loss to any utility system or roadways referred to in Paragraph B. and C. caused directly or indirectly, in whole or in part by the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable will be remedied by the Contractor; except damage or loss attributable to the fault of the Drawings or the Specifications or to the acts or omissions of the County, and not attributable, directly or indirectly, in whole or in part, to the fault of negligence of the Contractor. The Contractor must also comply with the guidelines set forth in the Orange County Safety & Health Manual. The manual can be accessed online at the address below:

<http://www.orangecountyfl.net/VendorServices/OrangeCountySafetyandHealthManual.aspx>

The Contractor will designate a responsible member of his organization whose duty shall be the prevention of accidents at the site. **This person shall be the Contractor's superintendent unless otherwise designated in writing by the Contractor to the Project Manager.**

Emergencies – In emergencies affecting the safety of persons, the Work or property at the site or adjacent thereto, the Contractor, without special instruction or authorization from the Project Manager, is obligated to act at his discretion to prevent threatened damage, injury or loss. He will give the Project Manager prompt written notice of any significant changes in the Work or deviations from the Contract Documents caused thereby, and a Change Order shall thereupon be issued covering the changes and deviations involved. If the Contractor believes that additional Work done by him in an emergency which arose from causes beyond his control entitles him to an increase in the Contract Amount or an extension of the Contract Time, he may make a claim therefore as provides in Articles 12 and 13.

Cleaning Up - The Contractor will keep the site free from accumulations of waste materials, rubbish and other debris resulting from the Work; at the completion of the Work he will remove all waste materials, rubbish and debris from and about the premises as well as all tools, construction equipment and machinery, and surplus materials, and will leave the site clean and ready for occupancy by the County. The Contractor will restore to their original condition those portions of the site not designated for alteration by the Delivery Order.

ARTICLE 9 – WORK BY OTHERS AND UTILITY COORDINATION

Work by Others – The County may perform additional work related to the project by itself, or it may let other direct contracts which shall contain general conditions similar to these. The Contractor will afford the other contractors who are parties to such direct contracts (or the County, if it is performing the additional work itself), reasonable opportunity for the introduction and storage of materials and equipment and the execution of work, and shall properly connect and coordinate his Work with theirs. Should the contract entail relocation of facilities not a part of this Contract, the Contractor will coordinate and cooperate with the applicable entity responsible for this portion of the work.

If any part of the Contractor's Work depends (for proper execution of results) upon work of any such other Contractor (or the County), the Contractor will inspect and promptly report to the Project Manager in writing any defects, deficiencies or delays in such work that render it unsuitable for such proper execution and results.

The Contractor's failure to report shall constitute an acceptance of the other work, except as to defects, deficiencies and delays which may appear in the other work after the execution of the work.

The Contractor will do all cutting, fitting and patching of his Work that may be required to make its several parts come together properly, and fit it to receive or be received by such other work. The Contractor will not endanger any work of others by cutting, excavating or otherwise altering such other work and will only cut or alter such other work with the written consent of the Project Manager.

If the performance of additional work by other Contractors or the County is not noted in the contract documents prior to the execution of the Contract, written notice thereof shall be given to the Contractor prior to starting any such additional work. If the Contractor believes that the performance of such additional work by the County or others involves him in additional expense or entitles him to an extension of the Contract Time, he may make a claim therefore as provided in Article 13.

Utility Coordination – Section 337.401 (1), Florida Statutes and other applicable law allows utility owners to install and maintain along, above, under, across or on any road or right-of-way any electric transmission or distribution facilities, telephone, telegraph, pole lines, poles, railway structures, ditches, sewers, water, heat, gas mains, pipelines, fences, gasoline tanks and pumps, waterlines, gas lines, wire lines, utility service connections, water and gas meter boxes, valve boxes, light standards, cable lines, cable ways, signals, signal boxes, and all other utility installations, improvements and utility appurtenances to be installed and maintained in the right-of-way.

The Contractor understands and agrees that the lands upon which the Work is to be performed consists of prior existing right-of-way, as well as, recently acquired right-of-way. The Contractor acknowledges and agrees that utility installations and appurtenances are located within the limits of the planned construction Work. The utility installations and appurtenances may be in conflict with the Contractor's Work or require relocation or adjustments. All utility conflict resolutions, relocations, or adjustments are to be moved by the utility owners at their expense, unless otherwise provided in the Contract documents.

The Contractor, by submission of a bid, agrees that prior to bid he has studied, performed field inspections, and evaluated all potential utility conflicts, the locations of permanent and temporary utility appurtenances in their present and relocated positions as may be shown on the plans. The Contractor acknowledges and agrees that the Contractor's bid has considered all potential utility conflicts, the locations of permanent and temporary utility appurtenances in their present and relocated positions including those shown on the plans, not shown on the plans, and those identified during the Contractor's pre-bid study or that should have been identified during the Contractor's field inspections, and evaluation of the limits of the planned construction Work.

The design Professional may show surface or subsurface utility conflicts, relocations, or adjustments in the drawings and plans. The surface and subsurface utility information shown in the drawings and plans was obtained and used by the design Professional to establish design criteria for the design plans. The accuracy as to location and the identification of all surface or subsurface utility information is not warranted or guaranteed and is not to be construed as part of the construction plans governing the construction Work. The Contractor shall solely make his own determinations as to surface and subsurface conditions.

The Contractor shall be solely responsible for utility coordination including all utility conflict resolutions, relocations, and adjustments. The concept of "utility coordination" means that the Contractor shall, at a minimum:

- A. Investigate both subsurface and aboveground conditions to identify potential conflicts far enough in advance of his planned construction operations to allow the Contractor to coordinate with utility owners and responsible parties any necessary conflict resolutions, relocations, or adjustments such that they can occur without delay to the Contractor's operations and Progress Schedule.
- B. Conduct regularly scheduled Utility Coordination Meetings with all affected utilities, and shall maintain detailed minutes of the discussions.
- C. Contact all utility owners in advance of any needed conflict resolutions, relocations, or adjustments.
- D. Contact the Project Manager as to all Contractor scheduled utility conflict resolutions, relocations, or adjustments.
- E. Schedule all work to be performed by the utility owners related to utility conflict resolutions, relocations, or adjustments.
- F. Schedule all work to be performed by the utility owners so as not to delay or disrupt in any way the Contractor's own performance of the Contractor's Performance Schedule.
- G. Assure the proper connection of the Contractor's Work with the work of the utility owners.

- H. Assure that the schedule, contacts, and proper connections between the Contractor's Work and the utility owner's work harmonize the work of both in a common action to achieve resolution of utility conflicts, relocations, and adjustments.
- I. Contractor shall, at no cost to the County, adjust the project schedule to allow the work to proceed in such a manner that delays to the progress of the work are minimized.

As discussed more fully in Article 18, delays to the Contractor's Progress Schedule resulting from the resolution of utility conflicts, relocations, and adjustments to utilities will not be considered as the basis for granting a change in Contract Amount or Contract Time.

ARTICLE 10 - PROJECT OWNER STATUS DURING CONSTRUCTION

The Contractor shall provide the following information to all subcontractors and suppliers:

County's Representatives - The Project Owner shall be the Board of County Commissioners. The Board shall be represented by the Project Manager listed below during the construction period:

Manager, Roads & Drainage Division, or designee
4200 S. John Young Parkway, Orlando, FL 32839
Phone: 407-836-7873

ARTICLE 11 - CHANGES IN THE WORK

Without invalidating the Contract, the County may at any time or from time to time by written order or directive have additions, deletions or revisions made to the Contract or as specified in individual Delivery Orders; authorized by Change Orders. Upon receipt of a written Change Order, the Contractor will proceed with the change in the Work so ordered or directed.

In the event the County issues the Contractor a written order or directive to change the Work and if the County and the Contractor do not arrive at a mutually acceptable increase or decrease in the Delivery Order price at the time the written order or directive is issued, the Contractor shall not use such lack of mutual acceptance as a basis or cause to stop or otherwise delay the progress or completion of any of the work ordered, directed or required pursuant to the Delivery Order. All such Work shall be executed under the applicable conditions of the Contract Documents. If any Change Order causes an increase or decrease in the Delivery Order price or any extension or shortening of the Delivery Order completion time, an equitable adjustment will be made as provided in Article 12 or Article 13.

Additional Work performed by the Contractor without authorization of a Change Order will not entitle him to an increase in the Delivery Order price or any extension of the completion time of a Delivery Order, except in the case of an emergency as provided in Article 8.

If a Payment Bond and a Performance Bond has been required, it is the Contractor's responsibility to notify his Surety of any changes affecting the general scope of the Work or change of the Contract Price and the amount of the applicable Bonds shall be adjusted accordingly and an amended bond document furnished to the County.

ARTICLE 12 - CHANGE OF CONTRACT PRICE/DELIVERY ORDER

The amount specified on individual Delivery Orders constitutes the total compensation payable to the Contractor for performing the specified Work. All duties, responsibilities and obligations assigned to or undertaken by the Contractor shall be at his expense without change in the Contract Price.

The Delivery Order price may only be changed by written Change Order issued by the County. To be eligible for consideration by the County, any claim for an increase in the Delivery Order Price shall be in writing and delivered to the Project Manager within fifteen (15) days of the occurrence of the event giving rise to the claim. All claims for adjustment in the Delivery Order Price shall be determined by the Project Manager. Any change in the Delivery Order Price or Contract Price shall be incorporated in a Change Order. However, no claim for an adjustment to the Delivery Order Price or Contract Amount will be considered for unforeseeable causes that were beyond the fault of negligence of the Contractor or his Subcontractors or supplier, such as acts of God, floods, riots, etc. This restriction does not restrict submission of claims for additional Completion Time due to events of this nature.

In the event the value of any Work covered by a Change Order is not mutually agreed to by the County and the Contractor prior to the County issuing the Contractor a written order or directive to proceed with the changed Work, then the County, without the Change Order document being executed by the Contractor, shall not be prevented from issuing the Change Order, nor shall the Contractor fail to proceed without delay with the changed Work as ordered or directed by the County.

The value of any Work covered by a Change Order or of any claim for an increase or decrease in the Delivery Order Price shall be determined by unit prices contained in the Contract Documents, by application of unit prices to the quantities of the items involved.

The amount of credit to be allowed by the Contractor to the County for any such change which results in a net decrease in cost, will be the amount of the actual net decrease as determined by the County. When both additions and credits are involved in any one change, the combined overhead and profit shall be figured on the basis of the net decrease, if any.

Cash Allowances - It is understood that the Contractor has included in the Contract Price any allowances so named in the Contract Documents and shall cause the Work so covered to be done by such material men, suppliers or Subcontractors and for such sums within the limit of the allowances as the County may approve. Prior to final payment, the Contract Price shall be adjusted as required and an appropriate Change Order issued. The Contractor agrees that the original Contract Price includes such sums as he deems proper for cost and profit on account of cash allowances. No demand for additional cost or profit in connection therewith will be allowed.

ARTICLE 13 - CHANGE OF CONTRACT PERFORMANCE PERIOD

The Contract Performance Period or the Completion Time of any Delivery Order may only be changed by a written Change Order. Any claim for an extension in the Completion Time to be eligible for consideration shall be in writing and delivered to the Project Manager within five (5) days of the occurrence of the event giving rise to the claim. All claims for adjustment in the Completion Time shall be determined by the Project Manager. Any change in the Completion Time resulting from any such claim shall be incorporated in a Change Order.

The Contract may be extended in an amount equal to time lost due to delays beyond the control of the Contractor if he makes a claim therefor. Such delays shall include, but not be restricted to, acts or neglect by any separate Contractor employed by the County; fires; floods; labor disputes; epidemics or acts of God.

All time limits stated in the Delivery Order are of the essence to the Contract.

In the event the Contractor submits a written claim requesting an extension in the Completion Time, whether such request relates to the County's issuance of a Change Order or for delays beyond the control of the Contractor, the Contractor shall submit with the claim supporting data, information, etc., indicating why the Completion Time cannot be met or maintained. The fact that the Work has been changed by a change order, or that a delay has occurred beyond the control of the Contractor, shall not of or by itself be considered as justification for an extension in the Completion Time unless or until it is established by the Contractor and approved by the County that the established Completion Time is insufficient for the Contractor to perform or complete the Work required by the Delivery Order.

ARTICLE 14 - WARRANTY AND GUARANTEE: ACCEPTANCE OF DEFECTIVE WORK

Warranty and Guarantee - The Contractor warrants and guarantees to the County that all materials and equipment will be new unless otherwise specified and that all Work will be of good quality, free from faults or defects and in accordance with the requirements of the Contract Documents and any inspections, test or approvals referred to in this Article. All unsatisfactory Work; all faulty Work; and all Work not conforming to the requirements of the Contract Documents or such inspections, tests or approvals shall be considered defective. Prompt notice of all defects shall be given to the Contractor. All defective Work, whether or not in place, may be rejected, corrected or accepted as provided in this Article.

All warranty and guarantee coverage periods shall commence from the date of acceptance of the Work under a Delivery Order, regardless of the date of installation of Work, except for items which are determined by the County to be in an incomplete or a non-comply status at the time of substantial completion of the Work. The coverage commencement date for warranties and guarantees of such non-comply items shall be the date of the County's acceptance of non-comply items regardless of the date of installation of the Work. The coverage commencement date of warranties and guarantees shall, in accordance with the provisions stated above, be entered on each warranty or guarantee document. However, in the event the coverage commencement date entered on the warranty or guarantee document is not in accordance with the provisions stated above, the coverage commencement date shall none-the-less be the date determined by applying the provisions stated above.

Tests and Inspections - If the Contract Documents, laws, ordinances, rules, regulations or order of any public authority having jurisdiction over the permitting, construction, use occupancy, activation or operation of the project require any Work to specifically be inspected, tested or approved by someone other than the Contractor, the Contractor will give the Project Manager timely notice of readiness therefor. The Contractor will furnish the Project Manager with the required certificates of inspection, testing or approval. All such tests will be in accordance with the methods prescribed by the American Society for Testing Materials or such other applicable organizations as may be required by law or the Contract Documents.

If any such Work required to be inspected, tested or approved is covered without written approval of the Project Manager, it must if requested by the Project Manager be uncovered for observation at the Contractor's expense. The cost of all such inspections, tests and approvals shall be borne by the Contractor unless otherwise provided.

Neither observations by the Contractor nor inspections, tests or approvals by persons other than the Contractor shall relieve the Contractor from his obligations to perform the Work in accordance with the requirements of the Contract Documents.

Access To The Work - The Project Manager and his representative, other representatives of the County and representatives of all Agencies having jurisdiction over the permitting, construction, occupancy, use, activation and operation of the Work will at all times have access to the Work. The Contractor will provide proper facilities for such access and observation of the Work and also for any inspection or testing thereof by others. **Uncovering Work** - If any Work is covered contrary to the request of the Project Manager or contrary to the requirements of the Contract documents and applicable standards, it must, if requested by the Project Manager, be uncovered for observation and replaced at the Contractor's expense.

If the Project Manager considers it necessary or advisable that covered Work be inspected or tested by others, the Contractor, at the Project Manager's request, will uncover, expose or otherwise make available for observation, inspection or testing as the Project Manager may require, that portion of the Work in question, furnishing all necessary labor, material and equipment. If it is found that such Work is defective, the Contractor will bear all the expense of such uncovering, exposure, observation, inspection and testing, and of satisfactory reconstruction. If, however, such Work is not found to be defective, the Contractor will be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to such uncovering, exposure, observation, inspection, testing and re-construction, if he makes a claim therefor as provided in Articles 12 and 13.

Notice to Cure - If the County determines the Work performed pursuant to issuance of a Delivery Order is defective or deficient; if the Contractor fails to supply sufficient skilled workers or suitable materials or equipment; if the Contractor fails to make prompt payments to Subcontractors for labor, materials or equipment; if the work is not progressing in a safe, orderly or well coordinated manner; or if the general progress and/or quality of the work is not adequate to ensure continuation or completion of the work in accordance with the Contract completion time requirements,

then the Procurement Division Manager may issue a notice to cure, giving the Contractor a specific period of time (1) in which to submit to the Project Manager a written Plan of Action including a schedule setting forth a plan by which the deficiencies will be corrected, and (2) a specific period of time in which to correct the deficiencies. If the Contractor does not submit a Plan of Action to indicate how and when the deficiencies indicated in the notice to cure will be cured within the specified time frame that is acceptable to the Project Manager, and if those deficiencies are not corrected within that time frame, then the County may take further action, up to and including Contract termination. The Contractor shall not be entitled to any delay claims as a result of the County's issuance of the notice to cure.

Correction or Removal Of Defective Work - If required by the Project Manager prior to approval payment on a Delivery Order, the Contractor will, promptly, without cost to the County and as specified by the Project Manager, either correct any defective Work whether or not fabricated, installed or completed or, if the Work has been rejected by the Project Manager, remove it from the site and replace it with non-defective Work. If the Contractor does not correct such defective Work or remove and replace such rejected Work within a reasonable time, or as specified in a written notice from the Project Manager, the County may have the deficiency corrected or the rejected Work removed and replaced. All direct and indirect costs of such correction or removal and replacement shall be paid by the Contractor. The Contractor will also bear the expense of making good all Work of others destroyed or damaged by this correction, removal or replacement of his defective Work.

One (1) year Correction Period - If, after the approval of payment and prior to the expiration of one (1) year after the date of Completion or such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents, any Work under a Delivery Order is found to be defective; the Contractor will promptly without cost to the County and in accordance with the Project Manager's written instructions, either correct such defective Work or, if it has been rejected by the Project Manager, remove it from the site and replace it with non-defective Work. If the Contractor does not promptly comply with the terms of such instructions, the Project Manager may have the defective work corrected or the rejected Work removed and replaced; all direct and indirect costs of such removal and replacement will be paid by the Contractor.

Acceptance Of Defective Work - If, instead of requiring correction or removal and replacement of defective Work, the Project Manager prefers to accept it, then he may do so. In such case, if found that acceptance occurs prior to approval of final payment, a Change Order shall be issued incorporating the necessary revisions in the Delivery Order including an appropriate reduction in the price of the order. If the acceptance occurs after approval of final payment, an appropriate amount shall be paid by the Contractor to the County.

Neglected Work By Contractor - If the Contractor should neglect to prosecute the Work in accordance with the Contract Documents, including any requirements of the progress schedule, the County may, after three (3) days written notice to the Contractor and without prejudice to any other remedy it may have, make good such deficiency and the cost thereof shall be charged against the Contractor.

A Change Order shall be issued incorporating the necessary revision in the Contract documents including an appropriate reduction in the Contract Price. If the payments then or therefore due the Contractor are not sufficient to cover such amount, the Contractor will pay the difference to the County.

ARTICLE 15 - WARRANTY AND PAYMENT

Contractor's Warranty Of Title - The Contractor warrants and guarantees that title to all Work, materials and equipment covered by an invoice, whether incorporated in the Work or not, will have passed to the County prior to issuance of the invoice, free and clear of all liens, claims, security interests and encumbrances; and that no Work, materials or equipment covered by an invoice will have been acquired by the Contractor or by any other person performing the Work at the site or furnishing materials and equipment for the Work subject to an agreement under which an interest therein or encumbrance thereon is retained by the seller or otherwise imposed by the Contractor or such other person.

Application of Payments – Applications for payments shall be processed in accordance with Florida Statute 218.735, Part VII, “Local Government Prompt Payment Act”.

The Project Manager shall provide written notice to the Contractor identifying the name, address, phone number and email address of the agent or employee the Contractor is required to submit payment requests or invoices to. This notice will be provided no later than ten (10) days after issuance of the Notice to Proceed.

Based upon Applications for Payment submitted to the Project Manager by the Contractor and Certificates for Payment issued by the Project Manager the County shall make progress payments on account of the Contract Amount to the Contractor as provided in the Contract Documents as follows:

If the Project Manager determines that progress payments are applicable to individual delivery orders then in the timeframes outlined in FS 218.735, Section 2, ninety five percent (95%) of the portion of the Contract Amount properly allocable to labor, materials and equipment incorporated in the Work and ninety five percent (95%) of the portion of the Contract Amount properly allocable to materials and equipment suitably stored at the site or at some other location agreed upon in writing, for the period covered by the application for payment, less the aggregate of previous payments made by the Owner.

The Project Manager, shall reduce the retainage percentage withheld to 2% when the completion of the Work ascertained as payable exceeds fifty percent (50%) of the total contract amount. Upon Final completion of the entire Work covered by a delivery order, a sum sufficient to increase the total payments to one hundred percent (100%) of the Contract Amount, less such amounts as the Owner shall determine for all incomplete work and unsettled claims as provided in the Contract Documents.

Upon Final Completion of a Delivery Order, one hundred percent (100%) of the order amount, less such amounts as the County shall determine for all incomplete work and unsettled claims as provided in the Contract Documents, shall be paid.

Approval of Payments - The Project Manager will, within twenty (20) business days after receipt of each application for payment, either indicate his approval of payment or return the Application to the Contractor indicating in writing the reason for refusing to approve payment. In the latter case, the Contractor may make the necessary corrections and re-submit the Application. The County will pay the Contractor the amount approved within the time frame set forth in the Local Government Prompt Payment Act.

In the event the Contractor and the Project Manager do not achieve mutual agreement on the basis or amount of the payment, and should the Contractor be unwilling to make the necessary corrections or modifications, and re-submit the Application, then the County, to avoid delay in paying the Contractor the amount the County has determined the Contractor is entitled to receive, shall approve and process the Application by making such adjustments thereto as the County deems appropriate so that the Contractor receives, without delay, payment of the amount the County has determined to have been earned and owing to the Contractor.

In the event a dispute arises involving payments or invoices that have been rejected by the Project Manager and resubmitted by the Contractor and that cannot be resolved in accordance with F.S. 218.735 (3), the Orange County Payment/Invoice Disputes Resolution Process Procedures shall be used to resolve the dispute. The procedures can be obtained by contacting the Procurement Division at 407-836-5635.

The Project Manager's approval of any payment requested in an application for payment shall constitute a representation by him to the County, based on the Project Manager's on-site observations of the Work in progress and on his review of the application for payment and the supporting data, that the Work has progressed to the point indicated; that, to the best of his knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning Project upon Substantial Completion, to the results of any subsequent tests called for in his approval); and that the Contractor is entitled to payment of the amount approved. However, by approving any such payment, the Project Manager shall not thereby be deemed to have represented that he made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, that he has reviewed the means, methods, techniques, sequences and procedures of construction nor that he has made any examination to ascertain how or for what purpose the Contractor has used the moneys paid or to be paid to him on account of the Contract Amount.

The Contractor may, at the discretion of the County's Project Manager, be required to have applications for Progress Payments accompanied by Consent of Surety to Partial Payment. However, if there are no payment or performance bonds required, the County's Project Manager may require applications for Progress Payments accompanied by legally effective partial releases or waivers of liens executed by all Subcontractors which performed services and suppliers of material or equipment for the Contractor for services or supplies which were included in the previous Application for Progress Payment. The Contractor shall include the following certification on each Application for Progress Payments and the Application for Final Payment:

"The undersigned Contractor certifies that the work covered by this application for payment has been done, or completed in accordance with the Contract documents, that all amounts have been paid by Contractor for work, supplies, material or equipment for which previous Certificates for Payment were issued and that the current payment shown herein is now due".

The Project Manager's approval of final payment shall constitute an additional representation by him to the County that the conditions precedent to the Contractor's belief being entitled to final payment as set forth in this Article have been fulfilled.

The Project Manager may refuse to approve the whole or any part of any payment if in his opinion he is unable to make such representations to the County. He may then refuse to approve any such payment because of subsequently discovered evidence or the results of subsequent inspections or tests, nullify any such payment previously approved, to such extent as may be necessary in his opinion to protect the County from loss because:

- A. The Work is defective;
- B. Claims have been filed or there is reasonable evidence indicating the probable filing thereof;
- C. The Contract Amount has been reduced because of Change Order(s);
- D. The County has been required to correct defective Work or complete the Work in accordance with Article 14; or
- E. Of unsatisfactory prosecution of the Work, including failure to clean up as required by Article 8.

Inspection - Upon written notice from the Contractor that all the Work is complete including the previously listed deficiencies and that the Work is complete in all respects, the Project Manager will make an inspection with the Contractor. The Project Manager will issue a single punch list of items to be completed or corrected by the Contractor. The punch list must specify a date, not to exceed five (5) days after the punch list has been developed and reviewed, in which the delivery of the punch list to the Contractor must be made. Items not included on the punch list cannot be used as a basis to withhold final payment for retainage. In addition, the final contract completion date shall be at least thirty (30) days after the delivery of the punch list to the Contractor. Punch lists not provided to the Contractor by the date agreed upon for delivery will cause the contract time for completion to be extended by the number of days the local government exceeded the delivery date. Damages may only be assessed against the Contractor in the event the Contractor fails to complete the project within the contract period as was extended by the guidelines set forth in this provision.

The final undisputed retainage payment, if any, must be made within twenty (20) business days after receipt of a proper payment request.

This would be less any amount withheld in accordance with contract provisions for incomplete or uncorrected work unless otherwise provided for by written notice to the Contractor specifying the failure of the Contractor to meet contract requirements in the development of the punch list.

Inspection For Final Payment - After the Contractor has completed any such corrections to the satisfaction of the Project Manager and delivered all documents as required by the Contract Documents, he may submit an invoice, following the procedure for payment.

For contracts that require Payment and Performance Bonds the Contractor may at the discretion of the Project Manager have the final application for payment for each delivery order be accompanied by legally effective final release or waiver of lien from the Contractor and the consent of Surety to final payment. The Final Release of Lien, Form E-12, must be utilized in all Final Pay Applications.

For contracts **not** requiring bonds the Contractor may at the discretion of the Project Manager have the final application for payment for each delivery order be accompanied by legally effective final releases or waivers of liens from the Contractor and all Subcontractors that performed services for the Contractor and all suppliers of material and/or equipment to the Contractor. The Final Release of Lien, Form E-12, must be utilized in all Final Pay Applications.

Contractor's Continuing Obligation - The Contractor's obligation to complete the Work in accordance with the Contract Documents shall be absolute. Neither approval of any invoice by the County, any payment by the County to the Contractor under the Contract Documents, any use or occupancy of the Work or any part thereof by the County, any act of acceptance by the County, any failure to do so, nor any correction of defective Work by the County shall constitute an acceptance of Work not in accordance with the Contract Documents.

Waiver Of Claims - The making and acceptance of payment shall constitute:

A. A waiver of all claims by the County against the Contractor other than those arising from unsettled liens, from non-conforming, non-complying, deficient, incomplete or defective Work appearing after final payment or from failure to comply with the requirements of the Contract Documents, or from the terms of any special guarantees specified therein, and,

B. A waiver of all claims by the Contractor against the County other than those previously made in writing and still unsettled.

ARTICLE 16 - SUSPENSION OF WORK AND TERMINATION

County May Suspend Work - The County may at, any time and without cause, suspend the Work or any portion thereof by notice in writing to the Contractor. The Project Manager shall fix the date on which Work shall be resumed and the Contractor will resume the Work on the date so fixed. For unreasonable delays, the Contractor may be allowed an increase in the Delivery Order Price, an extension of the completion time specified in the Delivery Order, or both, if directly attributable to any suspension and if he makes a claim therefore as provided in Articles 12 and 13. However, no profits will be allowed on claims for suspended work. Also, during any period of suspension, the Contractor shall take all available measures to mitigate costs such as taking on new Work, reassigning resources to other Contracts, etc.

Termination for Default- If the Contractor is adjudged bankrupt or insolvent; if he makes a general assignment for the benefit of his creditors without County approval; if a trustee or receiver is appointed for the Contractor or for any of his property; if he files a petition to take advantage of any debtor's act or to reorganize under the bankruptcy or similar laws; if he fails to prosecute and complete the work in accordance with the established project schedule or within the Contract time period; if he repeatedly fails to supply sufficient skilled workers or suitable materials or equipment; if he repeatedly fails to make prompt payment to Subcontractors for labor, materials or equipment; if he disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction; if he disregards the authority of the Project Manager; or if he otherwise substantially violates any provisions of the Contract Documents, then the County may, without prejudice to any other right or remedy and after giving the Contractor and his Surety seven (7) days written notice, terminate the contract for default and assign the completion of the Work to the Surety or take possession of the Work and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Contractor and finish the Work by whatever method it may deem expedient.

Prior to termination for default, the County will provide adequate written notice to the (vendor/contractor/consultant) through the Manager, Procurement Division, affording him/her the opportunity to cure the deficiencies or to submit a specific plan to resolve the deficiencies within ten (10) days (or the period specified in the notice) after receipt of the notice. Failure to adequately cure the deficiency shall result in termination action. Such termination may also result in suspension or debarment of the Contractor in accordance with the County's Procurement Ordinance.

The contractor and its surety shall be liable for any damage to the County resulting from the Contractor's default of the contract. This liability includes any increased costs incurred by the County in completing contract performance.

If the amount of the Delivery Order exceeds the direct and indirect cost of the County completing the Project, such excess shall be paid to the Contractor. If such cost exceeds such unpaid balance, the Contractor will pay the difference to the County. Such cost incurred by the County will be determined by the County and incorporated in a Change Order.

In the event of termination by the County for any cause, the contractor will not have, under any circumstance, any claim against the County for lost profits or compensation for lost opportunities. After a receipt of a Termination Notice and except as otherwise directed by the County the vendor shall:

- A. Stop work on the date and to the extent specified.
- B. Terminate and settle all orders and subcontracts relating to the performance of the terminated work.
- C. Transfer all work in process, completed work, and other materials related to the terminated work as directed by the County.
- D. Continue and complete all parts of that work that have not been terminated.

If the contractor's failure to perform the contract arises from causes beyond the control and without the fault or negligence of the (vendor/contractor/consultant), the contract shall not be terminated for default. Examples of such causes include (1) acts of God or the public enemy, (2) acts of a government in its sovereign capacity, (3) fires, (4) floods, (5) epidemics, (6) strikes and (7) unusually severe weather.

Where the Contractor's services have been so terminated by the County, said termination shall not affect any rights of the County against the Contractor then existing or which may thereafter accrue. Any payment of monies by the County due the Contractor will not release the Contractor from liability.

Termination for Convenience: Upon seven (7) days written notice to the Contractor and the Surety, or sooner if reasonable under the circumstances, the County may, without cause and without prejudice to any other right or remedy, elect to terminate any part of the Work, or the Contract in whole or in part, as the County may deem appropriate. In any termination for convenience, the Contractor shall be paid for Work completed by the Contractor, Subcontractors and suppliers at the time of termination provided the Work has been inspected and accepted by the County. However, the payment to the Contractor will exclude any and all anticipated supplemental costs, administrative expenses and profit for uncompleted Work.

Upon termination for convenience, the County shall have full power and authority to take possession of the Work, assume any subcontracts with Subcontractors and suppliers that the County selects, and prosecute the Work to completion by Contract or as the County may deem expedient.

A termination for convenience may apply to individual delivery orders, purchase orders or to the contract in its entirety.

Authority to Terminate: The authority to terminate this Contract including all notices thereto is the sole responsibility of the Manager, Procurement Division.

ARTICLE 17 – VERBAL ORDERS

The Project Manager under the following conditions may issue verbal Change Orders to the Delivery Order:

- A. To address bona fide emergency requirements.
- B. To ensure the continuity of critical elements of contract performance.

Any such verbal direction shall be confirmed in writing by the Project Manager to the contractor within five (5) calendar days after issuance. Concurrently, a copy of the written direction shall be provided to the Manager, Procurement Division with documentation in the form of an emergency justification for the action taken. A formal Change Order and associated Contract amendment, if applicable, will be negotiated in conjunction with the Procurement Division and shall succeed the written confirmation not later than thirty (30) calendar days after issuance of the verbal direction.

Board approval, as applicable, shall be obtained.

ARTICLE 18 - MAINTENANCE AND EXAMINATION OF RECORDS

The Contractor shall keep adequate records and supporting documents applicable to this Contract. Said records and documentation shall be retained by the Contractor for a minimum of five (5) years after the date of final payment on this contract.

If any litigation, claim or audit is commenced prior to the expiration of the five (5) year period, the records shall be maintained until all litigation, claims or audit findings involving the records have been resolved.

If applicable, time records and cost data shall be maintained in accordance with generally accepted accounting principles. This includes full disclosure of all transactions associated with the contract.

Contractor's "records and supporting documents" as referred to in this Contract shall include any and all information, materials and data of every kind and character, including without limitation, records, books, papers, documents, subscriptions, recordings, agreements, purchase orders, invoices, leases, contracts, commitments, arrangements, notes, daily diaries, superintendent reports, drawings, receipts, vouchers and memoranda, and any and all other agreements, sources of information and matters that may in the County's judgment have any bearing on or pertain to any matters, rights, duties or obligations under or covered by any Contract document.

Such records and documents shall include (hard copy, as well as computer readable data; written policies and procedures; time sheets; payroll registers; cancelled checks; subcontract files (including proposals of successful and unsuccessful bidders, bid recaps, etc.); original estimates; estimating worksheets; correspondence; change order files (including pricing data used to price change proposals and documentation covering negotiated settlements); back-charge logs and supporting documentation; general ledger entries detailing cash and trade discounts earned, insurance rebates and dividends; and any other contractor records which may have a bearing on matters of interest to the County in connection with the Contractor's dealings with the County (all foregoing hereinafter referred to as "records and supporting documents") to the extent necessary to adequately permit evaluation and verification of:

- a) Contractor compliance with contract requirements; or
- b) Compliance with provisions for pricing change orders; or
- c) Compliance with provisions for pricing invoices; or
- d) Compliance with provisions regarding pricing of claims submitted by the Contractor or his payees; or
- e) Compliance with the County's business ethics; or
- f) Compliance with applicable state statutes and County Ordinances and regulations.

Records and documents subject to audit shall also include those records and documents necessary to evaluate and verify direct and indirect costs, (including overhead allocations) as they may apply to costs associated with this Contract. In those situations where Contractor's records have been generated from computerized data (whether mainframe, mini-computer, or PC based computer systems), Contractor agrees to provide the County's representatives with extracts of data files in computer readable format on data disks or suitable alternative computer exchange formats.

The County and its authorized agents shall have the right to audit, inspect and copy records and documentation as often as the County deems necessary throughout the term of this contract and for a period of five (5) years after final payment. Such activity shall be conducted during normal business hours.

The County, or any of its duly authorized representatives, shall have access within forty-eight (48) hours to such books, records, documents, and other evidence for inspection, audit and copying.

The County, during the period of time defined by the preceding paragraph, shall have the right to obtain a copy of and otherwise inspect any audit made at the direction of the Contractor as concerns the aforesaid records and documentation.

Records and documents shall be made accessible at the Contractor's local place of business. If the records are unavailable locally, it shall be the Contractor's responsibility to insure that all required records are provided at the Contractor's expense including payment of travel and maintenance costs incurred by the County's authorized representatives or designees in accessing records maintained out of the county. The direct costs of copying records, excluding any overhead cost, shall be at the County's expense.

Contractor shall require all payees (examples of payees include subcontractors, insurance agents, material suppliers, etc.) to comply with the provisions of this article by including the requirements hereof in a written contract agreement between contractor and payee.

Such requirements include a flow-down right of audit provisions in contracts with payees, which shall also apply to Subcontractors and Sub-subcontractors, material suppliers, etc. Contractor shall cooperate fully and shall cause all aforementioned parties and all of Contractor's subcontractors (including those entering into lump sum subcontracts and lump sum major material purchase orders) to cooperate fully in furnishing or in making available to the County from time to time whenever requested in an expeditious manner any and all such records, documents, information, materials and data.

The County's authorized representatives or designees shall have reasonable access to the Contractor's facilities, shall be allowed to interview all current or former employees to discuss matters pertinent to the performance of this Contract and shall have adequate and appropriate work space, in order to conduct audits in compliance with this article.

Even after a change order proposal has been approved, Contractor agrees that if the County later determines the cost and pricing data submitted was inaccurate, incomplete, not current or not in compliance with the terms of the contract regarding pricing of change orders, then an appropriate contract price reduction will be made. Such post-approval contract price adjustment will apply to all levels of contractors and/or subcontractors and to all types of change order proposals specifically including lump sum change orders, unit price change orders, and cost-plus change orders.

If an audit inspection or examination by the County, or its designee, in accordance with this article discloses overpricing or overcharges (of any nature) by the Contractor to the County in excess of one-half of one percent (.5%) of the total contract billings, the reasonable actual cost of the County's audit shall be reimbursed to the County by the Contractor. Any adjustments and /or payments that must be made as a result of any such audit or inspection of the contractor's invoices and /or records and supporting documents shall be made within a reasonable amount of time (not to exceed 90 days) from presentation of the County's findings to the Contractor.

ARTICLE 19 - FEDERAL REQUIREMENTS

In the event this Contract is paid in whole or in part from any federal governmental agency or source, the specific terms, regulations and requirements governing the disbursement of these funds shall be specified herein and become a part of this clause.

ARTICLE 20 - MINORITY/WOMEN OWNED BUSINESS ENTERPRISE REQUIREMENTS AND SMALL BUSINESS PROVISIONS

The Contractor will comply with all requirements of Orange County's Minority/Women Owned Business Enterprise Ordinance No. 94-01, as amended by Ordinance No. 2009-21. In summary, the ordinances establish a goal of 25% of the County's annual monetary value of contracts be awarded to minority/women owned business enterprises meeting Contract specifications.

The goals for work force employment levels are 18% minority and 6% women. Other provisions of the Ordinance as it pertains to construction projects may be found in Part C of this document.

To facilitate monitoring for compliance with the Ordinance, the Contractor **must**:

Provide to the County's Business Development Division all subcontracts and/or purchase orders, fully executed by both parties, with each Subcontractor and supplier listed on Attachment C-2 in the Prime Contractor's bid (M/WBE's and non-M/WBE's). **The prime Contract will not be executed by the County until these documents are on file in the Business Development Division.** Prime Contractor should include in the subcontract / purchase order a statement that makes the legality of the document contingent upon execution of the prime Contract by the County.

- B. The Contractor **must** include a **Prompt Payment Clause** and payment schedule in all subcontracts and purchase orders (including those with non-M/WBE's) stating that payment will be made to the Subcontractor/suppliers within 72 hours of receipt of payment from the County. The Contractor **must** pay each Subcontractor and supplier for all work covered under an Application for Payment within the 72 hour timeframe.

This provision in no way creates any contractual relationship between any Subcontractor and Orange County or any liability on Orange County for the Contractor's failure to make timely payments. The timeliness of such payments may be evaluated by the Business Development Division in considering compliance with the Ordinance.

- C. The Contractor must submit:

- 1) A Monthly Workforce Report (Current Field Employment Data). Contractor shall also ensure that all Subcontractors/suppliers with contracts over \$50,000 supply a Monthly Workforce Report; and

2) A Monthly Prime Contractor's Report including M/WBE Utilization Reports

The Contractor shall furnish written documentation evidencing actual dollars paid to each Subcontractor/supplier listed and/or utilized by the Contractor. This will include, but not be limited to: copies of canceled checks, approved invoices, and signed, sworn affidavits certifying the accuracy of payments so that the County may determine actual participation achieved by the Contractor prior to issuance of final payment.

The required reports are to be submitted to the Business Development Division no later than the fifth day of each month beginning one month after the Work begins and to continue until Final Completion. Contractor's Progress Payments may be delayed if reports are not submitted in a timely manner.

The final Prime Contractor's Report-M/WBE Utilization Report **must** be signed by the Contractor's authorized agent certifying that all information contained therein is a true and accurate account of M/WBE utilization per the bid and contract documents. Approval of the final Application for Payment is contingent upon receipt of this certification.

- D. Contractor **must** not substitute, replace or terminate any M/WBE firm without **prior written authorization of the County**, nor **must** the Contractor reduce the scope of work or monetary value of a subcontract without prior written authorization of the County. All modifications, additions and deletions to any and all Contracts issued to said M/WBE's **must** also have prior written authorization of the County.
- E. The Contractor shall expeditiously advise all M/WBE's and the Business Development Division of all Change Orders, contract modifications, additions and deletions to any and all contracts issued to said M/WBE's.
- F. Failure of the Contractor to adhere to the provisions of the Ordinance may subject the Contractor to penalties as outlined in Sec. 17-326 of the Ordinance. The penalties include:
- 1) Liquidated damages up to 10% of the Contract;
 - 2) Suspension or permanent debarment from bidding;
 - 3) Termination of any present contracts;
 - 4) Withholding retainage;
 - 5) A negative evaluation of good-faith effort on future bids;
 - 6) Withholding of payments.

ARTICLE 21 - ASBESTOS FREE MATERIALS

- A. Project is to be constructed with asbestos free materials. A written, notarized statement on company letterhead is to be submitted with the Contract. Payment shall be withheld until such statement is submitted.
- B. Contractor shall agree that if materials containing asbestos are subsequently discovered at any future time to have been included in the construction performed by the Contractor or any of its Subcontractors or agents and were not specified in the design or required by the Contract document, Contractor shall be liable for all costs related to the abatement of such asbestos and damages or claims against the County.

ARTICLE 22 - CONDITION OF MATERIALS AND PACKAGING

In instances where the Specifications, (Part H) make this subject applicable (and unless otherwise indicated), all goods and items offered for sale and/or shipped by the Contractor pursuant to the requirements imposed upon said Contractor by this Contract will be new and in first class condition: all related containers being new and suitable for storage and shipment; all prices including the cost of standard commercial packaging. Contractors will be solely responsible for making any and all claims against carriers as concerns missing or damaged items.

ARTICLE 23 -NO ASSIGNMENT OF AGREEMENT

Contractor may not make any assignment of the contractual agreement between the parties, in whole or in part, without prior written authorization as may be given by the County, at its sole discretion.

No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without written consent of the party sought to be bound; and specifically but without limitation, monies that may become due and monies that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

ARTICLE 24 - CONSTRUCTION TERM CONTRACT

This is a construction term Contract for the services specified, and effective for the period specified. The quantities provided are estimates only and are not purchased by this Contract. Performance shall be accomplished only as authorized by Delivery Orders issued against the Contract. The County may issue orders requiring performance at the multiple locations.

ARTICLE 25 - CONTRACT TERM/RENEWAL

The Contract resulting from this solicitation shall commence effective upon execution by both parties and extend for a period of twelve (12) months.

The County may unilaterally renew the Contract for the periods specified on the Bid Proposal Form for twenty-four (24) months. An additional six (6) months extension may also be unilaterally exercised at the County's discretion. Refer to the clauses entitled "Option to Extend the Term of the Contractor" and "Interim Extension of Performance".

ARTICLE 26 - OPTION TO EXTEND THE TERM OF THE CONTRACT

The County may unilaterally extend the term of this Contract by written notice to the Contractor at least 60 days before the expiration of any Contract term. The exercise of the option shall be for the period specified and for the prices listed on the Bid Proposal Form. All other terms and conditions of the Contract shall apply to the option periods.

ARTICLE 27 - INTERIM EXTENSION OF PERFORMANCE

After all options have been exercised, and it is determined that interim performance is required to allow for the solicitation and award of a new Contract, the County may unilaterally extend the Contract for a maximum period of six months. Pricing, delivery and all other terms and conditions of the Contract shall apply during this period.

The total duration of this Contract, including the exercise of all options, shall not exceed 3.5 years.

ARTICLE 28 - MINIMUM/MAXIMUM DELIVERY ORDER AMOUNT

The Contractor is not obligated to accept Delivery Orders less than \$5,000 or in excess of \$500,000. However, if the Contractor accepts any orders outside these parameters, they shall be performed in accordance with all requirements of the Contract.

ARTICLE 29 - ISSUANCE AND ADMINISTRATION OF ORDERS

Any order issued during the effective period of this Contract not completed within that period shall be completed by the Contractor within the time specified in the order. The Contract shall govern the Contractor's and the County's rights and obligations with respect to that order to the same extent as if the order were completed during the Contract's performance period.

ARTICLE 30 - VARIATION IN ESTIMATED QUANTITY

If the quantity of a unit priced item in this Contract is an estimated quantity, and the actual quantities ordered exceeds the estimate by 50% or more, then the County may negotiate a lower unit price, which will be incorporated into the Contract by Contract Amendment.

Failure of the Contractor to agree to a reduced unit price may result in the termination of the Contract and re-solicitation of the requirement.

ARTICLE 31 - MISCELLANEOUS

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

Specifications and Drawings, if any, furnished to the Contractor by the County shall remain the County's property, and shall apply to a specified delivery order.

The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder, and, in particular but without limitation, the warrants, guarantees and obligations imposed upon the Contractor and the rights and remedies available to the County thereunder shall be in addition to and not a limitation of any otherwise imposed or available by law, by special guarantee or other provisions of the Contract Documents.

Should the County or the Contractor suffer injury or damage to its person or property because of any omission or act of the other or of any of his employees, agents or others for whose acts he is legally liable, claim should be made in writing to the other party within a reasonable time of the first observance of such injury or damage.

All Contracts in excess of one hundred thousand dollars (\$100,000.00) shall comply with all the requirements of Section 114 of the Clean Air Act (42 USC 7401 et seq.) as amended and Section 308 of the Federal Water Pollution Control Act (33 USC 1251 et seq.) as amended.

This Contract shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the provisions of this Contract will be held in Orange County, Florida. Venue for any litigation involving this Contract shall be the Ninth Circuit Court in and for Orange County, Florida.

ARTICLE 32 – CONTRACT CLAIMS

“Claim” as used in this provision means a written demand or written assertion by one of the contracting parties seeking as a matter of right, the payment of a certain sum of money, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract.

“Claim” as used in this provision applies after failure of the parties to agree to an adjustment as provided in Article 12, Change of Contract Price/Delivery Order and Article 13, Change of Contract Performance Period.

Claims made by a Contractor against the County relating to a particular contract shall be submitted to the Procurement Division Manager in writing clearly labeled “Contract Claim” requesting a final decision.

The Contractor also shall provide with the claim a certification as follows: “I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Contractor believes the County is liable; and that I am duly authorized to certify the claim on behalf of the Contractor.

Failure to document a claim in this manner shall render the claim null and void. Moreover, no claim shall be accepted after final payment of the contract.

The decision of the Procurement Division Manager shall be issued in writing and shall be furnished to the Contractor. The decision shall state the reasons for the decision reached. The Procurement Division Manager shall render the final decision within sixty (60) days after receipt of Contractor’s written request for a final decision.

The Procurement Division Manager's decision shall be final and conclusive.

The Contractor shall proceed diligently with performance of this contract pending final resolution of any request for relief, claim, appeal or action arising under the contract and shall comply with any final decision rendered by the Manager of the Procurement Division.

ARTICLE 33 - VALUE ENGINEERING

A. Intent and Objective: This Section applies to any cost reduction proposal (hereinafter referred to as a Value Engineering Change Proposal or VECP) initiated and developed by the CONTRACTOR for the purpose of refining the Contract Documents so as to contribute to design cost effectiveness or significantly improve the quality of the Work. This Section does not, however, apply to any such proposal unless it is identified by the CONTRACTOR, at the time of its submission to the COUNTY, as a proposal submitted pursuant to this Section.

VECPs contemplated are those that would result in net savings to the COUNTY by providing either: (A) a decrease in the cost of performance of the Work, or; (B) a reduction in cost of ownership (hereinafter referred to as collateral costs) of the Work, regardless of acquisition costs.

VECPs must result in savings without impairing essential functions and characteristics such as safety, service, life, reliability, economy of operation, ease of maintenance, aesthetics and necessary standard design features. However, nothing herein prohibits the submittal of VECPs where the required functions and characteristics could be combined, reduced or eliminated as being nonessential or excessive.

Plan errors which are identified by the CONTRACTOR and which result in a cost reduction, will not qualify for submittal as a VECP.

The COUNTY reserves the right to reject at its discretion any VECP submitted. Substitution of another design alternate, which is detailed in the Plans, for the one on which the CONTRACTOR bid, will not be allowed under this Section. Pending execution of a formal supplemental Agreement, implementing an approved VECP, the CONTRACTOR shall remain obligated to perform in accordance with the terms of the existing Contract. No time extensions will be granted due to the time required to review a VECP.

B. Subcontractors: The CONTRACTOR is encouraged to include the provisions of this Section in contracts with subcontractors. The CONTRACTOR shall encourage submission of VECPs from subcontractors, however, it is not mandatory that VECPs be submitted nor is it mandatory that the CONTRACTOR accept or transmit to the COUNTY VECPs proposed by his subcontractors.

C. Data Requirements: As a minimum, the following information shall be submitted by the CONTRACTOR with each VECP;

A description of the difference between the existing requirements and the proposed change, and the comparative advantages and disadvantages.

Separate detailed cost estimates for both the existing requirements and the proposed change. The cost estimates shall be broken down by item numbers indicating quantity increases or decreases and deleted pay items.

Additional proposed Work, now covered by the Contract Documents, shall be identified by current COUNTY pay item numbers. In preparing the estimates, the CONTRACTOR shall include overhead, profit and bond. No separate pay item(s) for these costs will be allowed.

An itemization of plan details, plan sheets, design standards and Specifications that must be changed or added if the VECP is adopted. Preliminary plan drawings must be sufficient to describe the proposed changes.

An estimate of the effects the VECP would have on collateral costs to the COUNTY.

Engineering Incentive or other analysis in sufficient detail to identify and describe specific features of the Contract Documents which must be changed if the VECP is accepted, with a proposal as to how these changes can be accomplished and an assessment of their effect on other Project elements. The COUNTY may require that Engineering Incentive analyses be performed by a prequalified consultant in the applicable class of Work. Any design changes which result from the VECP must be supported by computations sealed by a Professional registered in the State of Florida.

A statement of the time by which approval of the VECP must be issued by the COUNTY to obtain the total estimated cost reduction during the remainder of this Contract noting any effect on the Contract completion time or delivery schedule.

- D. Processing Procedures:** Two copies of each VECP shall be submitted to the County's Project Manager, or his/her duly authorized representative, VECPs will be processed expeditiously; however, the COUNTY will not be liable for any delay in acting upon a VECP submitted pursuant to this Section.

The CONTRACTOR may withdraw, in whole or in part, a VECP not accepted by the COUNTY within the period specified in the VECP. The COUNTY shall not be liable for any VECP development cost in the case where a VECP is rejected or withdrawn. The COUNTY shall be the sole judge of the acceptability of a VECP and of the estimated net savings in construction and/or collateral costs from the adoption of all or any part of such proposal. In determining the estimated net savings, the right is reserved to disregard the Contract prices if, in the judgment of the COUNTY, such prices do not represent a fair measure of the value of Work to be performed or to be deleted.

Prior to approval, the COUNTY may modify a VECP, with the concurrence of the CONTRACTOR, to make it acceptable. If any modification increases or decreases the net savings resulting from the VECP, the CONTRACTOR'S fair share will be determined upon the basis of the VECP modified and upon determination of final quantities. The net savings shall be computed by subtracting the revised total cost of all bid items affected by the VECP design from the total cost of the same bid items as represented in the Contract Documents.

Prior to approval of the VECP, which initiates the supplemental Contract, the CONTRACTOR shall provide acceptable contract quality Plan sheets revised to show all details consistent with the VECP design.

- E. Computations for Change in Contract Cost of Performance:** CONTRACTOR development and implementation costs for the VECP will not be recoverable. If the VECP is adopted, the CONTRACTOR'S share of the net savings as defined hereinafter shall be considered full compensation to the CONTRACTOR for the VECP. COUNTY costs of processing or implementation of a VECP will not normally be considered in the estimate. However, the COUNTY reserves the right, where it deems such action appropriate, to require the CONTRACTOR to pay the COUNTY'S cost of investigating and implementing a VECP submitted by the CONTRACTOR as a condition of considering such proposal.

Where such a condition is imposed, the CONTRACTOR shall indicate his acceptance thereof in writing, and such acceptance shall constitute full authority for the COUNTY to deduct amounts payable to the COUNTY from any monies due or that may become due to the CONTRACTOR under the Contract.

- F. Computations for Collateral Costs:** When collateral cost savings are sought by the CONTRACTOR, separate estimates must be prepared for collateral costs of both the existing Contract requirement and the proposed change. Each estimate shall consist of an itemized breakdown of all costs and the basis for the data used in the estimate.

Cost benefits to the COUNTY include, but are not limited to: reduced costs of operation, maintenance or repair, and extended useful service life. Increased collateral costs include the converse of such factors. Computations shall be as follows:

Costs shall be calculated over a 20-year period on a uniform basis for each estimate. If the difference in the estimates as approved by the COUNTY indicate a savings, the CONTRACTOR shall divide the resultant amount by 20 to arrive at the average annual net collateral savings. The resultant savings shall be shared as stipulated in paragraph G below.

- G. Sharing Arrangements:** If a VECP is approved by the COUNTY, the CONTRACTOR may be entitled to share in both construction savings and collateral savings to the full extent provided for in this subsection. Except for innovative ideas, the CONTRACTOR and COUNTY shall each receive 50 percent of net reduction in the cost of performance of this Contract. For innovative ideas, the reduction in the cost of performance shall be shared as follows:

ACCRUED NET SAVINGS	CONTRACTOR'S SHARE %	COUNTY'S SHARE %
Less than \$25,000	85	15
\$25,000 to \$50,000	75	25
Over \$50,000	50	50

If an approved change is identical or similar to a previously submitted VECP or an idea previously utilized by the COUNTY it will not be considered an innovative idea, thus, will only qualify for a 50 percent sharing of savings.

When collateral savings occur, the CONTRACTOR shall receive 20 percent of the average one year's net collateral savings. The CONTRACTOR shall not receive construction savings or collateral savings on optional Work listed in this Contract until the COUNTY exercises its option to obtain that Work.

ARTICLE 34 - CONTRACT TYPE

This is a Requirements Contract and the County's intent is to order from the Contractor all of the goods or services specified in the contract's price schedule that are required to be purchased by the County. If the County urgently requires delivery of goods or services before the earliest date that delivery may be required under this contract, and if the contractor will not accept an order providing for accelerated delivery, the County may acquire the goods or services from another source.

The County's requirements in this contract are estimated and there is no commitment by the County to order any specified amount. Also, if the estimated quantities are not achieved, this shall not be the basis for an equitable adjustment.

Moreover, if the Manager of the Procurement Division determines that the Contractor's performance is less than satisfactory, the County may order the goods or services from other sources until the deficient performance has been cured or the contract terminated.

ORDER LIMITATIONS

- a. Minimum Order - When the County requires goods or services covered by this contract in an amount less than \$5,000., the County is not obligated to purchase, nor is the Contractor obligated to provide these goods or services under the contract.
- b. Maximum Order – The Contractor is not obligated to honor any order for goods or services in excess of \$500,000.

ARTICLE 35 – PATENTS AND ROYALTIES

Unless otherwise provided, the bidder shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of the contract.

The Contractor, without exception, shall indemnify and save harmless the County and its employees from liability of any nature or kind, including cost and expenses for or on account of any copyrighted, patented, or unpatented invention, process, or article manufactured or supplied by the Contractor. In the event of any claim against the County of copyright or patent infringement, the County shall promptly provide written notification to the Contractor.

If such a claim is made, the Contractor shall use its best efforts to promptly purchase for the County any infringing products or services or procure a license, at no cost to the County, which will allow continued use of the service or product. If none of the alternatives are reasonably available, the County agrees to return the article on request to the Contractor and receive reimbursement, if any, as may be determined by a court of competent jurisdiction.

ARTICLE 26 – OWNER DIRECT PURCHASE

Pursuant to *Florida Statutes*, Section 212.08(6), and *Florida Administrative Code*, Number 12A-1.094, Orange County Florida is exempt from Florida Sales Tax for the purchase of construction materials, supplies and/or equipment incorporated into a construction project.

For construction Contracts valued at \$10,000,000, or lesser amounts as determined by the County, the County may, at its discretion, use the direct purchase method for large dollar value equipment and materials that realize a tax savings of at least \$5000.

Direct purchases will be negotiated with the Contractor based on those items identified by the Professional. The final determination as to whether to direct purchase any materials or equipment shall be made by the Manager of the Procurement Division after consultation with the County's Project Manager.

When it has been determined that the use of direct purchases is warranted, the, Orange County Owner Direct Purchase Provision in Exhibit 2 shall govern.

EXHIBIT A

LEASED EMPLOYEE AFFIDAVIT
CONTRACT # _____

I affirm that an employee leasing company provides my workers' compensation coverage. I further understand that my contract with the employee leasing company limits my workers' compensation coverage to enrolled worksite employees only. My leasing arrangement does not cover un-enrolled worksite employees, independent contractors, uninsured subcontractors or casual labor exposure.

I hereby certify that 100% of my workers are covered as worksite employees with the employee leasing company. I certify that I do not hire any casual or uninsured labor outside the employee leasing arrangement. I agree to notify the County in the event that I have any workers not covered by the employee leasing workers' compensation policy. In the event that I have any workers not subject to the employee leasing arrangement, I agree to obtain a separate workers' compensation policy to cover these workers. I further agree to provide the County with a certificate of insurance providing proof of workers' compensation coverage prior to these workers entering any County jobsite.

I further agree to notify the County if my employee leasing arrangement terminates with the employee leasing company and I understand that I am required to furnish proof of replacement workers' compensation coverage prior to the termination of the employee leasing arrangement.

I certify that I have workers' compensation coverage for all of my workers through the employee leasing arrangement specified below:

Name of Employee Leasing Company: _____

Workers' Compensation Carrier: _____

A.M. Best Rating of Carrier: _____

Inception Date of Leasing Arrangement: _____

I further agree to notify the County in the event that I switch employee-leasing companies. I recognize that I have an obligation to supply an updated workers' compensation certificate to the County that documents the change of carrier.

Name of Contractor: _____

Signature of Owner/Officer: _____

Title: _____ Date: _____

EXHIBIT B

POLICY NUMBER:
LIABILITY

COMMERCIAL GENERAL

CG 25 03 03 97

THIS ENDORSMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**DESIGNATED CONSTRUCTION PROJECT(S)
GENERAL AGGREGATE LIMIT**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Designated Construction Projects:

“Any person or organization on whose behalf you are required to obtain a Designated Construction Project under a written contract or agreement”

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

- A.** For all sums which the insured becomes legally obligated to pay as damages caused by “occurrences” under **COVERAGE A (SECTION I)**, and for all medical expenses caused by accidents under **COVERAGE C (SECTION I)**, which can be attributed only to ongoing operations at a single designated construction project shown in the Schedule above:
1. A separate Designated Construction Project General Aggregate Limit applies to each designated construction project, and that limit is equal to the amount of the General Aggregate Limit shown in the Declarations.
 2. The Designated Construction Project General Aggregate Limit is the most we will pay for the sum of all damages under **COVERAGE A**, except damages because of “bodily injury” or “property damage” included in the “products-completed operations hazard”, and for medical expenses under **COVERAGE C** regardless of the number of:
 - a. Insureds;
 - b. Claims made or “suits” brought or
 - c. Persons or organization making claims or bringing “suits”
 3. Any payments made under **COVERAGE A** for damages or under **COVERAGE C** for medical expenses shall reduce the Designated Construction Project General Aggregate Limit for that designated construction project. Such payments shall not reduce the General Aggregate Limit shown in the Declarations nor shall they reduce any other Designated Construction Project General Aggregate Limit for any other designated construction project shown in the Schedule above.
 4. The limits shown in the Declarations for Each Occurrence, Fire Damage and Medical Expense continue to apply. However, instead of being

subject to the General Aggregate Limit shown in the Declarations, such limits will be subject to the applicable Designated Construction Project General Aggregate Limit.

- B.** For all sums which the insured becomes legally obligated to pay as damages caused by “occurrences” under **COVERAGE A (SECTION I)**, and for all medical expenses caused by accidents under **COVERAGE C (SECTION I)**, which cannot be attributed only to ongoing operations at a single designated construction project shown in the Schedule above:
1. Any payments made under **COVERAGE A** for damages or under **COVERAGE C** for medical expenses shall reduce the amount available under the General Aggregate Limit or the Products-Completed Operations Aggregate Limit, whichever is applicable; and
 2. Such payments shall not reduce any Designated Construction Project General Aggregate Limit.
- C.** When coverage for liability arising out of the “products- completed operations hazard” is provided, any payments for damages because of “bodily injury” or “property damage” included in the “products-completed operations hazard” will reduce the Products-Completed Operations Aggregate Limit, and not reduce the General Aggregate Limit nor the Designated Construction Project General Aggregate Limit.
- D.** If the applicable designated construction project has been abandoned, delayed, or abandoned and then restarted, or if the authorized contracting parties deviate from plans, blueprints, designs, specifications or timetables, the project will still be deemed to be the same construction project.
- E.** The provisions of Limits of Insurance (**SECTION III**) not otherwise modified by this endorsement shall continue to apply as stipulated.

EXHIBIT C

**COMMERCIAL PROPERTY
CP 00 20 06 07**

BUILDERS RISK COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words “you” and “your” refer to the Named Insured shown in the Declarations. The words “we”, “us” and “our” refer to the Company providing this insurance. Other words and phrases that appear in quotation marks have special meaning. Refer to Section **G.**, Definitions.

A. Coverage

We will pay for direct physical loss of or damage to Covered Property at the premises described in the Declarations caused by or resulting from any Covered Cause Loss.

1. Covered Property

Covered Property as used in this Coverage Part, means the type of property described in this section, **A.1.**, and limited in **A.2.**, Property Not Covered, If a Limit of Insurance is shown in the Declarations for that type of property.

Building Under Construction, meaning the building or structure described in the Declarations while in the course of construction, including:

- a. Foundations;
- b. The following property:
 - (1) Fixtures and machinery;
 - (2) Equipment used to service the building; and
 - (3) Your building materials and supplies used for construction;

Provided such property is intended to be permanently located in or on the building or structure described in the Declarations or within 100 feet of its premises;

- c. If not covered by other insurance, temporary structures built or assembled on site, including cribbing,

scaffolding and construction forms.

2. Property Not Covered

Covered Property does not include:

- a. Land (including land on which the property is located) or water;
- b. The following property when outside of buildings:
 - (1) Lawns, trees, shrubs or plants;
 - (2) Radio or television antennas (including satellite dishes) and their lead-in wiring, master or towers; or
 - (3) Signs (other than signs attached to buildings)

3. Covered Causes of Loss

See applicable Causes of Loss Form as shown in the Declarations.

4. Additional Coverages

a. Debris Removal

- (1) Subject to Paragraphs (3) and (4), we will pay your expense to remove debris of Covered Property caused by or resulting from a Covered Cause of Loss that occurs during the policy period. The expenses will be paid only if they are reported to us in writing within 180 days of the date of direct physical loss or damage.
- (2) Debris Removal does not apply to costs to:
 - (a) Extract “pollutants” from land or water; or

- (b) Remove, restore or replace polluted land or water.
- (3) Subject to the exceptions in paragraph (4), the following provisions apply:
- (a) The most we will pay for the total of direct physical loss or damage plus debris removal expense is the Limit of Insurance applicable to the Covered Property that has sustained loss or damage.
- (b) Subject to (a) above, the amount we will pay for debris removal expense is limited to 25% of the sum of the deductible plus the amount that we pay for direct physical loss or damage to the Covered Property that has sustained loss or damage.
- (4) We will pay up to an additional \$10,000 for debris removal expense, for each location, in any one occurrence of physical loss or damage to Covered Property if one or both of the following circumstances apply:
- (a) The total of the actual debris removal expense plus the amount we pay for direct physical loss or damage exceeds the Limit of Insurance on the Covered Property that has sustained loss or damage.
- (b) The actual debris removal expense exceeds 25% of the sum of the deductible plus the amount that we pay for direct physical loss or damage to the Covered Property that has sustained loss or damage.
- Therefore if (4)(a) and/or (4)(b) apply, our total payment for direct physical loss or damage and debris removal expense may reach but will never exceed the Limit of Insurance on the Covered Property that has sustained loss or damage, plus \$10,000.
- (5) **Examples**
The following examples assume that there is no Coinsurance penalty.

Example #1

Limit or Insurance:	\$90,000
Amount of Deductible:	\$ 500
Amount of Loss:	\$50,000
Amount of Loss Payable:	\$49,500
	(\$50,000 - \$500)
Debris Removal Expense:	\$10,000
Debris Removal Expense Payable:	\$10,000
	(\$10,000 is 20% of \$50,000.)

The debris removal expense is less than 25% of the sum of the loss payable plus the deductible. The sum of the loss payable and the debris removal expense (\$49,500 + \$10,000 = \$59,500.) is less than the Limit of Insurance. Therefore, the full amount of debris removal expense is payable in accordance with the terms of Paragraph (3).

Example #2

Limit of Insurance:	\$90,000
Amount of Deductible:	\$ 500
Amount of Loss:	\$80,000
Amount of Loss Payable:	\$79,500
	(\$80,000 - \$500)
Debris Removal Expense:	\$30,000
Debris Removal Expense Payable	
Basic Amount:	\$10,500
Additional Amount:	\$10,000

The basic amount payable for debris removal expense under the terms of Paragraph (3) is calculated as follows: \$80,000 (\$79,500 + \$500) x .25 = \$20,000; capped at \$10,500. The cap applies because the sum of the loss payable (\$79,500) and the basic amount payable for debris removal expense (\$10,500) cannot exceed the Limit of Insurance (\$90,000).

The additional amount payable for debris removal expense is provided in accordance with the terms of Paragraph (4), because the debris removal expense (\$30,000) exceeds 25% of the loss payable plus the deductible (\$30,000 is 37.5% of \$80,000), and because the sum of loss payable and debris removal expense (\$79,500 + \$30,00 = \$109,500) would exceed the Limit of Insurance (\$90,000). The additional amount of covered debris removal expense is \$10,000, the maximum payable under Paragraph (4). Thus the total payable for debris removal expense in this example is \$20,500; \$9,500 of the debris removal expense is not covered.

b. Preservation Of Property

If it is necessary to move Covered Property from the described premises to preserve it from loss or damage by a Covered Cause of Loss, we will pay for any direct physical loss or damage to that property:

- (1) While it is being moved or while temporarily stored at another location; and
- (2) Only if the loss or damage occurs within 30 days after the property is first moved.

c. Fire Department Service Charge

When the fire department is called to save or protect Covered Property from a Covered Cause of Loss, we will pay up to \$1,000, unless a higher limit is shown in the Declarations, for your liability for fire department service charges:

- (1) Assumed by contract or agreement prior to loss; or
- (2) Required by local ordinance.

No Deductible applies to this Additional Coverage.

d. Pollutant Clean-up And Removal

We will pay your expense to extract "pollutants" from land or water at the described premises if the discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused by or results from a Covered Cause of Loss that occurs during the policy period. The

expense will be paid only if they are reported to us in writing within 180 days of the date on which the Covered Cause of Loss occurs.

This Additional Coverage does not apply to costs to test for, monitor or assess the existence, concentration or effects of "pollutants". But we will pay for testing which is performed in the course of extracting the "pollutants" from the land or water.

The most we will pay under this Additional Coverage for each described premises is \$10,000 for the sum of all covered expenses arising out of Covered Causes of Loss occurring during each separate 12 month period of this policy.

5. Coverage Extensions

a. Building Materials And Supplies Of Others

(1) You may extend the insurance provided by this Coverage Form to apply to building materials and supplies that are:

- (a) Owned by others;
- (b) In your care, custody or control;
- (c) Located in or on the building described in the Declarations, or within 100 feet of its premises; and
- (d) Intended to become a permanent part of the building.

(2) The most we will pay for loss or damage under this Extension is \$5,000 at each described premises, unless a higher Limit of Insurance is specified in the Declarations. Our payment for loss or damage to property of others will only be for the account of the owner of the property.

b. Sod, Trees, Shrubs And Plants

You may extend the insurance provided by this Coverage Form to apply to loss or damage to sod, trees, shrubs and plants outside of buildings on the described premises, if the loss or damage is caused by or results from any of the following causes of loss:

- (1) Fire;
- (2) Lightning;

- (3) Explosion;
- (4) Riot or Civil Commotion; or
- (5) Aircraft.

The most we will pay for loss or damage under this Extension is \$1,000, but not more than \$250 for any one tree, shrub or plant. These limits apply to any one occurrence, regardless of the types or number of items lost or damaged in that occurrence.

B. Exclusions And Limitations

See applicable Causes Of Loss From as shown in the Declarations.

C. Limits Of Insurance

The most we will pay for loss or damage in any one occurrence is the applicable Limit of Insurance shown in the Declarations.

The most we will pay for the loss or damage to outdoor signs attached to buildings is \$2,500 per sign in any one occurrence.

The limits applicable to the Coverage Extensions and the Fire Department Service Charge and Pollutant Clean-up And Removal Additional Coverage are in addition to the Limit of insurance.

Payments under the Preservation Of Property Additional Coverage will not increase the applicable Limit of insurance.

D. Deductible

In any one occurrence of loss or damage (hereinafter referred to as loss), we will first reduce the amount of loss if required by Additional Condition – Need For Adequate Insurance. If the adjusted amount of loss is less than or equal to the Deductible, we will not pay for that loss. If the adjusted amount of loss exceeds the Deductible, we will then subtract the Deductible from the adjusted amount of loss, and will pay the resulting amount or the Limit of Insurance, whichever is less.

When the occurrence involves loss to more than one item of Covered Property and separate Limits of Insurance apply, the losses will not be combined in determining application of the Deductible But the Deductible will be applied only once per occurrence.

Example #1

(This example assumes there is no penalty for underinsurance.)

Deductible:	\$ 1,000
Limit of Insurance – Building #1:	\$ 60,000
Limit of Insurance – Building #2:	\$ 80,000
Loss to Building #1:	\$ 60,100
Loss to Building #2:	\$ 90,000

The amount of loss to Building #1 (\$60,100) is less than the sum (\$61,000) of the Limit of Insurance applicable to Building #1 plus the Deductible.

The Deductible will be subtracted from the amount of loss in calculating the loss payable for Building #1:

\$60,100	
<u>- 1,000</u>	
\$59,100	Loss Payable – Building #1

The Deductible applies once per occurrence and therefore is not subtracted in determining the amount of loss payable for Building #2. Loss payable for Building #2 is the Limit of Insurance of \$80,000.

Total amount of loss payable: \$59,100 + \$80,000 = \$139,100.

Example #2

(This example, too, assumes there is no penalty for underinsurance.)

The Deductible and Limits of Insurance are the same as those in Example #1

Loss to Building #1:	\$ 70,000
(Exceeds Limit of Insurance plus Deductible)	
Loss to Building # 2	\$ 90,000
(Exceeds Limit of Insurance plus Deductible)	
Loss Payable - Building #1:	\$ 60,000
(Limit of Insurance)	
Loss Payable – Building #2	\$ 80,000
(Limit of Insurance)	

Total amount of loss payable:
\$140,000

E. Loss Conditions

The following conditions apply in addition to the Common Policy Conditions and the Commercial Property Conditions.

1. Abandonment

There can be no abandonment of any property to us.

Appraisal

If we and you disagree on the value of the property or the amount of loss, either may make written demand for an appraisal of the loss. In this event, each party will select a competent and impartial appraiser. The two appraisers will select and umpire. If they cannot agree, either may request that selection be made by a judge of a court having jurisdiction. The appraiser will state separately the value of the property and amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

- a. Pay its chosen appraiser; and
- b. Bear the other expenses of the appraisal and umpire equally.

If there is an appraisal, we will still retain our right to deny claim.

3. Duties In The Event Of Loss Or Damage

a. You must see that the following are done in the event of loss or damage to Covered Property:

- (1) Notify the police if a law may have been broken.
- (2) Give us prompt notice of the loss or damage. Include a description of the property involved.
- (3) As soon as possible, give us a description of how, when and where the loss or damage occurred.
- (4) Take all reasonable steps to protect the Covered Property from further damage, and keep a record of your expenses necessary to protect the Covered Property, for consideration in the settlement of the claim. This will not increase the Limit of Insurance. However, we will not pay for any subsequent loss or damage resulting from cause of loss that is not a Covered Cause of Loss. Also if feasible, set the damaged property aside and in the best possible order for

examination.

- (5) At our request, give us complete inventories of the damaged and undamaged property. Include quantities, costs, values and amount of loss claimed.
- (6) As often as may be reasonably required, permit us to inspect the property proving the loss or damage and examine your books and records. Also permit us to take samples of damaged and undamaged property for inspection, testing and analysis, and permit us to make copies from your books and records
- (7) Send us a signed, sworn proof of loss containing the information we request to investigate the claim. You must do this within 60 days after our request. We will supply you with the necessary forms.
- (8) Cooperate with us in the investigation or settlement of the claim.
 - b. we may examine any insured under oath while not in the presence of any other insured and at such times as may be reasonably required, about any matter relating to this insurance or the claim, including an insured's books and records. In the event of an examination, an insured's answer must be signed.

4. Loss Payment

a. In the event of loss or damage covered by this Coverage Form, at our option, we will either:

- (1) Pay the value of lost or damaged property;
- (2) pay the cost of repairing or replacing the lost or damaged property, subject to b. below;
- (3) Take all or any part of property at an agreed or appraised value; or
- (4) Repair, rebuild or replace the property with other property of like kind and quality, subject to b. below.

We will determine the value of lost or damaged property, or the cost of its repair

or replacement, in accordance with the applicable terms of the Valuation Condition in this Coverage Form or any applicable provision which amends or supersedes the Valuation Condition.

- b.** The cost to repair, rebuild or replace does not include the increased cost attributable to enforcement of any ordinance or law regulating the construction, use or repair of any property.
- c.** We will give notice of our intentions within 30 days after we receive the sworn proof of loss.
- d.** We will not pay you more than your financial interest in the Covered Property.
- e.** We may adjust losses with the owners of lost or damaged property if other than you. If we pay the owners, such payments will satisfy your claims against us for the owners' property. We will not pay the owners more than their financial interest in the Covered Property.
- f.** We may elect to defend you against suits arising from claims of owners of property. We will do this at our expense.
- g.** We will pay for covered loss or damage within 30 days after we receive the sworn proof of loss, if you have complied with all of the terms of this Coverage Part and:
 - (1)** We have reached agreement with you on the amount of loss; or
 - (2)** An appraisal award has been made.
- h.** A party wall is a wall that separates and is common to adjoining buildings that are owned by different parties. In settling covered losses involving a party wall, we will pay a portion of the loss to the party wall based on your interest in the wall in proportion to the interest of the owner of the adjoining building. However, if you elect to repair or replace your building and the owner of the adjoining building elects not to repair or replace the building, we will pay you the full value of the loss to the party wall, subject to all

applicable policy provisions including Limits of Insurance, the Valuation and Coinsurance Conditions and all other provisions of this Loss Payment Condition. Our payment under the provision of this paragraph does not alter any right of subrogation we may have against any entity, including the owner or insurer of the adjoining building, and does not alter the terms of the Transfer Of Rights Of Recovery Against Others To Us Condition in this policy.

5. Recovery Property

If either you or we recover any property after loss settlement, that party must give the other prompt notice. At your option, the property will be returned to you. You must then return to us the amount we paid to you for the property. We will pay recovery expenses and the expenses to repair the recovered property, subject to the Limit of Insurance.

6. Valuation

We will determine the value of Covered Property at actual cash value as of the time of loss or damage.

F. Additional Conditions

The following conditions apply in addition to the Common Policy Conditions and the Commercial Property Conditions.

1. Mortgageholders

- a.** The term mortgageholder includes trustee.
- b.** We will pay for covered loss of or damage to buildings or structures to each mortgageholder shown in the Declarations in their order of precedence, as interests may appear.
- c.** The mortgageholder has the right to receive loss payment even if the mortgageholder has started foreclosure or similar action on the building or structure.
- d.** If we deny your claim because of your acts or because you have failed to comply with the terms of this Coverage Part, the mortgageholder will still have the right to receive loss payment if the mortgageholder:

- (1) Pays any premium due under this Coverage Part at our request if you have failed to do so;
- (2) Submits a signed, sworn proof of loss within 60 days after receiving notice from us of your failure to do so; and
- (3) Has notified us of any change in ownership, occupancy or substantial change in risk known to the mortgageholder.

All of the terms of this Coverage Part will then apply directly to the mortgageholder.

e. If we pay the mortgageholder for any loss or damage and deny payment to you because of your acts or because you have failed to comply with the terms of this Coverage Part:

- (1) The mortgageholder's rights under the mortgage will be transferred to us to the extent of the amount we pay; and
- (2) The mortgageholder's right to recover the full amount of the mortgageholder's claim will not be impaired.

At our option, we may pay to the mortgageholder the whole principal on the mortgage plus any accrued interest. In this event, your mortgage and note will be transferred to us and you will pay your remaining mortgage debt to us.

f. If we cancel this policy, we will give written notice to the mortgageholder at least:

- (1) 10 days before the effective date of cancellation if we cancel for your nonpayment of premium; or
- (2) 30 days before the effective date of cancellation if we cancel for any other reason.

g. If we elect not to renew this policy, we will give written notice to the mortgageholder at least 10 days before the expiration date of this policy.

2. Need for Adequate Insurance

We will not pay a greater share of any loss than the portion that the Limit of

Insurance bears to the value on the date of completion of the building described in the Declarations.

EXAMPLE #1 (UNDERINSURANCE)

When: The value of the building on the date of completion is: \$200,000
 The Limit of Insurance for it is: \$100,000
 The Deductible is: \$ 500
 The amount of loss is: \$ 80,000

Step (1): $\$100,000 \div \$200,000 = .50$

Step (2): $\$80,000 \times .50 = \$40,000$

Step (3): $\$40,000 - \$500 = \$39,500$.

We will pay no more than \$39,500. The remaining \$40,500 is not covered.

EXAMPLE #2 (ADEQUATE INSURANCE)

When: The value of the building on the date of completion is: \$200,000
 The Limit of Insurance for it is: \$200,000
 The Deductible is: \$ 1,000
 The amount of loss is: \$ 80,000

The limit of Insurance in the example is adequate and therefore no penalty applies. We will pay no more than \$79,000 (\$80,000 amount of loss minus the deductible of \$1,000).

3. Restriction Of Additional Coverage – Collapse

If the Causes Of Loss – Broad Form is applicable to this Coverage Form, Paragraph C.2.f. of the Additional Coverage – Collapse does not apply to this Coverage Form.

If the Cause Of Loss – Special Form is applicable to this Coverage Form, Paragraphs D.2.c. and D.2.d of the Additional Coverage Collapse do not apply to this Coverage Form.

4. When Coverage Ceases

The insurance provided by this Coverage Form will end when one of the following first occurs:

- a. This policy expires or is cancelled.
- b. The property is accepted by the purchaser;
- c. Your interest in the property ceases;
- d. You abandon the construction with no intention to complete it;
- e. Unless we specify otherwise in writing.
 - (1) 90 days after construction is complete or;
 - (2) 60 days after any building described in the Declarations is:
 - (a) Occupied in whole or in part; or
 - (b) Put to its intended use.

G. Definitions

“Pollutants” means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

CAUSES OF LOSS – SPECIAL FORM

Words and phrases that appear in quotation marks have special meaning. Refer to Section **G.**, Definitions.

A. Covered Causes Of Loss

When Special is shown in the Declarations, Covered Causes of Loss means Risk of Direct Physical Loss unless the loss is:

1. Excluded in Section **B.**, Exclusions; or
2. Limited in Section **C.**, limitations; that follow.

B. Exclusions

1. We will not pay for loss or damage caused directly or indirectly by any of the following. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

a. Ordinance or Law

The enforcement of any ordinance or law:

- (1) Regulating the construction, use or repair of any property; or
- (2) Requiring the tearing down of any property, including the cost of removing its debris.

This exclusion, Ordinance Or Law applies whether the loss results from:

- (a) An ordinance or law that is enforced even if the property has not been damaged; or
- (b) The increased costs incurred to comply with an ordinance or law in the course of construction, repair, renovation, remodeling or demolition of property, or removal of its debris, following a physical loss to that property.

b. Earth movement

- (1) Earthquake, including any earth sinking, rising or shifting related to such

event;

- (2) Landslide including any earth sinking, rising or shifting related to such event.
- (3) Mine subsidence, meaning subsidence of a man-made mine, whether or not mining activity has ceased;
- (4) Earth sinking (other than sinkhole collapse), rising or shifting including soil conditions which cause settling, cracking or other disarrangement of foundations or other parts or realty. Soil conditions include contraction, expansion, freezing, thawing, erosion, improperly compacted soil and the action of water under the ground surface.

But if Earth Movement, as described in **b.(1)** through **(4)** above, results in fire or explosion, we will pay for the loss or damage caused by that fire or explosion.

- (5) Volcanic eruption, explosion or effusion. But if volcanic eruption, explosion or effusion results in fire, building glass breakage or Volcanic Action, we will pay for the loss or damage caused by that fire, building glass breakage or Volcanic Action.

Volcanic Action means direct loss or damage resulting from the eruption of a volcano when the loss or damage is caused by:

- (a) Airborne volcanic blast or airborne shock waves;
- (b) Ash, dust or particulate matter; or
- (c) Lava flow.

All volcanic eruptions that occur within any 168-hour period will constitute a single occurrence.

Volcanic Action does not include the cost to remove ash, dust or particulate matter that does not cause direct physical loss or damage to the described property.

c. Governmental Action

Seizure or destruction of property by order of governmental authority.

But we will pay for loss or damage caused by or resulting from acts of destruction ordered by governmental authority and taken at the time of a fire to prevent its spread, if the fire would be covered under this Coverage Part.

d. Nuclear Hazard

Nuclear reaction or radiation, or radioactive contamination, however caused.

But if nuclear reaction or radiation, or radioactive contamination, results in fire, we will pay for the loss or damage caused by that fire.

e. Utility Services

The failure of power, communication, water or other utility service supplied to the described premises, however caused, if the failure:

- (1) Originates away from the described premises; or
- (2) Originates at the described premises but only if such failure involves equipment used to supply the utility service to the described premises from a source away from the described premises.

Failure of any utility service includes lack of sufficient capacity and reduction in supply. Loss or damage caused by a surge of power is also excluded, if the surge would not have occurred but for an event causing failure of power.

But if the failure or surge of power, or the failure of communication, water or other utility service, results in Covered Cause of loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

Communication services include but are

not limited to service relating to Internet access or access to any electronic, cellular or satellite network.

f. War And Military Action

- (1) War, including undeclared or civil war;
- (2) Warlike action by military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

g. Water

- (1) Flood, surface water, waves, tides, tidal waves, overflow of any body of water or their spray, all whether driven by wind or not;
- (2) Mudslide or mudflow;
- (3) Water that backs up or overflows from a sewer, drain or sump; or
- (4) Water under the ground surface pressing on, or flowing or seeping through:
 - (a) Foundations, walls, floors or paved surfaces;
 - (b) Basements, whether paved or not; or
 - (c) Doors, windows or other openings.

But if Water, as described in **g.(1)**. Through **g.(4)**. above, results in fire, explosion or sprinkler leakage, we will pay for the loss or damage caused by that fire explosion or sprinkler leakage.

h. "Fungus", Wet Rot, Dry Rot And Bacteria

Presence, growth, proliferation, spread or any activity of "fungus", wet or dry rot or bacteria.

But if "fungus", wet or dry rot or bacteria results in a "specified cause of loss", we will pay for the loss or damage caused by that "specified cause of loss". This exclusion does not apply:

1. When “fungus”, wet or dry rot or bacteria results from fire or lightning; or
2. To the extent that coverage is provided in the Additional Coverage – Limited Coverage For “Fungus”, Wet Rot, Dry Rot And Bacteria with respect to loss or damage by a cause of loss other than fire or lightning.

Exclusions **B.1.a.** through **B.1h.** apply whether or not the loss event results in widespread damage or affects a substantial area.

2. We will not pay for loss or damage caused by or resulting from any of the following:

a. Artificially generated electrical, magnetic or electromagnetic energy that damages, disturbs, disrupts or otherwise interferes with any:

- (1) Electrical or electronic wire, device, appliance, system or network; or
- (2) Device, appliance, system or network utilizing cellular or satellite technology.

For the purpose of this exclusion, electrical, magnetic or electromagnetic energy includes but is not limited to:

- (a) Electrical current, including arcing;
- (b) Electrical charge produced or conducted by a magnetic or electromagnetic field;
- (c) Pulse of electromagnetic energy; or
- (d) Electromagnetic waves or microwaves.

But if fire results, we will pay for the loss or damage caused by the fire.

- b.** Delay, loss of use or loss of market.
- c.** Smoke, vapor or gas from agricultural smudging or industrial operations
- d. (1)** Wear and tear;
- (2)** Rust or other corrosion, decay, deterioration, hidden or latent defect or any quality in property that causes it to damage or destroy itself;
- (3)** Smog;
- (4)** Setting, cracking, shrinking or expansion;

(5) Nesting or infestation, or discharge or release of waste products or secretions, by insects, birds, rodents or other animals.

(6) Mechanical breakdown, including rupture or bursting caused by centrifugal force. But if mechanical breakdown results in elevator collision, we will pay for the loss or damage caused by the elevator collision.

(7) The following causes of loss to personal property:

- (a)** Dampness or dryness of atmosphere;
- (b)** Changes in or extremes of temperature; or
- (c)** Marring or scratching.

But if an excluded cause of loss that is listed in **2.d.(1).** through **(7)** results in a “specified cause of loss” or building glass breakage, we will pay for the loss or damage caused by that “specified cause of loss” or building glass breakage.

e. Explosion of steam boilers, steam pipes, steam engines or steam turbines owned or leased by you, or operated under your control. But if explosion of steam boilers, steam pipes, steam engines or steam turbines result in fire or combustion explosion, we will pay for the loss or damage caused by that fire or combustion explosion. We will also pay for loss or damage caused by or resulting from explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.

f. Continuous or repeated seepage or leakage of water, or the presence or condensation of humidity, moisture or vapor, that occurs over period of 14 days or more.

g. Water, other liquids, powder or molten material that leaks or flows from plumbing, heating, air conditioning or other equipment (except fire protective systems) caused by or resulting from freezing, unless:

- (1) You do your best to maintain heat in the building or structure; or
- (2) You drain the equipment and shut off the supply if the heat is not maintained.

h. Dishonest or criminal act by you, any of your partners, members, officers, managers, employees (including leased employees), directors, trustees, authorized representatives or anyone to whom you entrust the property for any purpose.

- (1) Acting alone or in collusion with others; or
- (2) You drain the equipment and shut off the supply if the heat is not maintained.

This exclusion does not apply to acts of destruction by your employees (including leased employees); but theft by employees (including leased employees) is not covered.

i. Voluntary parting with any property by you or anyone else to whom you have entrusted the property if induced to do so by any fraudulent scheme, trick, device or false pretense.

j. rain, snow, ice or sleet to personal property in the open.

k. Collapse, including any of the following conditions of property or any part of the property:

- (1) An abrupt falling down or caving in;
- (2) Loss of structural integrity, including separation of parts of the property or property in danger of falling down or caving in; or
- (3) Any cracking, bulging, sagging, bending, leaning, setting, shrinkage or expansion as such condition relates to (1) or (2) above.

But if collapse results in a Covered Cause of Loss at the described premises, we will pay for the loss or damage caused by that Covered Cause of Loss.

The exclusion, **k.**, does not apply:

- (a) To the extent that coverage is provided under the Additional Coverage – Collapse; or
- (b) To collapse caused by one or more of the following:

- (i) The “specified cause of loss”;
- (ii) Breakage of building glass;
- (iii) Weight of rain that collects on a roof; or
- (iv) Weight of people or personal property.

l. Discharge, dispersal, seepage, migration, release or escape of “pollutants” unless the discharge, dispersal, seepage, migration, release or escape is itself caused by any of the “specified causes of loss”. But if the discharge, dispersal, seepage, migration, release or escape of “pollutants” results in “specified cause of loss”, we will pay for the loss or damage caused by that “specified cause of loss”.

The exclusion, **l.**, does not apply to damage to glass caused by chemicals applied to glass.

m. Neglect of an insured to use all reasonable means to save and preserve property from further damage at and after the time loss.

3. We will not pay for loss or damage caused by or resulting from any of the following, **3.a.** through **3.c.** But if an excluded cause of loss that is listed in **3.a.** through **3.c.** results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

a. Weather conditions. But this exclusion only applies if weather conditions contribute in any way with a cause or event excluded in Paragraph **1.** above to produce the loss or damage.

b. Acts or decisions, including the failure to act or decide, of any person, group, organization or governmental body.

c. Faulty, inadequate or defective:

- (1) Planning, zoning, development, surveying, siting;
- (2) Design, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction;
- (3) Materials used in repair, construction renovation or remodeling; or
- (4) Maintenance;

of part or all of any property on or off the described premises.

4. Special Exclusions

The following provisions apply only to the specified Coverage Forms.

a. Business Income (And Extra Expense) Coverage Form, Business Income (Without Extra Expense) Coverage Form, Or Extra Expense Coverage Form

We will not pay for:

- (1) Any loss caused by or resulting from:
 - (a) Damage or destruction of “finished stock”; or
 - (b) The time required to reproduce “finished stock”.

This exclusion does not apply to Extra Expense.

- (2) Any loss caused by or resulting from direct physical loss or damage to radio or television antennas (including satellite dishes) and their lead in-wiring, masts or towers.

- (3) Any increase of loss caused by or resulting from:

- (a) Delay in rebuilding, repairing or replacing the property or resuming “operations”, due to interference at the location of the rebuilding, repair or replacement by strikers or other persons; or

- (b) Suspension, lapse or cancellation of any license, lease or contract. But if the suspension, lapse or cancellation is directly caused by the “suspension” of “operations”, we will cover such loss that affects your Business Income during the “period of restoration” and any extension of the “period of restoration” in accordance with the terms of the Extended business Income Additional Coverage and the Extended Periods Of Indemnity Optional Coverage or any variation of these.

- (4) Any Extra Expense caused by or resulting from suspension, lapse or cancellation of any license, lease or

contract beyond the “period of restoration”.

- (5) Any other consequential loss.

b. Leasehold interest Coverage Form

- (1) Paragraph **B.1.a.**, Ordinance Or Law, does not apply to insurance under this Coverage Form.

- (2) We will not pay for any loss caused by:
 - (a) Your cancelling the lease;
 - (b) The suspension lapse or cancellation of any license; or
 - (c) Any other consequential loss.

c. Legal liability Coverage Form

- (1) The following exclusions do not apply to insurance under this Coverage Form:

- (a) Paragraph **B.1.a.**, Ordinance Or Law;
- (b) Paragraph **B.1.c.**, Governmental Action
- (c) Paragraph **B.1.d.**, Nuclear Hazard;
- (d) Paragraph **B.1.e.**, Utility Services; and
- (e) Paragraph **B.1.f.**, War And Military Action

- (2) The following additional exclusions apply to insurance under this Coverage Form:

(a) Contractual Liability

We will not defend any claim or “suit”, or pay damages that you are legally liable to pay solely by reason of your assumption of liability in a contract or agreement. But this exclusion does not apply to a written lease agreement in which you have assumed liability for building damage resulting from an actual or attempted burglary or robbery, provided that:

- (i) Your assumption of liability was executed prior to accident; and
- (ii) The building is Covered Property under this Coverage Form.

(b) Nuclear Hazard

We will not defend any claim or “suit”, or pay any damages, loss,

expense or obligation, resulting from nuclear reaction or radiation, or radioactive contamination, however caused.

5. Additional Exclusion

The following provisions apply only to the specified property.

LOSS OR DAMAGE TO PRODUCTS

We will not pay for loss or damage to any merchandise, goods or other product caused by or resulting from error or omission by any person or entity (including those having possession under an arrangement where work or a portion of the work is outsourced) in any stage of the development, production or use of the product, including planning, testing, processing, packaging, installation, maintenance or repair. This exclusion applies to any effect that compromises the form, substance or quality of the product. But if such error or omission results in a Covered Cause loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

C. Limitations

The following limitations apply to all policy forms and endorsements, unless otherwise stated.

1. We will not pay for loss of or damage to property, as described and limited in the section. In addition, we will not pay for any loss that is a consequence of loss or damage as described and limited in this section.

a. Steam boilers, steam pipes steam engines or steam turbines caused by or resulting from any condition or event inside such equipment. But we will pay for loss of or damage to such equipment caused by or resulting from an explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.

b. Hot water boilers or other water heating equipment caused by ore resulting from any condition or event

inside such boilers or equipment, other than an explosion.

c. The interior of any building or structure or to personal property in the building or structure, caused by or resulting from rain, snow, sleet, ice, sand or dust, whether driven by wind or not, unless:

(1) The building or structure first sustains damage by a Covered Cause of Loss to its roof or walls through which the rain, snow, sleet, ice, sand or dust enters; or

(2) The loss or damage is caused by or results from thawing of snow, sleet or ice on the building or structure.

d. Building materials and supplies not attached as part of the building or structure caused by or resulting from theft.

However, this limitation does not apply to:

(1) Building materials and supplies held for sale by you, unless they are insured under the Builders Risk Coverage Form; or

(2) Business Income Coverage or Extra Expense Coverage.

e. Property that is missing, where the only evidence of the loss or damage is a shortage disclosed on taking inventory, or other instances where there is no physical evidence to show what happened to the property.

f. Property that has been transferred to a person or to a place outside the described premises on the basis of unauthorized instructions.

2. We will not pay for loss of or damage to the following types of property unless caused by the "specified causes of loss" or building glass breakage:

a. Animals, and then only if they are killed or their destruction is made necessary.

b. Fragile articles such as statuary, marbles, chinaware and porcelains, if broken. This restriction does not apply to:

- (1) Glass; or
- (2) Containers of property held for sale.
- c. Builders' machinery, tools and equipment owned by you or entrusted to you, provided such property is Covered Property.
 - (1) If the property is located on or within 100 feet of the described premises, unless the premises is insured under the Builders Risk Coverage Form; or
 - (2) To Business Income Coverage or to Extra Expense Coverage.
- 3. The special limit shown for each category, a. through d., is the total limit for loss of or damage to all property in that category. The special limit applies to any one occurrence of theft, regardless of the types or number of articles that are lost or damaged in that occurrence. The special limits are:
 - a. \$2,500 for furs, fur garments and garments trimmed with fur.
 - b. \$2,500 for jewelry, watches, watch movements, jewels, pearls, precious and semiprecious stones, bullion, gold, silver, platinum, and other precious alloys or metals. This limit does not apply to jewelry and watches worth \$100 or less per item.
 - c. \$2,500 for patterns, dies, molds and forms.
 - d. \$250 for stamps, tickets, including lottery tickets held for sale, and letters for credit.
 These special limits are part of, not in addition to, the Limit of Insurance applicable to the Covered Property. This limitation, **C.3.**, does not apply to Business Income Coverage or Extra Expense Coverage.
- 4. We will not pay the cost to repair any defect to a system or appliance from which water, other liquid, powder or molten material escapes. But we will pay the cost to repair or replace damaged parts of fire-extinguishing equipment if the damage:
 - a. Results in discharge of any substance from an automatic fire protection system; or
 - b. Is directly caused by freezing.
 However, this limitation does not apply to

Business Income Coverage or to Extra Expense Coverage.

D. Additional Coverage – Collapse

The coverage provided under this Additional Coverage – Collapse applies only to an abrupt collapse as described and limited in **D.1.**, through **D.7.**,

1. For the purpose of this Additional Coverage –Collapse, abrupt collapse means an abrupt falling down or caving in of a building or any part of a building with the result that building or part of the building cannot be occupied for its intended purpose.
2. We will pay for direct physical loss or damage to Covered Property, caused by abrupt collapse of building or any part of a building that is insured under this Coverage Form or that contains Covered Property insured under this Coverage Form, if such collapse is caused by one or more of the following.
 - a. Building decay that is hidden from view unless the presence of such decay is known to an insured prior to collapse;
 - b. Insect or vermin damage that is hidden from view, unless the presence of such damage is known to an insured prior to collapse;
 - c. Use of defective material or methods in construction, remodeling or renovation if the abrupt collapse occurs during the course of the construction, remodeling or renovation.
 - d. Use of defective material or methods in construction, remodeling or renovation if the abrupt collapse occurs after the construction, remodeling or renovation is complete but only if the collapse is caused in part by:
 - (1) A cause of loss listed in **2.a.** or **2.b.**;
 - (2) One or more of the “specified causes of loss”;
 - (3) Breakage of building glass;
 - (4) Weight of people or personal property; or
 - (5) Weight of rain that collects on a roof.

3. This Additional Coverage – Collapse does **not** apply to:

- a.** A building or any part of a building that is in danger of falling down or caving in;
- b.** A part of a building that is standing, even if it has a separated from another part of the building; or
- c.** A building that is standing or any part of a building that is standing even if it shows evidence of cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion.

4. With respect to the following property:

- a.** Outdoor radio or television antennas (including satellite dishes) and their lead-in wiring, masts or towers;
- b.** Awnings, gutters and downspouts;
- c.** Yard fixtures;
- d.** Outdoor swimming pools;
- e.** Fences;
- f.** Piers, wharves and docks;
- g.** Beach or diving platforms or appurtenances;
- h.** Retaining walls; and
- i.** Walks, roadways and other paved surfaces;

if an abrupt collapse is caused by cause of loss listed in **2.a.** through **2.d.**, we will pay for loss or damage to that property only if:

- (1)** Such loss or damage is a direct result of the abrupt collapse of a building insured under this Coverage Form.
- (2)** The property is Covered Property under this Coverage Form.

5. If personal property abruptly falls down or caves in and such collapse is **not** the result of abrupt collapse of a building, we will pay for loss or damage to Covered property caused by such collapse of personal property only if:

- a.** The collapse of personal property was caused by a cause of loss listed in **2.a.** through **2.d.**;
- b.** The personal property which collapses is inside a building; and
- c.** The property which collapses is not of a kind listed in **4.**, regardless of whether

that kind of property is considered to be personal property or real property.

The coverage stated in the Paragraph **5.** does not apply to personal property if marring and/or scratching is the only damage to that personal property caused by the collapse.

6. This Additional Coverage – Collapse does not apply to a personal property that has not abruptly fallen down or caved in, even if the personal property shows evidence of cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion.

7. This Additional Coverage – Collapse will not increase the Limits of Insurance provided in this Coverage Part.

8. The term Covered Cause of Loss includes the Additional Coverage – Collapse as described and limited in **D.1.** through **D.7.**

E. Additional Coverage – Limited Coverage For “Fungus”, Wet Rot, Dry Rot And Bacteria

1. The coverage described in **E.2.** and **E.6.** only applies when the “fungus”, wet or dry rot or bacteria is the result of one or more of the following causes that occurs during the policy period and only if all reasonable means were used to save and preserve the property from further damage at the time of and after that occurrence.

- a.** A “specified cause of loss” other than fire or lightning; or
- b.** Flood, if Flood Coverage Endorsement applies to the affected premises.

2. We will pay for loss or damage by “fungus” wet or dry rot or bacteria. As used in this Limited Coverage, the term loss or damage means:

- a.** Direct physical loss or damage to Covered Property caused by “fungus”, wet or dry rot or bacteria including the cost of removal of the “fungus”, wet or dry rot or bacteria;
- b.** The cost to tear out and replace any part of the building or other property as needed to gain access to the “fungus”, wet or dry rot or bacteria; and
- c.** The cost of testing performed after

removal, repair, replacement or restoration of the damaged property is completed, provided there is a reason to believe that “fungus”, wet or dry rot or bacteria are present.

3. The coverage described under **E.2.** of this Limited Coverage is limited to \$15,000. Regardless of the number of claims, this limit is the most we will pay for the total of all loss or damage arising out of all occurrences of “specified cause of loss” (other than fire or lightning) and Flood which take place in a 12 month period (starting with the beginning of the present annual policy period). With respect to a particular occurrence of loss which results in “fungus”, wet or dry rot or bacteria, we will not pay more than a total of \$15,000 even if the “fungus”, wet or dry rot or bacteria continues to be present or active, or recurs, in a later policy period.
4. The coverage provided under this Limited Coverage does not increase the applicable Limit of Insurance on any Covered Property. If a particular occurrence results in loss or damage by “fungus”, wet or dry rot or bacteria, and other loss or damage, we will not pay more, for the total of all loss or damage, than the applicable Limit of Insurance on the affected Covered Property.

If there is covered loss or damage to Covered Property, not caused by “fungus”, wet or dry rot or bacteria, loss payment will not be limited by the terms of this Limited Coverage, except to the extent that “fungus”, wet or dry rot or bacteria causes an increase in the loss. Any such increase in the loss will be subject to the terms of this Limited Coverage.

5. The terms of this Limited Coverage do not increase or reduce the coverage provided under Paragraph **F.2.** (Water Damage, Other Liquids, Powder Or Molten Material Damage) of this Causes Of Loss Form or under the Additional Coverage – Collapse.
6. The following, **6.a** or **6.b.**, applies only if Business Income and/or Extra Expense

Coverage applies to the described premises and only if the “suspension” of “operations” satisfies all terms and conditions of the applicable Business Income and/or Extra Expense Coverage Form.

- a. If the loss which resulted in “fungus”, wet rot or dry rot or bacteria does not in itself necessitate a “suspension” of “operations”, but such “suspension” is necessary due to loss or damage to property caused by “fungus” wet or dry rot or bacteria, then our payment under Business Income and/or Extra Expense is limited to the amount of loss and/or expense sustained in a period of not more than 30 days. The days need not be consecutive.
- b. If a covered “suspension” of “operations” was caused by loss or damage other than “fungus”, wet or dry rot or bacteria but remediation of “fungus”, wet or dry rot or bacteria but remediation of “fungus”, wet or dry rot or bacteria prolongs the “period of restoration”, we will pay for loss and/or expense sustained during the delay (regardless of when such delay occurs during the “period of restoration”), but such coverage is limited to 30 days. The days need not be consecutive.

F. Additional Coverage Extensions

1. Property In Transit

This Extension applies only to your personal property to which this form applies.

- a. You may extend the insurance provided by this Coverage Part to apply to your personal property (other than property in the care, custody or control of your salespersons) in transit more than 100 feet from the described premises. Property must be in or on a motor vehicle you own, lease or operate while between points in the coverage territory.
- b. Loss or damage must be caused by or result from one of the following causes of loss:

(1) Fire, lightning, explosion, windstorm or hail riot or civil commotion, or vandalism.

(2) Vehicle collision, upset or overturn. Collision means accidental contact of your vehicle with another vehicle or object. It does not mean your vehicle's contact with the roadbed.

(3) Theft of an entire bale, case or package by forced entry into a securely locked body or compartment of the vehicle. There must be visible marks of the forced entry.

c. The most we will pay for loss or damage under this Extension is \$5,000.

This Coverage Extension is additional insurance. The Additional Condition, Coinsurance, does not apply to this Extension.

2. Water Damage, Other Liquids, Powder Or Molten Material Damage

If loss or damage caused by or resulting from covered water or other liquid, powder or molten material damage loss occurs, we will also pay the cost to tear out and replace any part of the building or structure to repair damage to the system or appliance from which the water or other substance escapes. This Coverage Extension does not increase the Limit of Insurance.

3. Glass

a. We will pay for expenses incurred to put up temporary plates or board up openings if repair or replacement of damaged glass is delayed.

b. We will pay for expenses incurred to remove or replace obstructions when repairing or replacing glass that is part of a building. This does not include removing or replacing window displays.

The Coverage Extension, **F.3.**, does not increase the Limit of Insurance.

G. Definitions

1. "Fungus" means type or form of fungus, including mold or mildew, and any mycotoxins, spores, scents or by-products produced or released by fungi.

2. "Specified cause of loss" means the following: fire; lightning; explosion; windstorm or hail; smoke; aircraft or vehicles; riot or civil commotion; vandalism; leakage from fire-extinguishing equipment; sinkhole collapse; volcanic action; falling objects; weight of snow, ice or sleet; water damage.

a. Sinkhole collapse means sudden sinking or collapse of land into underground empty spaces created by the action of water on limestone or dolomite. This cause of loss does not include:

(1) The cost of filling sinkholes; or

(2) Sinking or collapse of land into manmade underground cavities.

b. Falling objects does not include loss or damage to:

(1) Personal property in the open; or

(2) The interior of a building or structure, or property inside a building or structure, unless the roof or an outside wall of the building or structure is first damaged by a falling object.

c. Water damage means accidental discharge or leakage of water or steam as the direct result of the breaking apart or cracking of a plumbing, heating, air conditioning or other system or appliance (other than a sump system including its related equipment and system including its related equipment and parts), that is located on the described premises and contains water or steam.

EXHIBIT E
SAMPLE ONLY

POLICY NUMBER:

COMMERCIAL GENERAL LIABILITY

CG 20 37 04 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS
SCHEDULED PERSON – COMPLETED OPERATIONS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location(s) and Description Of Completed Operations
Orange County Board of County Commissioners Procurement Division 400 E. South Street Orlando, FL 32801	
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule but only with respect to liability for “bodily injury”, or “property damage” caused, in whole or in part by “your work” at the location designated and described in the Schedule of this endorsement performed for that additional insured and included in the “products-completed operations hazard”.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by laws; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to Section III-Limits of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits of Insurance shown in the Declarations; Whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

EXHIBIT F
SAMPLE ONLY

POLICY NUMBER:
COMMERCIAL GENERAL LIABILITY

CG 20 10 04 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS-
SCHEDULE PERSON OR ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location(s) Of Covered Operations
Orange County Board of County Commissioners Procurement Division 400 E. South Street Orlando, FL 32801	
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	
<p>A. Section II – Who is An Insured is amended to include as an additional insured the person(s) or organizations(s) shown in the Schedule, but only with respect to liability for “bodily injury”, “property damage” or “personal and advertising injury” caused, in whole or in part, by:</p> <ol style="list-style-type: none">1. Your acts omissions; or2. The acts or omissions of those acting on your behalf; <p>In the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.</p> <p>However:</p> <ol style="list-style-type: none">1. The insurance afforded to such additional insured only applies to the extent permitted by law; and2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.	<p>B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:</p> <p>This insurance does not apply to “bodily injury” or property damage occurring after::</p> <ol style="list-style-type: none">1. All work , including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured (s) at the location of the covered operations has been completed; or2. That portion of “your work” out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project. <p>C. With respect to the insurance afforded to these additional insureds, the following is added to Section III- Limits of Insurance:</p> <p>If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:</p> <ol style="list-style-type: none">1. Required by the contract or agreement; or2. Available under the applicable Limits of Insurance shown in the Declarations; whichever is less. <p>This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.</p>

ORANGE COUNTY
OWNER DIRECT PURCHASE PROVISION

EXHIBIT H
SAMPLE ONLY

POLICY NUMBER: _____

COMMERCIAL GENERAL LIABILITY
CG 24 04 0509

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

**WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST
OTHERS TO US**

This endorsement modifies Insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization:

ORANGE COUNTY BOARD OF COUNTY COMMISSIONERS
PROCUREMENT DIVISION
400 E. SOUTH STREET
ORLANDO, FL 32801

(Information required to complete this Schedule, if not shown above, will be shown in the Declarations.)

The following is added to Paragraph 8, Transfer of rights of Recovery Against Others To Us of Section IV – Conditions:

We waive any right to recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or “your work” done under a contract with that person or organization and included in the “Products-completed operations hazard”. This waiver applies only to the person or organization shown in the Schedule above.

**ORANGE COUNTY
OWNER DIRECT PURCHASE PROVISION**

1. OBJECTIVE:

To provide guidelines for Owner Direct Purchases (ODP) in order to realize the benefits of owner tax exempt status for the procurement of materials for incorporation into a public works project.

2. AUTHORITY:

Pursuant to *Florida Statutes*, Section 212.08(6), and *Florida Administrative Code*, Number 12A-1.094, Orange County Florida is exempt from Florida Sales Tax for the purchase of construction materials, supplies and/or equipment incorporated into a construction project. Under this program, the Florida Sales Tax rate of 6% shall apply to purchases of \$5000.01 and above. For purchases of \$5000 or less 6.5% shall apply. For example on a \$100,000 purchase 6% sales tax would apply to the total purchase and the .5% would apply to the first \$5000 only. Total sales tax saved on a \$100,000 purchase would be \$6025.

3. DIRECTION:

The Owner has elected to exercise this right to direct purchase selected materials on all construction projects and such direct purchase shall be without any additional cost to the Owner. **All bids are to be submitted with all applicable taxes included.**

The Contractor shall be fully responsible for all matters relating to the receipt of materials, equipment, supplies and furnishings, including but not limited to providing and obtaining all warranties and guarantees in favor of and for the benefit of the County for all materials, equipment, supplies and furnishings as required by the Contract. At the time of and subsequent to the delivery of such materials, equipment, supplies and furnishings, the County shall be liable for all loss or damage to materials, equipment, supplies and furnishings purchased pursuant to the owner direct purchase provisions. Notwithstanding the foregoing, the County shall be responsible for payment of the invoices issued by the supplier, vendor or subcontractor. The County shall retain the risk of loss of and damage to County furnished materials, equipment, supplies and furnishings for the purpose of receiving a tax exemption under Section 212.08(6), Fla. Stat, which meets the criteria in Rule 12A 1.094(4)(b)(1-4), Fla. Admin. Code, to determine if the County is the purchaser for the purposes of the tax exemption under Section 212.08(6), Fla. Stat.

The procedures outlined here may change at any time without prior notice to Contractor.

4. TERMS - For the purpose of this document, the following terms are defined as:

- a. **Change Order (CO):** A written order authorizing a change in the scope of work, contract amount or contract time. (Attachment F)
- b. **Contractor:** A General Contractor (GC), Construction Manager (CM) or Design Builder.
- c. **Orange County Board of County Commissioners, Orange County, Florida:** OC or Owner.

**ORANGE COUNTY
OWNER DIRECT PURCHASE PROVISION**

- d. **Owner Direct Purchase Order (ODP):** A purchase order issued by the Owner directly to the Contractor's vendor for the purchase of materials exempt from sales tax.
- e. **Owner Direct Purchase Procedures:** Guidelines outlined in this document.
- f. **Material:** Any material, supplies, or equipment incorporated into an OC construction project.
- g. **Letter of Indemnification:** Agreement between Contractor and Owner that will undertake to indemnify Contractor from any and all liability for unpaid sales tax due to DPO. (Attachment E)
- h. **Letter of Understanding:** Agreement between Contractor and Owner that Contractor contractual duties remain the same insofar as the inspection, handling, storage, protection and installation of the direct purchase item into the work. (Attachment D)
- i. **Purchase Requisition (PR):** A request to purchase stated material or services for a quoted price. (Attachment A)
- j. **Purchase Order (PO):** A written authorization issued by the Owner for a vendor to delivery material or services at a specified price, which becomes a legally binding contract upon acceptance by the vendor.
- k. **Vendor:** A company supplying material to the Project, whether such provision includes installation or not.
- l. **Vendor List:** A list provided by the Contractor of the vendors the Owner will direct purchase material from.

5. FUNCTIONS:

The County reserves the right to require the Contractor to assign some or all of its subcontracts or other agreements with material suppliers directly to the County. This process will be referred to as ODP and is a method that may be utilized to create savings for the County.

A. Initial Requirements.

A purchase order may be awarded for supplies or materials without competition where such supplies or materials are being procured by the County as an ODP for incorporation into a public works project (as defined in Section 12A-1.094, 4c. of the Florida Department of Revenue, Florida Administrative Code), the contract for which was previously awarded by the County and which prior award included the cost of such supplies or materials. In such event, the County may procure the supplies or materials in compliance with the requirements of the Florida Department of Revenue, Florida Administrative Code Section 12A-1.094, as amended; for the direct purchase of materials and/or other tangible personal property that is incorporated into or becomes a part of a public facility pursuant to a public works contract, and that will not be used to furnish or equip the project in accordance with Section 12A-1.038(4) of the Florida Administrative Code, as amended. *Under no circumstances shall any materials which will not be incorporated into the public works project be purchased by the County as ODP materials, including but not limited to, any consumables such as fuel or any equipment related to the public works project which will not be affixed or otherwise incorporated into the public works project such as reusable construction equipment.*

**ORANGE COUNTY
OWNER DIRECT PURCHASE PROVISION**

B. Procedural Requirements.

The following steps are to be followed unless modified by the Manager of the Procurement Division, or designee, and may be enhanced based on individual project circumstances or at the discretion of the Manager of the Procurement Division:

- i. The price for all construction materials will be provided in the Contractor's bid. The Contractor's bid shall also include all Florida State Sales and other taxes normally applicable to such material. The County may consider purchasing any approved materials.
- ii. At any time upon the request of the County, the Contractor shall provide County with a list of all intended suppliers for such materials as specified by County for consideration for procurement by the County as ODP materials. The list shall include price quotes from the suppliers, as well as a description of the materials to be supplied, estimated quantities and prices. The Owner will purchase the material from Vendors selected by the Contractor for the price originally negotiated by the Contractor.
- iii. The Contractor shall be responsible for maintaining the project schedule and the execution of the terms and conditions of the ODP purchase order, including expediting the suppliers' delivery schedules. The Contractor shall assume all risk and remain fully responsible for all material incorporated into any project, directly purchased by the Owner or not. This will include, but not be limited to, insurance, theft, storage, damage during installation, coordination, quantities ordered, submittals, protection, scheduling, shipping, security, expediting, receiving, installation, cleaning and all applicable warranties, etc.
- iv. After receipt of the Purchase Requisition Form and all required documents, the County shall prepare a purchase order for all items of material which County chooses to purchase directly. The purchase order shall include the County's Consumer's Certificate of Exemption number and a copy of the Consumer's Certificate of Exemption, and a Certificate of Entitlement (See Attachment "B"). The County's purchase order shall be sent directly to the supplier by the County with a copy sent to the Contractor, including a copy of the Certificate of Entitlement. Pursuant to the purchase order, the supplier will provide the required quantities of material at the price established in the supplier's quote to the Contractor or subcontractor.
- v. In conjunction with the PR the Contractor shall submit the Letter of Understanding and a Letter of Indemnification.

**ORANGE COUNTY
OWNER DIRECT PURCHASE PROVISION**

- vi. In conjunction with the issuance by the County of Purchase Orders for ODP materials to suppliers, Owner shall submit a deductive change order to Contractor who shall execute and deliver to County deductive change orders, with a complete description referencing the full value of all ODP materials to be provided by each supplier from whom the County elected to purchase materials directly, plus all sales taxes associated with such materials in Contractor's bid to the County.
- vii. The Contractor shall be required to obtain consent from their Surety acknowledging that Surety's obligation under our Payment and Performance. Bond remains unmodified and in full force and effect, notwithstanding that Orange County has entered into a separate Purchase Order with (Supplier) for the direct purchase of the Materials that will be deducted and deleted from the Contract by the Deductive Change Order. This must accompany the deductive change order.
- viii. Notwithstanding the transfer of ODP materials by the County to the Contractor's possession, the County shall retain legal and equitable title to any and all ODP materials. The transfer of possession of ODP materials from the County to the Contractor shall constitute a bailment for the mutual benefit of the County and the Contractor. The County shall be considered the bailor and the Contractor the bailee of the ODP materials. Transfer of possession shall be deemed to occur immediately and automatically upon delivery of ODP materials to the County without notice from County to Contractor. ODP materials shall be considered returned to the County for purposes of their bailment at such time as they are incorporated into the project. While in Contractor's possession, Contractor shall handle and store all ODP materials in a manner consistent with the supplier's or manufacturer's instructions regarding handling and storage to ensure later installation of ODP materials in a sound and undamaged condition.
- ix. The County will make payment directly to the suppliers of the ODP materials.
- x. The Contractor shall purchase and maintain builders risk insurance sufficient to protect against any loss of or damage to ODP materials. Such insurance shall cover the full value of any ODP materials not yet incorporated into the work during the period between the time the County first takes title to any of such ODP materials and the time when the last of such is incorporated into the work. The Contractor shall purchase and maintain builders risk, "all-risk" insurance based on the completed value of the Project. The Contractor must name the County as additional insured on its policy with respect to all ODP materials and County shall be solely entitled to all proceeds related to the loss or damage of ODP materials.
- x i. The Contractor shall be required to review all invoices submitted to the County by suppliers of ODP materials and either concur or object to the County's issuance of payment to the suppliers, based upon Contractor's records of materials and any defects detected in such materials.

**ORANGE COUNTY
OWNER DIRECT PURCHASE PROVISION**

The County shall directly pay all suppliers with respect to ODP materials purchased by the County.

- xii. The Contractor shall ensure that ODP materials conform to all specifications contained in the contract documents.

Contractor shall determine prior to incorporation into the work if such materials are patently defective, and whether such materials are identical to the materials ordered and match the description on the bill of lading.

If the Contractor discovers defective or non-conformities in ODP materials upon such visual inspection, the Contractor shall not utilize such nonconforming or defective materials in the work and instead shall promptly notify the County of the defective or nonconforming condition so that repair or replacement of those materials can occur without any undue delay or interruption to the work.

If the Contractor fails to perform such inspection and otherwise incorporates into the work such defective or nonconforming ODP materials, the condition of which it either knew or should have known by performance of an inspection, Contractor shall be responsible for all damages to County resulting from Contractor's incorporation of such materials into the work, including liquidated or delay damages.

- xiii. In order to arrange for timely payment to the suppliers of ODP materials, Contractor shall promptly submit to County within five (5) days of County's receipt of an invoice from a supplier (i) a copy of the applicable purchase order as receiving report, (ii) copies of the delivery tickets, (iii) written acceptance of the delivered items by the Contractor, and (iv) such other documentation as may be reasonably required by the COUNTY. Upon receipt of the appropriate documentation, the County shall prepare a check drawn to the supplier based upon the data provided by Contractor. This check will be made payable and remitted directly to the supplier. The Contractor agrees to assist the County to immediately obtain partial or final release of waivers as appropriate.

- xiv. The Contractor shall maintain records of all ODP materials it incorporates into the work. The Contractor shall account monthly to the County for any ODP materials delivered into the Contractor's possession, indicating portions of all such materials which have been incorporated into the work

- xv. The Contractor shall be responsible for obtaining and managing all warranties and guarantees for all ODP materials in the same manner and on the same terms as materials obtained by the Contractor as required by the contract documents. All repair, maintenance or damage-repair calls shall be forwarded to the Contractor for resolution with the appropriate supplier or subcontractor.

**ORANGE COUNTY
OWNER DIRECT PURCHASE PROVISION**

The Contractor agrees and understands that it shall undertake all warranty enforcement and other related duties of the County for all ODP materials. Additionally, all ODP materials shall be warranted and guaranteed by the Contractor as part of the Contractor's warranty and guarantee of the work to the same extent and degree as other materials procured and provided to the work by Contractor. Contractor's warranty and guarantee duties shall be governed by and carried out pursuant to the terms of the contract documents. To that end, the Contractor expressly agrees it shall make no distinction in discharging such warranty and guarantee duties and obligations between ODP materials and equipment and materials otherwise supplied by the Contractor.

- xvi. The County shall in no way be liable for any interruption or delay in the public works project, for any defects or other problems with the public works project, or for any extra costs resulting from any delay in the delivery of, or defects in ODP materials. Contractor's sole or exclusive remedy shall be an extension of the time of completion of the public works project for such reasonable time as determined by County.

6. REQUIREMENTS FOR PURCHASE ORDER ISSUANCE:

The Procurement Division will issue a Purchase Order to the intended supplier and a deductive change order will be prepared by the County's Project Manager to reduce the amount of the contract with the Contractor by the cost of materials purchased through ODP (including tax savings).

Upon request from the County and in a timely manner, Contractor shall prepare a Purchasing Requisition Request Form which shall, in form and detail acceptable to County, specifically identify the materials which County, in its discretion, has identified and elected to purchase directly as ODP materials. The Purchasing Requisition Request Form shall include:

- a. the name, address, telephone number and a contact person for the material supplier;
- b. the manufacturer or brand, model or specification number of the item;
- c. quantity needed as estimated by Contractor;
- d. the price quoted by the supplier for the materials identified;
- e. any sales tax associated with such quote;
- f. delivery dates as established by Contractor;
- g. the PR and the quote must indicate FOB Destination or Job Site. The Owner will not pay shipping and handling charges.

Upon receipt of a Purchase Order Request Form, the PM will initiate a requisition specifying price, quantity, delivery, material/equipment description, etc. and provide a copy of the Purchase Order Request form and all backup to the Procurement Division. Upon receipt of the electronic requisition, the Procurement Division will review all submittals and issue the purchase order.

**ORANGE COUNTY
OWNER DIRECT PURCHASE PROVISION**

The original ODP purchase order, along with a copy of the County's Tax Exemption Certificate and the signed Certificate of Entitlement, will be either e-mailed or faxed and mailed to the material supplier; and a copy will be sent to the Contractor including a copy of the Certificate of Entitlement.

7. REQUIREMENTS FOR PURCHASE ORDER PAYMENT:

- a. Upon delivery of ODP materials to such locations as the County may designate, the Contractor shall visually inspect all shipments from suppliers, and sign off on all receiving reports for ODP material delivered or received. The Contractor shall assure that each delivery of ODP materials is accompanied by delivery tickets or such other documentation as is adequate to identify the purchase order against which the purchase is made. This documentation may consist of a delivery ticket and a copy of the invoice from the supplier conforming to the purchase order together with such additional information as the County may require. The Contractor will then forward the delivery tickets to the County to match up with the invoice for payment. The County shall be directly invoiced by the suppliers for all ODP materials. In the event that Contractor receives any invoices (other than copies of invoices the originals of which have been sent directly by the supplier to the County), Contractor shall not pay such invoice and shall immediately notify the supplier that the County must be directly invoiced on all ODP materials.
- b. Invoices for payment will be submitted by the materials supplier to the County. The purchase order number must be noted on all invoices.
- c. Except as expressly stated herein, Contractor shall be fully responsible for all matters relating to the procurement of ODP materials furnished by and incorporated into the public works project including, but not limited to, assuring the correct quantities, verifying documents and the placement of all orders in a timely manner, assuring coordination of purchases, providing and obtaining all warranties and guarantees required by the contract documents, and inspection and acceptance of the materials at the time of delivery. The Contractor shall coordinate delivery locations and schedules, sequence of delivery, loading orientation, and other arrangements normally required by the Contractor for the particular materials furnished. The Contractor shall provide all services required for the unloading, handling and storage of materials through installation. **The County assumes the risk of loss of ODP materials from the time title to such material passes from the supplier at purchase, or upon delivery if allowed by Laws and Regulations.**

8. REFERENCES:

Attachment "A" - Owner Direct Purchase Requisition Form
Attachment "B" - Certificate of Entitlement
Attachment "C" - Consumers Certificate of Exemption
Attachment "D" - Letter of Understanding
Attachment "E" - Letter of Indemnification
Attachment "F" - Change Order Form
Attachment "G" - Example Consent of Surety

DIRECT PURCHASE REQUISITION

Project Name: _____ Request

No: _____

It is requested that Orange County make arrangements for Direct Purchase by the County of the following item which is included in the work to be done by the Contractor pursuant to the requirements set forth in Contract #Y16-138

ITEM (Brief Description):

COST (Value) of item to be purchased:

Total Cost (Value) including taxes and freight charges	\$	
Amount of Florida State Sales Tax		\$
Direct Purchase Cost Less Florida State Sales Tax	\$	

PURCHASE Directly from (Vendor):

Vendor's Complete Company Name:
Federal Employee Identification No.:

Mailing Address:

Contact Person:
Position/Title:

Telephone No.:
Email Address:

Purchase Deletion:

This Direct Purchase is to be deleted by Change Order to the contract which has been executed between the Contractor and:

Company/Trade/Sub Contractor Name:
Trade/Sub Contract Execution Date

REQUEST MADE BY:

Construction Manager/General Contractor/Design Builder
By:
Title:
Date:

CERTIFICATE OF ENTITLEMENT

(For direct purchase of construction materials by a governmental entity pursuant to 212.08(6), F.S. and Rule 12A-1.094, F.A.C.)

The undersigned authorized representative of Orange County Board of County Commissioners (hereinafter "Governmental Entity"), Florida Consumer's Certificate of Exemption Number 85-8012622266C-O, affirms that the tangible personal property purchased pursuant to Purchase Order Number _____ from _____ (Vendor) on or after _____ (date) will be incorporated into or become a part of a public facility as part of a public works Contract # Y _____ with _____ (Name of Contractor) for the construction of _____.

Governmental Entity affirms that the purchase of the tangible personal property contained in the attached Purchase Order meets the following exemption requirements contained in Section 212.08(6), F.S., and Rule 12A-1.094, F.A.C.:

Initial each of the following requirements.

- _____ 1. The attached Purchase Order is issued directly to the vendor supplying the tangible personal property the Contractor will use in the identified public works.
- _____ 2. The vendor's invoice will be issued directly to Governmental Entity.
- _____ 3. Payment of the vendor's invoice will be made directly by Governmental Entity to the vendor from public funds.
- _____ 4. Governmental Entity will take title to the tangible personal property from the vendor at the time of purchase or of delivery by the vendor.
- _____ 5. Governmental Entity assumes the risk of damage or loss at the time of purchase or delivery by the vendor.

Governmental Entity affirms that if the tangible personal property identified in the attached Purchase Order does not qualify for the exemption provided in Section 212.08(6), F.S. and Rule 12A-1.094, F.A.C., Governmental Entity will be subject to the tax, interest, and penalties due on the tangible personal property purchased. If the Florida Department of Revenue determines that the tangible personal property purchased tax-exempt by issuing this Certificate does not qualify for the exemption, Governmental Entity will be liable for any tax, penalty, and interest determined to be due.

I understand that if I fraudulently issue this certificate to evade the payment of sales tax I will be liable for payment of the sales tax plus a penalty of 200% of the tax and may be subject to conviction of a third degree felony.

Under penalties of perjury, I declare that I have read the foregoing Certificate of Entitlement and the facts stated in it are true.

Johnny M. Richardson, CPPO, CACM
Manager, Procurement Division

Date

Federal Employer Identification Number: _____

Telephone Number: _____

You must attach a copy of the Purchase Order to this Certificate of Entitlement.

Do not send to the Florida Department of Revenue.

This Certificate of Entitlement must be retained in the vendor's and the contractor's books and records.



Consumer's Certificate of Exemption

DR-14
R. 04/11

Issued Pursuant to Chapter 212, Florida Statutes

85-8012622266C-0	10/31/2012	10/31/2017	COUNTY GOVERNMENT
Certificate Number	Effective Date	Expiration Date	Exemption Category

This certifies that

ORANGE COUNTY BOARD OF COUNTY
COMMISSIONERS
201 S ROSALIND AVE 4TH FL
ORLANDO FL 32801-3527

is exempt from the payment of Florida sales and use tax on real property rented, transient rental property rented, tangible personal property purchased or rented, or services purchased.



Important Information for Exempt Organizations

DR-14
R. 04/11

1. You must provide all vendors and suppliers with an exemption certificate before making tax-exempt purchases. See Rule 12A-1.038, Florida Administrative Code (F.A.C.).
2. Your *Consumer's Certificate of Exemption* is to be used solely by your organization for your organization's customary nonprofit activities.
3. Purchases made by an individual on behalf of the organization are taxable, even if the individual will be reimbursed by the organization.
4. This exemption applies only to purchases your organization makes. The sale or lease to others of tangible personal property, sleeping accommodations, or other real property is taxable. Your organization must register, and collect and remit sales and use tax on such taxable transactions. Note: Churches are exempt from this requirement except when they are the lessor of real property (Rule 12A-1.070, F.A.C.).
5. It is a criminal offense to fraudulently present this certificate to evade the payment of sales tax. Under no circumstances should this certificate be used for the personal benefit of any individual. Violators will be liable for payment of the sales tax plus a penalty of 200% of the tax, and may be subject to conviction of a third-degree felony. Any violation will require the revocation of this certificate.
6. If you have questions regarding your exemption certificate, please contact the Exemption Unit of Account Management at 800-352-3671. From the available options, select "Registration of Taxes," then "Registration Information," and finally "Exemption Certificates and Nonprofit Entities." The mailing address is PO Box 6480, Tallahassee, FL 32314-6480.

LETTER OF UNDERSTANDING

CM/DB/GC _____, in its capacity as Construction Manager/Design Builder/General Contractor, agrees that the direct purchase of _____ by Orange County, Owner, from _____, as Supplier/Vendor, does not in any way or manner diminish or modify the contractual duties of the Construction Manager/Design-Builder/General Contractor to the Owner insofar as the inspection, handling, storage, protection, and installation of the aforementioned direct purchase item into the Work is concerned and that such duties pertinent thereto as are set forth in the contract between CM/DB/GC, as Construction Manager/Design-Builder/General Contractor, and Orange County, as Owner, remain unchanged.

ORANGE COUNTY
BOARD OF COUNTY COMMISSIONERS

CM/DB/GC

By: _____
Johnny M. Richardson, CPPO, CACM
Manager, Procurement Division

By: _____

Name Typed

Date: _____

Title

LETTER OF INDEMNIFICATION

The County does hereby undertake to indemnify _____ (CM/DB/GC) from any and all liability for unpaid sales tax which the CM/DB/GC may suffer as a result of claims, demands, costs or judgments against the CM/DB/GC, made by or in favor of the State of Florida on occasion by any claim on account of failure of the CM/DB/GC to pay Florida State taxes on materials purchased by County under this Purchase Order. The County agrees to defend against any such claims or actions brought against the CM/DB/GC whether rightfully or wrongfully brought or filed. The CM/DB/GC agrees that it will promptly notify the County in writing of any such claim, demand or action.

ORANGE COUNTY
BOARD OF COUNTY COMMISSIONERS CM/DB/GC

By: _____
Johnny M. Richardson, CPPO, CFCM,
Procurement Division

By: _____

Name Printed

Date: _____

Title:

**ORANGE COUNTY PROCUREMENT DIVISION
CHANGE ORDER REQUEST FORM**

DATE	DEPARTMENT/DIVISION	CONTACT NAME	CONTACT PHONE

CHANGE ORDER NO.	VENDOR	DOCUMENT NO.	DOOC	POOC	CONTRACT NUMBER	ORIGINAL DOCUMENT APPROVAL BUYER/PA/CA NAME

INCREASE, DECREASE OR DELETE COMMODITY LINE

CMDTY. LINE NO.	ACTION		PREVIOUS LINE DOLLAR AMOUNT	NEW LINE DOLLAR AMOUNT	COMMODITY LINE DESCRIPTION/COMMENTS	NET DOLLAR CHANGE
	FROM	TO				

ADD COMMODITY LINE

CMDTY. LINE NO.	CMDTY. CODE	DESCRIPTION		QTY.	UNIT OF MEAS.	UNIT COST	ACCOUNTING LINE	NET DOLLAR CHANGE
		FOR D.O. YOU MUST SPECIFY AN MA LINE	MA LINE					

ACCOUNTING LINE CHANGE

CMDTY. LINE NO.	ACCTG. LINE NO.	FROM AMOUNT	FROM ACCOUNTING LINE		TO ACCOUNTING LINE	

OTHER CHANGES

DESCRIBE

ENCUMBERED/DE-ENCUMBERED (REQUIRED FOR ALL TRANSACTIONS)

ORIGINAL PO/DO AMT.	NET DOLLARS PREVIOUS C/O <input type="checkbox"/> ADD <input type="checkbox"/> SUBTRACT	NET DOLLARS FOR THIS C/O <input type="checkbox"/> ADD <input type="checkbox"/> SUBTRACT	DOCUMENT TOTAL AFTER THIS C/O

CONTRACT AMOUNT

AWARD AMOUNT	NET DOLLARS PREVIOUS C/O <input type="checkbox"/> ADD <input type="checkbox"/> SUBTRACT	NET DOLLARS FOR THIS C/O <input type="checkbox"/> ADD <input type="checkbox"/> SUBTRACT	CONTRACT TOTAL AFTER THIS C/O

- CANCEL ENTIRE PO/DO
- DO NOT MAIL VENDOR COPY

JUSTIFICATION (REQUIRED FOR ALL TRANSACTIONS)

--

By signing this agreement, the Contractor hereby releases the County, its agents and employees from any and all liabilities under this contract for further equitable adjustments and/or claims associated with this change order.

VENDOR/ CONTRACTOR AUTHORIZATION _____ DATE: _____

DEPARTMENT APPROVAL SIGNATURE _____ DATE: _____

OFFICIAL PROCUREMENT DIVISION USE ONLY

PROCUREMENT DIVISION APPROVAL: _____	DATE: _____
ADD THE FOLLOWING TEXT TO PO/DO: TRACK CHANGES: <input type="checkbox"/> YES <input type="checkbox"/> NO	CHANGE AWARD AMOUNT TO : _____

CHANGE ORDER REQUEST FORM CONTINUATION SHEET

CHANGE ORDER NO.	DOCUMENT NUMBER

INCREASE, DECREASE OR DELETE COMMODITY LINE

CMDTY. LINE NO.	ACTION		PREVIOUS LINE DOLLAR AMOUNT	NEW LINE DOLLAR AMOUNT	COMMODITY LINE DESCRIPTION/COMMENTS	NET DOLLAR CHANGE
	FROM	TO				

ADD COMMODITY LINE

CMDTY. LINE NO.	CMDTY. CODE	DESCRIPTION		QTY.	UNIT OF MEAS.	UNIT COST	ACCOUNTING LINE	NET DOLLAR CHANGE
		FOR D.O. YOU MUST SPECIFY AN MA LINE	MA LINE					

ACCOUNTING LINE CHANGE

CMDTY. LINE NO.	ACCTG. LINE NO.	FROM AMOUNT	FROM ACCOUNTING LINE	TO AMOUNT	TO ACCOUNTING LINE

OTHER CHANGES

DESCRIBE

Date

Contractor/Trade Contractor/Subcontractors Name

Point of Contact

Address

Re:Orange County Project Name and Contract Number

Please be advised that we have reviewed a copy of Deductive Change Order No. ____ issued to (CM/DB/GC) and we acknowledge that its obligation under our Payment and Performance Bond remains unmodified and in full force and effect, notwithstanding that Orange County has entered into a separate Purchase Order with (Supplier) for the direct purchase of the Materials deducted and deleted from the Contract by the Deductive Change Order.

Sincerely,

(Name of Attorney in Fact for Surety)

Attorney in Fact

(Name of Surety)

NOTE: Must be accompanied by effectively dated Power of Attorney

PART G
SPECIAL CONDITIONS

1. All work under this contract shall be performed under the supervision of the Manager of the Orange County Roads and Drainage Division or designee, 4200 South John Young Parkway, Orlando, Florida, 32839-9205.
2. The Contractor shall coordinate all inspections with the County's Representative. The Contractor shall verify that all work scheduled to be inspected is complete. The Contractor shall be responsible for the solution of any problems or discrepancies that may arise during the inspection process.
3. The Contractor shall institute a quality control plan for this contract, which shall be made available to the County for approval. The Contractor shall be responsible for and shall verify all quality control actions to the County's Representative as directed.
4. Maintenance of Traffic (M.O.T.) shall conform to F.D.O.T.'s most current editions of the "Roadway and Traffic Design Standards" for Design, Construction, and Maintenance Systems and the Federal Highway Administration (F.H.W.A.) "Manual on Uniform Traffic Control Devices (M.U.T.C.D.) for Streets and Highways". A proposed traffic control plan will be submitted to the County's Representative for approval, at least five (5) working days prior to start of work. IF THE CONTRACTOR DOES NOT COMPLY WITH F.H.W.A.'S M.U.T.C.D. (I.E. SIGNS, QUALIFIED FLAGGERS AND/OR BARRICADES), THE COUNTY RESERVES THE RIGHT TO DIRECT THE CONTRACTOR TO CEASE OPERATION UNTIL DEFICIENCIES ARE CORRECTED. IN ADDITION, NO ROAD CLOSURES WILL BE ALLOWED EXCEPT IN THE CASE OF EMERGENCIES.
5. THE USE OF PUBLIC ROADS AND STREETS BY THE CONTRACTOR WILL PROVIDE A MINIMUM INCONVIENCE TO THE PUBLIC AND TRAFFIC.
6. The Contractor shall comply with the most current edition of the Accident Prevention Manual pertaining to employee safety and applicable Occupational Safety and Health Administration (O.S.H.A.) and Orange County Standards. The Contractor will be responsible for obtaining copies of these publications by contacting the F.D.O.T. Maps and Publications Department in Tallahassee, O.S.H.A. Regional Office in Atlanta, Ga. and Orange County Public Works in Orlando, respectively.
7. **A mandatory Pre-work Conference will be conducted by the County's Representative to ensure understanding and cooperation of all parties.**

8. The County's Representative shall be entitled at all times to be advised, at his/her request, as to the status and details of the work being completed by the Contractor in a format he/she requires. The Contractor shall maintain coordination with the County's Representative at all times. Either party may request and be granted a conference upon request in a timely manner. **The Contractor shall inform the County's Representative daily as to the locations to be worked and the areas completed the previous day.**
9. **It is the Contractor's responsibility to visit the work sites prior to starting operations on any assigned project to ascertain site conditions.**
10. No work shall begin until a Delivery Order has been issued to the contractor. The Delivery Order shall contain a start date and completion date for each project released under this contract.

Should the Contractor fail to complete all work on or before the date stipulated for completion on a Delivery Order, or such later date as may result from an extension granted by the County, the Contractor shall pay and/or the County may retain from the compensation otherwise to be paid to the Contractor, as liquidated damages, the sum of **two hundred (\$200) dollars** for each consecutive calendar day after the date allowed by the Delivery Order until the entire work is complete.

11. The Contractor shall supervise and direct the work efficiently with due care, skill and attendance. The Contractor shall be responsible to ensure that the finished work complies accurately with the specifications.
12. The Contractor shall provide competent, suitable and qualified personnel to perform the work as required by the specifications. The Contractor shall, at all times, maintain good discipline and order at the work site. The Contractor shall provide a list of all foreman and supervisors who will perform the work. This list shall also contain twenty-four (24) hour emergency telephone numbers. All staff (including Supervisors) shall be required to perform all obligations and functions on County property in a professional and business-like manner and must wear uniforms identifying the company name.
13. The Contractor will designate a competent Contractor's Representative who shall not be replaced without written notice to the County's Representative at least twenty-four (24) hours before or after the incident. The Contractor's Representative shall be present at the job site and shall have the authority to act on behalf of the Contractor. The Contractor's Representative at each work site shall be fluent in the English language. All communications (both verbal and written) given to the Contractor's Representative shall be binding as if given to the Contractor. All verbal communications shall be followed up in writing within two (2) working days.

To effectively communicate with County staff while in the field, the Contractor's Representative shall have available communication devices with internet access (including email) (e.g. cellular phone, laptop computer, blackberry, etc.). This mandatory requirement will ensure proper communication and documentation of problems while performing operations in contracted areas.

The use of sub-Contractors does not relieve the Contractor from these requirements.

14. The Contractor shall notify all residents within the work area as to when the work will take place and explain the level of inconvenience that will be involved. The notification shall be by message boards and approved door hangers to be placed on each house and any vehicles parked on the roadways. Message boards shall be in place ten (10) days prior to commencement of any work in any area. Door hangers must include Orange County's Government Information Number (311) and shall be placed five (5) days prior to commencement of work in that area. Copy of door hanger notification per project shall be faxed to the County's Representative. **Failure to provide adequate notification may result in termination of this contract.**

All work performed, unless authorized by the County's Representative, will take place between the hours of 7:00 A.M. and 5:00 P.M., Monday through Friday. To minimize impact on existing traffic, project hours could be adjusted due to lane closures and/or restricted work hours. No work is to be performed on Saturdays, Sundays or Federal, State, and County holidays, unless authorized by the County's Representative. If the Contractor desires to work on Saturdays, Sundays, or official County holidays (New Year's Day, Martin Luther King Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the day after Thanksgiving, Christmas Eve and Christmas Day) he/she must obtain pre-approval from the County's Representative.

15. Due to congested traffic or unusual conditions, the Contractor may be required to remove his/her operation from the right-of-way and County property at the discretion of the County's Representative. **If the Contractor is required to remove his/her operation due to congested traffic, inclement weather (heavy rain, lightning, hail, tropical storm, hurricane, etc.) or other unusual conditions before 12:00 P.M. (noon), the County will consider allowing an additional one-half (1/2) day be added to the performance period, otherwise no adjustment will be made to the performance period. The County's Representative will determine and authorize such award after the Contractor makes a written application for this. The County will verify alleged conditions in the area prior to authorization. Once approved, the County will modify the completion date, accordingly, for the contract and will notify the Contractor.**

16. The County will not provide staging or storage areas for the Contractor. On a case by case basis, in an area where County surplus property is available, the Contractor may, after obtaining permission from the person or persons responsible for the property, use said property for staging with the understanding that the Contractor shall restore the property to its original or better condition upon completion of the project prior to submitting an invoice for work completed and accepted. Agreements for utilizing private areas for staging must be in writing and submitted to the County prior to starting operations.

Should the right-of-way be requested to be used for staging or storage area, an agreement must be submitted on writing to the County for approval prior to starting operations, and must include a plan for maintenance of traffic, pedestrian safety, protection to drainage structures and swales to prevent runoff obstructions, and restoration of the right-of-way to its original or better condition upon project completion. No staging of equipment or material shall be allowed near roadway intersections to avoid sight distance obstructions.

Water needed on any of the released projects shall be coordinated between the Contractor and the utility company providing the water at no additional cost to the County.

17. **EQUIPMENT** – The Contractor shall furnish necessary equipment to satisfactorily perform the work required under this contract. The Contractor shall ensure all equipment used in the performance of the contract on County property is in good safe working order and properly maintained in order to protect the operator and the public. **All equipment onsite (including pick-up trucks) shall be identified with the company logo.**

All equipment used by the Contractor is subject to inspection by the County's Representative. Any equipment on site, which is deemed by the County's Representative to be inoperable, unsafe, or improper for desired use, must be removed from the premises by the Contractor at his/her expense the same day of the county's determination.

The Contractor is required to use amber flashing lights, back-up alarms, etc. on all equipment and his/her employees must be provided with the required Personnel Protective Equipment as required by O.S.H.A. and the County.

Equipment authorized by the County to be left on the right-of-way or County property after designated work hours will be placed outside the clear and recovery area and will be the sole responsibility of the Contractor. If equipment is left on the right-of-way, it will be marked with barricades with approved steady burning amber lights.

18. **DISPOSAL** – The Contractor shall dispose of debris only in a County approved landfill in accordance with all Federal, State and Local rules and regulations in effect at the time of disposal. Cost involved with the disposal of debris shall be the responsibility of the Contractor.
19. **MANAGEMENT PLAN** – Bidders are required to provide a management plan with the bid to include a list of resources available for performance of the contract resulting from this solicitation and all current Orange County contracts the bidder is performing and those projected to be awarded. The management plan shall outline the bidder's approach to ensure satisfactory performance within the terms and conditions of the contract. The plan also shall include the bidder's approach to ensure satisfactory performance on all other County current and projected contracts. **At a minimum, the management plan shall include:**
- a. The bidder's basic approach to the management of the contracts.
 - b. An organization chart showing a reporting hierarchy of staff and subcontractors (if any) identifying the key individuals responsible for the work. A separate organization chart for all other County contracts – current and projected – will also be provided.
 - c. A complete list of equipment to be dedicated to the contract resulting from this solicitation with applicable vehicle identification numbers. A separate list of equipment for all other County contracts – current and projected – will also be provided.
 - d. A complete list of workers by skill category who will be dedicated to work under the contract resulting from this solicitation. This list shall include project management and supervisory personnel. A separate list of workers for all other County contracts – current and projected – shall also be provided.
20. **MINIMUM PRODUCTION RATES** – The Contractor shall be capable of providing minimum production rates per day per project to meet the needs of this contract as follows:
- Cold bituminous asphalt base course recycling – 2,500 square yards
 - Asphalt resurfacing – 7,200 square yards
21. **FDOT PRE-QUALIFICATION** – The Contractor and/or applicable sub-contractor must currently be Florida Department of Transportation pre-qualified in the area of Flexible Paving. **This certification shall be submitted with the bid.**

PART H TECHNICAL PROVISIONS

This work is the in-place construction of a Cold Recycled Bituminous Base Course (Cold In-Place Recycling (CIR)), using either reclaimed asphalt pavement (RAP) material and/or reclaimed aggregate material (RAM), combined with virgin aggregates and/or bituminous material. To the maximum extent possible, 100% of the existing asphalt pavement shall be recycled to ensure that the completed recycled base course will be of a consistent material and thickness throughout. This will include, but is not limited to, all existing asphalt pavement adjacent to all concrete curbing, storm sewer inlets, manholes, sanitary sewer manholes, and all utility valve boxes. The existing asphalt pavement in the specified locations must be included in the recycling process in order to construct a bituminous base course with a uniform thickness throughout 100% of the proposed area. All work on this contract must also conform to specifications per AASHTO-AGC-ARTBA Task Force 38 Report (available from American Association of State Highway and Transportation Officials). This contract shall utilize the specified process which is clearly defined in Task Force 38 as being a completely separate discipline from Full Depth Reclamation (FDR). Full Depth Reclamation or any variation of Full Depth Reclamation will be accepted as part of the scope of work for this contract. This scope of work exclusively involves the Cold in Place Bituminous Base Course Recycling (CIR) process as described herein.

Cold-in-place base recycling (CIR) as required for this scope of work is a partial depth recycling process that rehabilitates the upper portion of an existing pavement including part of the base. CIR is only used to stabilize hot mix asphalt and aggregate materials; it is not used to stabilize the supporting soil material below the pavement structure. This CIR process requires a specialized milling machine with an injection system where a down cutting head grinds up the old pavement to a controlled depth, usually 4 to 6 inches, and allows for a finer gradation of the recycled mix. The milled material is mixed with a stabilizing agent in a mixing chamber. The revitalized material is placed back down on the roadway as a new base course using a standard hot-mix asphalt paver.

COLD IN-PLACE RECYCLED BITUMINOUS MATERIAL MATERIALS

ASPHALT EMULSION - The type of asphalt emulsion to be used shall be determined by the mixture design. Bituminous material shall conform to the applicable requirements of the *2015 FDOT Standard Specifications for Road and Bridge Construction, Section 916*. A representative from the asphalt emulsion supplier shall be at the job site at the beginning of the project to monitor the characteristics and performance of the asphalt emulsion. Throughout the job, the representative shall monitor the project and make adjustments to the asphalt emulsion formulation as required.

COLD PULVERIZED MATERIAL - The cold pulverized recycled asphalt pavement (hereinafter referred to as RAP) material shall meet the following gradation requirement prior to the addition of the asphalt emulsion.

STANDARD		METRIC	
Sieve Size	%Passing	Sieve Size	%Passing
2"	95	51 mm	95

MIXTURE DESIGN

A preconstruction mix design(s) (cost to be included as part of the unit price for recycling services) shall be submitted to the County’s Representative by the CIR contractor using materials obtained directly from the project site prior to construction. Mix design formulations shall be conducted in accordance with the guidelines located in *Appendix 1- Mix Design Procedures for CIR*. Permission to obtain materials from roadway must first be obtained from the County’s Representative. All core holes must be immediately patched with cold patch. The mix design testing shall be conducted by an AASHTO Materials Reference Laboratory (AMRL) accredited laboratory. Based on RAP consistency throughout project limits, more than one mix design may be required. Mix design(s) shall meet the Mix Design Performance Criteria of *Table 1* and be approved by the County’s Representative prior to construction.

Table 1 – Mix Design Performance Criteria		
<i>100 mm specimens shall be prepared in a Superpave Gyratory compactor. The mixture should meet the following criteria at the selected design asphalt emulsion content:</i>		
Property	Criteria	Purpose
Compaction effort, Superpave Gyratory Compactor AASHTO T312	1.25° angle, 600 kPa stress, 30 gyrations	Density Indicator
Density, ASTM D2726 or equivalent	Report	Compaction Indicator
Gradation for Design Millings, ASTM C117	Report	
*Marshall stability, ASTM D6926, D6927, 40°C	1,250 lb min.	Stability Indicator
**Resistance of Compacted Bituminous Mixture to Moisture Induced Damage AASHTO T283 - Retained stability based on cured stability	70 % min.	Ability to withstand moisture damage
* Cured stability tested on compacted specimens after 60°C (140°F) curing to constant weight.		
**Vacuum saturation of 55 to 75 percent, water bath 25°C 23 hours, last hour at 40°C water bath		

OTHER ADDITIVES – If necessary, additives may be used to meet the requirements in *Table 1*. In the case that an additive is used, the type and allowable usage percentage must be described in the submitted design recommendation.

ADDITION OF IMPORTED CRUSHED RECLAIMED ASPHALT PAVEMENT (RAP) MATERIAL - If available, imported RAP material may be added at the discretion of the County’s Representative if the RAP material meets the requirements in *Table 2*. The crushed RAP shall be free from vegetation and all other deleterious materials, including silt and clay balls. It shall meet the requirements for Deleterious Materials given in *Table 2*. The crushed RAP shall not exceed the maximum size requirement and when blended with the design millings, shall produce a product which meets the specifications given in *Table 1*.

Table 2 - Imported Crushed RAP Criteria		
Property	Method	Limit
Deleterious Materials: Clay Lumps and Friable Particles in Aggregate, %	ASTM C 142 or AASHTO T112	0.2% maximum
Maximum size and Distribution	ASTM C 136 or AASHTO T 27	As specified

ADDITIONAL AGGREGATE - Based on the results of mix design testing or other requirements, the CIR contractor shall determine if additional aggregate is required to comply with mix design performance criteria specified in *Table 1*. Any additional aggregate shall meet the criteria specified in *Table 3*, and it shall be graded to produce a pavement layer which meets the mix design performance criteria specified in *Table 1*.

Table 3 - Additional Aggregate Criteria		
Property	Method	Limit
Los Angeles abrasion value, % loss	AASHTO T96	40% maximum
Sand Equivalent,%	ASTM D2419	60% minimum
Maximum size and Distribution	ASTM C 136 or AASHTO T 27	As specified
Water absorption %	AASHTO T 85	5%_ maximum

EQUIPMENT AND RESOURCES

All equipment used in the performance of the contract on County property shall be properly maintained in order to protect the operator and the public. All equipment used by the contractor is subject to inspection by the County’s Representative. Any equipment deemed inoperable, unsafe, or improper for the desired use shall be removed from the work site.

The Contractor shall utilize equipment of a type and in sufficient quantity to perform the work in a satisfactory manner within the time specified herein. Maintain all equipment in a satisfactory operating condition and in accordance with the *2015 FDOT Standard Specifications for Road and Bridge Construction, Section 100-2*.

MILLING MACHINE - A self-propelled, down-cutting, lateral/horizontal mixing, cold milling machine that is capable of pulverizing the existing bituminous material in a single pass to the specified depth (6 inches). The machine must have a 10.5 foot minimum width cutting mandrel with the ability to accommodate a 12.5 foot mandrel as specified by the County's Representative. The machine shall have automatic depth controls to maintain the cutting depth to within $\pm \frac{1}{4}$ in (6 mm) of that specified, and shall have a positive means for controlling cross slope elevations. A 30 foot none contact averaging beam must be used on the mill. The use of a heating device to soften the pavement will not be permitted. Up-cutting machines shall not be permitted unless secondary crushing is conducted in-place prior to mixing and the introduction of bituminous material.

The milling machine must be equipped with a liquid metering device capable of adjusting the flow of asphalt emulsion to compensate for any variation in the speed of the machine. The metering device shall deliver the amount of asphalt emulsion to within ± 0.2 percent of the required design amount by weight of pulverized bituminous material (for example, if the design requires 3.0 percent, the metering device shall maintain the emulsion amount between 2.8 percent and 3.2 percent). The asphalt emulsion pump should be of sufficient capacity to allow emulsion contents up to 3.5% by weight of pulverized bituminous material. Also, automatic digital readings will be displayed for both the flow rate and total amount of pulverized bituminous material and asphalt emulsion in appropriate units of weight and time.

BITUMINOUS PAVER - A self-propelled conventional bituminous paver having electronic grade and cross slope control for the screed shall be utilized. The equipment shall be of sufficient size and power to spread and lay the mixture in one smooth continuous pass to the specified section and according to the plans. A 30 foot none contact averaging beam must be used on the bituminous paver. To reduce material segregation, the bituminous paver must utilize a hopper insert.

ROLLERS - All rollers shall be self-propelled. The number, weight and types of rollers shall be as necessary to obtain the required compaction. At least one pneumatic-tired roller shall have a minimum gross operating weight of not less than 50,000 lbs. (22,600 kg). Pneumatic rollers must have properly working scrapers and water spraying systems. At least one double drum vibratory steel-wheeled roller shall have a gross operating weight of not less than 20,000 lbs. (9,000 kg) and a width of 78 inches (1980 mm). Double drum vibratory rollers must have properly working scrapers and water spraying systems.

CONSTRUCTION METHODS

REMOVAL OF VEGETATION - Grass and other vegetation shall be removed from the edge of the existing pavement to prevent contamination of the pulverized bituminous material during the milling operation.

MILLING - The existing pavement shall be milled to the required depth and width as indicated. Recycling shall be in a manner that does not disturb the underlying material in the existing roadway. The milling operation shall be conducted so that the amount of fines occurring along the vertical faces of the cut will not prevent bonding of the cold recycled materials. Use a small milling machine, if necessary, to mill longitudinally to the required depth as indicated on the plans along all curbs and gutters, radius returns, utilities, inlets, around all manholes and any other structures not accessible or practical to be milled by the milling/mixing machine utilities. The millings produced by the small mill will be the same as the large mill and of equal gradation to produce a uniform recycled pavement layer. Inlets/Catch Basins must be covered during the milling and recycling operation to prevent milled material from entering the catch basin area where it could contaminate and/or block the storm water system.

RADIUS – Mill to a depth of six (6) inches, all material in radius. Excavate milled material from radius and replace with new recycled base course material or binder to the required depth and compaction.

INTERSECTIONS – Mill and recycle to a depth of six (6) inches all material in intersections as specified by the County. Compact, using acceptable methods, leaving a one and one-half (1.5) inches paving notch along the undisturbed roadway adjacent to and connecting to the project.

CURB REVEAL – This contract requires a final curb reveal of a minimum of one and one-half (1 ½ inches) inches before the installation of a one and one-half (1 ½) inches hot mix wearing course.

PROCESSING - When a paving fabric is encountered during the CIR operation, the Contractor shall make the necessary adjustments in equipment or operations so that at least ninety percent (90%) of the shredded fabric in the recycled material is no more than 5 in² (3200 mm²). Additionally, no fabric piece shall have any dimension exceeding a length of 4 inches (100 mm). These changes may include, but not be limited to, adjusting the milling rate and adding or removing screens in order to obtain a specification recycled material. The Contractor shall be required to remove waste material containing over-sized pieces of paving fabric as directed by the County's Representative.

Should sub-base failures in recycled areas occur, the County will supply the RAP material and the contractor will be compensated for the removal, mixing, spreading, compaction, etc. of the material at the unit price for base recycling.

SPREADING - The material shall be spread using a self-propelled paver meeting the requirements under *2015 FDOT Standard Specifications for Road and Bridge Construction, Section 330-5*. Heating of the paver screed will not be permitted. The recycled material shall be spread in one continuous pass, without segregation and to the lines and grades established by the County's Representative.

COMPACTION – Compaction of the recycled mix shall be completed using rollers meeting the requirements of the *2015 FDOT Standard Specifications for Road and Bridge Construction Section 330-7*. During initial construction, rolling patterns and sequences shall be established through the construction of a control strip produced with the CIR equipment and within the pavement section, to determine the target wet density, using a nuclear moisture-density gauge in accordance with ASTM D2950, backscatter measurement mode. In all cases, the longitudinal joint must first be rolled followed by the rolling pattern established by the test strip. The initial pass for the rolling pattern established by the test strip should begin on the low side and progress to the high side by overlapping of longitudinal passes parallel to the pavement centerline. Initial rolling should not begin until the emulsion has started to break. Rollers shall be operated at speeds appropriate for the type of roller and necessary to obtain the required degree of compaction and prevent defects in the mat. Rolling shall be continued until no displacement is occurring or until the pneumatic roller(s) is (are) walking out of the mixture. Final rolling to eliminate pneumatic tire marks and to achieve density shall be done by double drum steel roller(s), either operating in a static or vibratory mode. Vibratory mode should only be operated at a speed, frequency and amplitude shown not to damage the pavement. The selected rolling pattern shall be followed unless changes in the recycled mix or placement conditions occur and the established rolling pattern is causing damage to the mat or the required degree of compaction is unachievable. These circumstances require the establishment of new rolling patterns and sequences through the construction of a control strip produced with the CIR equipment and within the pavement section. Rolling shall start no more than 30 minutes behind the paver. Finish rolling shall be completed no more than one hour after milling is completed. When possible, rolling shall not be started or stopped on un-compacted material but with rolling patterns established so that they begin or end on previously compacted material or the existing pavement.

RETURN OF TRAFFIC - After the completion of compaction of the recycled pavement layer, no traffic shall be permitted on the completed recycled material for at least one (1) hour. After one hour rolling traffic may be permitted on the recycled material. This time may be adjusted by the County's Representative to allow establishment of sufficient cure so traffic will not initiate raveling. After opening to traffic, the surface of the

recycled pavement layer shall be maintained in a condition suitable for the safe movement of traffic.

PROTECTION AND DAMAGE – Protect the recycled pavement layer in accordance with the *2015 FDOT Standard Specifications for Road and Bridge Construction, Section 330-10*. Prime and sand the recycled pavement layer prior to opening the roadway to traffic. Any damage to the completed Cold in Place Recycled bituminous material shall be repaired by the contractor at no additional cost prior to the placement of the hot mix asphalt concrete surface course, or other applicable surface treatment, and as directed by the County's Representative.

FINISHED RECYCLED PAVEMENT LAYER SMOOTHNESS - The completed cold recycled pavement layer surface shall not vary more than ½ in (12 mm) from the lower edge of a 10-foot (3-meter) straight edge placed on the surface parallel and transversely to the centerline at locations selected by the County's Representative. Irregularities exceeding the specified limit shall be corrected at the expense of the contractor by grinding/cold milling or leveling with hot mix asphalt. The corrected areas shall be retested to determine compliance with smoothness.

CURING – Prior to placing the hot mix asphalt concrete surface course, or other applicable surface treatment, the recycled pavement layer shall be allowed to cure until the moisture of the material is reduced to 2.0 percent or less, or until approval of the County's Representative. Under dry conditions, the Cold In-Place Recycled pavement layer should meet the moisture requirements within 48 hours.

MIX DESIGN PROCEDURES FOR CIR (COLD IN-PLACE RECYCLING) MATERIAL

SAMPLING AND PROCESSING - Prior to materials sampling in the roadway, obtain approval from the County's Representative. Obtain 6" minimum inside diameter cores from the areas to be recycled. If cores show significant differences in various areas, such as different type or thickness of layers between cores, then separate mix designs shall be performed for each of these pavement segments. It is recommended to take, at a minimum, one core for each 1000' per lane mile and where visual differences in the pavement are noticed. Immediately patch all core holes neatly with asphalt cold patch. Cores shall be cut in the laboratory to the depth specified for the CIR project. Cores shall be crushed in the laboratory.

The mix design shall be performed on these crushed millings. Gradation of the millings after crushing shall be determined by ASTM C117 and C136 (dried at no greater than 40°C)

Samples shall be prepared with a sample splitter. An alternative method is to dry, screen and recombine millings in the laboratory to target gradation.

MIXING - Calculate the amount of RAP required to produce a 61.0 mm to 66.0 mm (2.4 to 2.6 inch) tall specimen by determining the maximum specific gravity of the RAP in accordance with ASTM D2041.

Number of specimens: 4 per emulsion content for a total of 4 for long-term stability and 4 for moisture testing for the 3 emulsion contents. Two specimens are required for Rice specific gravity; test at the highest emulsion content in the design and back calculate for the lower emulsion contents.

Recommended emulsion contents: 2.0%, 2.5%, 3.0%, 3.5%. Choose three emulsion contents that bracket the estimated recommended emulsion content.

Add moisture that is expected to be added at the milling head, typically 1.5 to 2.5 percent.

If any additives are in the mixture, introduce the additives in a similar manner that they will be added during field production.

Mixing of test specimens shall be performed with a mechanical bucket mixer. Mix the CIR RAP millings thoroughly with water first, then mix with emulsion. Mixing shall occur at ambient temperature. One specimen shall be mixed at a time. Mixing time with emulsion should not exceed 60 seconds.

COMPACTION - Specimens shall be compacted immediately after mixing. Place paper disks on the top and bottom of the specimen before compaction.

Specimens shall be compacted with a Superpave gyratory compactor (SGC) in a 100 mm mold at 1.25° angle, 600 kPa ram pressure, and 30 gyrations. The mold shall not be heated.

CURING AFTER COMPACTION - Extrude specimens from molds immediately after compaction. Carefully remove paper disks.

Place specimens in 60°C forced draft oven with ventilation on sides and top. Place each specimen in a small container to account for material loss from the specimens.

Specimens for maximum specific gravity determination should be dried to constant weight (less than 0.05% weight loss in 2 hours). Care should be taken not to over-dry the specimens.

Cure compacted specimens to constant weight but no more than 48 hours and no less than 16 hours. Constant weight is defined here as 0.05% change in weight in 2 hours. After curing, cool specimens at ambient temperature a minimum of 12 hours and a maximum of 24 hours.

MEASUREMENTS - Determine bulk specific gravity (density) of each compacted (cured and cooled) specimen according to ASTM D2726.

Determine specimen heights according to ASTM D3549 or equivalent. Alternatively, the height can be obtained from the SGC readout.

Determine Rice (maximum theoretical) specific gravity, ASTM D2041, except as noted in Item 4 of this procedure, and do not break any agglomerates which will not easily reduce with a flexible spatula. Perform the supplemental dry-back procedure to adjust for uncoated particles.

Determine percent air voids in accordance with ASTM D3203 for each design emulsion content.

Determine corrected Marshall Stability by ASTM D1559 at 40°C after 2 hour temperature conditioning in a forced draft oven.

MOISTURE SUSCEPTIBILITY - Perform same conditioning and volumetric measurements on moisture-conditioned specimens as on other specimens. Vacuum saturate to 55 to 75 percent, soak in a 25°C water bath for 23 hours, followed by a one hour soak at 40°C. Determine corrected Marshall Stability. The average moisture conditioned specimen strength divided by the average dry specimen strength is referred to as retained stability.

EMULSION CONTENT SELECTION - The properties of the specimens at design emulsion content shall meet the properties in Table 1.

REPORT - The report shall contain the following minimum information: Gradation of RAP; amount and gradation of virgin aggregate or additional RAP, if any; recommended water content range as a percentage of dry RAP; optimum emulsion content as a percentage of dry RAP and corresponding density; air void percentage; absorbed water percentage; Marshall Stability and Retained Stability at design moisture and emulsion contents; Raveling percentage; and Thermal Cracking initiation temperature. Include the mix design emulsion designation, supplier name, plant location, and emulsion testing results detailed in *Table 4*.

QUALITY CONTROL

CONTRACTOR'S RESPONSIBILITY - The contractor shall be responsible for providing field and laboratory quality control testing of materials during construction. The County or its sub consultant may conduct sampling and testing whenever or as often as desired for verification purposes. The contractor shall acquire an adequate amount of material for each sample to be tested in the laboratory so that an ample amount of material is left over in case of the need for resolution testing. Resolution testing will be required and provided at the expense of the contractor if similar laboratory samples tested by the contractor and the County do not coincide within reasonable values as determined by

the County's Representative. The resolution laboratory will be selected by the County and the testing results provided by this lab will be used for materials acceptance purposes. All materials testing laboratories shall be accredited by the AASHTO Materials Reference Laboratory (AMRL) or Construction Materials Engineering Council (CMEC). The contractor shall submit all documentation of field inspection and laboratory testing results required herein to the County's Representative prior to payment and upon request. Copies of all delivery tickets and notes regarding any materials brought to the project site shall be given to the County upon delivery to the project site. These tickets shall be signed by an approved representative of the Contractor at the time of delivery.

CRUSHED RAP MATERIAL SIZING - A sample shall be obtained from the receiving hopper of the paver each ½ mile or as specified by County's Representative (0.8 km) and screened using a 2 in. (51mm) sieve (or smaller sieve if required) to determine maximum particle size requirement compliance. The resulting gradations shall be compared to the mix design gradations to determine any necessary changes to emulsion content. Gradation results shall be shared with the County's Representative by the end of the following day. Sampling procedures shall be in accordance with ASTM D979 or AASHTO T168.

ASPHALT EMULSION – The asphalt emulsion shall be received on the job site within the temperature ranges specified by the emulsion supplier. The emulsion supplier shall provide testing results for each shipment indicating the emulsion is in compliance with the criteria specified in *Table 4*. The County's Representative may require the contractor to obtain emulsion samples from each shipping trailer prior to unloading into the contractor's storage units for quality control testing if desired. The testing shall meet the following requirements:

Table 4 – Emulsion Criteria		
Property	Method	Limit
*Residue from distillation, %	ASTM D244	64.0 to 66.0 %
*Oil distillate by distillation, %	ASTM D244	0.5% maximum
Sieve Test, %	ASTM D244	0.1% maximum
**Residue Penetration, 25°C, dmm	ASTM D5	-25 to +25%
<i>*Modified ASTM D244 procedure – distillation temperature of 177°C with 20 minute hold.</i>		
<i>*To be determined during CIR design phase prior to emulsion formulation and manufacture for project. Penetration value range will be determined and submitted to the County's Representative for approval prior to project start</i>		

ASPHALT EMULSION CONTENT AND YIELD – Total emulsion quantity and yield shall be monitored and recorded daily and for each segment in which the target emulsion percentage is adjusted. This information shall be gathered from the calibrated emulsion metering device. Emulsion content adjustments shall be made appropriately when multiple and specific mix designs for different road segments of varying composition exist.

The only additive to be used is emulsified asphalt. Should other additives are needed to meet the mix design performance criteria, the contractor will be compensated at the same unit price for emulsified asphalt.

WATER CONTENT AND YIELD – Total water quantity and yield shall be monitored and recorded daily and for each segment in which the target water percentage is adjusted. This information shall be gathered from the water metering device. Water content adjustments shall be made appropriately when multiple and specific mix designs for different road segments of varying composition exist. Water content adjustments shall also be made based on mixture consistency, coating, and dispersion of the recycled materials.

MIXTURE TESTING – At the discretion of the County's Representative and if the recycled pavement layer quality and workmanship seem suspect, the contractor may be required to sample, in accordance with ASTM D3665 and D979, the recycled mixture for determining compliance with design criteria specified in *Table 1*. If samples of the recycled asphalt pavement mixture are taken after the addition of additives and emulsion, the specimens must be compacted within 15 minutes of sampling and tested as required in *Table 1*. If the recycled mixture is sampled prior to the addition of additives and emulsion, the sample must immediately be transferred to air-tight plastic container to prohibit loss of moisture. Samples must be mixed in the laboratory with the field additives and emulsion within 24 hours and tested as required in *Table 1*.

DEPTH OF PULVERIZATION (MILLING) - The depth shall be checked and recorded daily and every 1/8 mile (0.2 km) on both outside vertical faces of the cut. Measure depth by placing a rigid measuring device perpendicular to the bottom of the milled surface and near the vertical faces of the cut.

COMPACTED DENSITY – Degree of compaction of the recycled pavement layer shall be monitored for compliance with target wet density established during the initial control strip construction. Wet density shall be determined every 1/4 mile (0.4 km) using a nuclear moisture-density gauge in accordance with ASTM D2950, backscatter measurement mode. Ensure that all nuclear gauges are operated by licensed individuals and have been calibrated within the last 12 months. The acceptable degree of compaction shall be 96 to 98 percent of target wet density. Care shall be taken not to over-roll the mat based on visual observations of check cracking or shoving. A new control strip and target density shall be established if the consistency of the material

being recycled changes. The County's Representative shall be notified prior to the construction of a new control strip.

CROSS-SLOPE AND SMOOTHNESS – The recycled pavement layer cross slope shall be checked regularly during spreading. A minimum 2 % Cross-Slope shall be maintained through the length of the project. The recycled pavement layer shall be checked for smoothness regularly behind the paver and after rolling. The smoothness shall not vary more than ½ in (12 mm) from the lower edge of a 10-foot (3-meter) straight edge placed on the surface parallel and transversely to the centerline after rolling is completed. The edge of the mat should be rolled first and progress to the center or high side to prevent excessive edge sloughing.

Table 5 – Quality Control Testing and Inspection Criteria		
Property	Method	Limit
RAP Maximum Particle Size	ASTM C 136 or AASHTO T27	Section 334-2.2
RAP Particle Size Distribution	ASTM C 136 or AASHTO T27	Determined by Mix Design(s)
Emulsion and Water Yield	Calibrated Metering Device	Determined by Mix Design(s)
*Mixture Testing **Depth of Milling	Table 1 Section 334-5.7	Table 1 Determined by Mix Design(s)
Compacted Density	ASTM D2950	96 to 98% of target density
Cross-Slope Smoothness	FM 5-509 FM 5-509	Minimum 2% Maximum 0.5 in (12 mm) deviation from planeness
<i>*Mixture Testing frequency shall be at the County's Representative's discretion</i>		
<i>**Depth of Milling may need to be adjusted for localized unexpected pavement conditions</i>		

WEATHER LIMITATIONS – Cold In-Place base recycling operations shall be completed when the atmospheric temperature measured in the shade and away from artificial heat is 50⁰ F (10°C) and rising. Also, the weather shall not be foggy or rainy. The weather forecast shall not call for freezing temperature within 48 hours after placement of any portion of the project.

ASPHALT RESURFACING - Roads to be resurfaced under this contract are to be resurfaced with a minimum of one and one-half (1.5) inch or 2 inches of superpave overlay (final thickness after compaction). The County's Representative will determine the overlay thickness for the projects based on specific needs. Specified thickness is

across the new pavement mat. No under tolerances (i.e. FDOT tolerances) apply to this contract. No additional compensation will be provided to the contractor for excess material used to achieve minimum required thickness on this contract.

All mix designs shall be FDOT approved. The Type SP mix may be one traffic level higher than the traffic level specified in the Contract at no cost to the County (i.e. Traffic Level B may be substituted for Traffic Level A, etc.).

A certified asphalt mix design shall be provided to the County prior to starting operations on this contract and must be updated every six (6) months. The contractor will be responsible to demonstrate via lab tests, straight edge verification, density tests and coring, as specified herein, that all work has been completed as specified and in compliance with all applicable FDOT standards.

The contractor shall provide copy of all asphalt tickets used on any particular area to the County's Representative on a daily basis along with the Contractor's Daily Superintendent Worksheet (provided by Orange County Roads and Drainage). Daily average yield per street shall be specified on the daily worksheet. Asphalt tickets shall specify the name of the street the asphalt was used on. The County may require additional documentation to be specified.

WARM MIX ASPHALT (WMA) – The use of warm mix asphalt is permissible as part of this contract at no additional cost to the County. In general, warm mix asphalt mixes are produced at temperatures approximately 30 degrees F (17C) below those temperatures used in the production of Hot Mix Asphalt (HMA). Unless otherwise specified as part of FDOT standard specifications, the ideal temperature for warm mixes will be established that 250 degrees F with a tolerance of 30 degrees +/- (220 to 280 degrees F). Similar to FDOT, the first five loads can be produced at HMA temperatures (310 degrees F +/- 30 degrees). To ensure compliance, the first seven (7) loads will have the temperatures checked. And the remainder of the loads will be randomly checked thru out the day. Checking the first seven (7) loads will be to verify if the first (5) five loads are produced at HMA temperatures and that the other two (2) loads is to verify has lowered the temperatures to the WMA range.

Warm mixes shall be produced using warm mix technology from an approved list according to the WMA Technology Provider's Guidelines for dosage rates, plant mixing temperatures and laboratory compaction temperatures.

The WMA mix design for shall contain the mix design, the name of the Warm mix technology, dosage rate, plant mixing temperature and the laboratory compaction temperature.

MINIMUM CORING TEST REQUIREMENTS – When work is performed in Subdivisions, core samples shall be taken every 800 feet staggered across the mat or as determined by the County’s Representative. On main/classified roadways, core samples shall be taken every 1,200 feet/ or as determined by the County’s Representative. The cost for coring, straight edge verification, lab and density tests shall be included on the unit price for asphalt. The cost for resurfacing shall be inclusive all supervision, quality control, labor, materials, equipment, tools, transportation, supplies, manpower, clean up, tests, incidentals and pay disposal fees necessary to complete the work as specified herein.

TEMPORARY MARKINGS – The contractor shall be responsible for all temporary pavement markings required on all areas, where the work is to be accomplished. Pavement markings shall be restored in the same fashion that they were before the project began, **unless otherwise specified by current guidelines for placement of markings or as authorized by the County’s Representative.**

The County will only allow the use of paint as temporary markings. All markings shall be in place before the end of the workday and shall be placed according to the Florida Department of Transportation Standard Specifications for Road and Bridge Construction, latest edition. Temporary striping shall be in place to protect traffic overnight. Payment for temporary paint pavement markings will be made by linear foot for yellow and white lines; messages and arrows will be paid as each.

CLEAN UP – The Contractor shall keep the work site free from accumulation of waste materials, rubbish and debris from and about the work site. All tools, construction equipment and machinery, and surplus materials shall be kept under control, and shall leave the worksite clean and ready for occupancy by the County. The Contractor shall restore to the original condition those portions of the work site, such as staging and stockpile areas, not designated for alteration by the Contract Documents. This shall include returning the area to proper grade and slope as well as replacing sod.

Inlet openings shall be kept free from debris generated during milling and resurfacing operations to prevent excessive accumulations and possible flooding in the affected areas during heavy cycles of rain. Millings will not be blown into drains or storm drain inlets at any time. Failure to adhere to this will result in a request to jet out affected pipes and drains at the contractor’s expense or reimbursing the County for the clean-up effort carried out by County personnel.

DELIVERY TICKETS - All delivery tickets and notes regarding any materials brought to the project site to complete this item shall be given to the County upon delivery. Tickets shall be signed by an approved representative of the Contractor at the time of delivery.

MEASUREMENT AND PAYMENT - All measurement for payment shall be based on the completed work performed in strict accordance with specifications. All work completed under this contract shall be measured by the Contractor in the presence of the County's Representative. The unit prices submitted on the Bid Item Schedule shall constitute full compensation for the work completed. Maintenance of Traffic, mobilization/demobilization, erosion control, dewatering and other incidentals shall be included in the unit price for services.

Cold in-Place Recycling 6" (Square Yard) - , Payment for this item shall be full compensation for all labor, materials (including additives), equipment and incidentals necessary for recycling and installation of the bituminous base as specified.

Asphalt Emulsion (Gallon) - Payment for this item shall be full compensation for all labor, materials, equipment and incidentals necessary to furnish and inject emulsion on recycled base material as specified.

Asphalt (Type SP 12.5 @ 1.5") (Square Yards) - Payment for this item shall be full compensation for all labor, materials, equipment and incidentals necessary to furnish and install 1.5" of asphalt Type SP 12.5.

Asphalt (Type SP 12.5 @ 2") (Square Yards) - Payment for this item shall be full compensation for all labor, materials, equipment and incidentals necessary to furnish and install 2" of asphalt Type SP 12.5.

Temporary Paint Pavement Markings 6" (Linear Foot) - Payment for this item shall be full compensation for all labor, materials, equipment and incidentals necessary to furnish and install 6" temporary paint pavement markings.

Temporary Paint Pavement Markings Messages and Arrows" (Each) - Payment for this item shall be full compensation for all labor, materials, equipment and incidentals necessary to furnish and install temporary paint pavement markings messages and arrows.

FINAL INSPECTION – Upon written notice from the Contractor that the project is complete, the County's Representative will make a final inspection with the Contractor and will notify the Contractor in writing of any deficiencies in the project. The Contractor shall correct all deficiencies within seven (7) days of such notification before final acceptance and payment can be made. Areas determined to be defective or deficient shall be corrected following FDOT specifications for replacement of deficient pavement. The Contractor shall submit written certification, signed by a Licensed Professional Engineer, for areas considered as "cosmetic" by his/her personnel. This certification must include at least the thickness of affected areas and assurance of structural integrity for the areas in question. Failure to correct all deficiencies within

specified completion timeframe shall result in the assessment of liquidated damages as previously specified.

Proposed request to extend the specified completion date shall be submitted in writing to the County no later than the time of the final inspection notification for approval.

The Contractor shall correct all deficiencies before final acceptance and payment is made. If a second re-inspection is required, the County will assess an eighty (80) dollar fee to the Contractor. The eighty (80) dollar fee will be assessed for every re-inspection after the first re-inspection. The fee is assessed to offset the additional County labor cost and vehicle usage required for the unnecessary inspections and the fee will be deducted from the final invoice for the delivery order for the project.

FINAL INSPECTION FOR PAYMENT – After the Contractor has corrected all deficiencies to the satisfaction of the County’s Representative, he/she might make application for final payment for the project. The Contractor will be required to submit with the final invoice for each project effective final release or waivers of lien from the Contractor and all sub-contractors which performed services for the Contractor pursuant to the contract documents. Invoices for services provided must be submitted within fourteen (14) days after acceptance of the project. Failure to comply with proper invoicing requirements may result in termination of this contract.

PERFORMANCE ISSUES - The County will hold the Contractor responsible for meeting all of the Contractor’s contractual obligations. If performance issues arise, the County will schedule a meeting to review the contractual deficiencies and the Contractor will be responsible for providing a written corrective action plan within two (2) working days from the meeting. Failure to provide a satisfactory corrective action plan, or failure to follow through on an approved plan, may result in issuance of a Notice to Cure.